**FINAL ADMINISTRATIVE DECISION**
**ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: JP Morgan Chase & Co.
DOCKET NO.: 08-03430.001-C-3
PARCEL NO.: 03-03-100-048

The parties of record before the Property Tax Appeal Board are JP Morgan Chase & Co., the appellant, by attorney Kevin B. Hynes, of O'Keefe Lyons & Hynes, LLC in Chicago; the DuPage County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***a reduction*** in the assessment of the property as established by the **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

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| **LAND:** | $759,470 |
| **IMPR.:** | $1,654,730 |
| **TOTAL:** | $2,414,200 |

Subject only to the State multiplier as applicable.

## ANALYSIS

The subject property is a 243,065 square foot site primarily improved with a one-story single tenant industrial building of masonry exterior construction that was built in 2003.[1] The structure contains 124,680 square feet of building area; has a land-to-building ratio of 1.95:1, is fully sprinkled, has a two story office area containing 9,930 square feet or approximately 8% of total building area, a data center which contains a three foot raised floor, a mezzanine level containing approximately 28,275 square feet used mainly for storage, an 18 foot to 22 foot ceiling clearance, a freight elevator, 6 truck level docks

[1] The subject improvement was initially purchased in 2002 for $5,500,000 as a shell industrial building and then fully built out for computers and storage of records as a data processing center (Transcript, page 7).

and 37,000 square feet of paved asphalt parking. The subject is located in Elk Grove Village, Addison Township, DuPage County, Illinois.

The appellant, through counsel, appeared before the Property Tax Appeal Board claiming assessment inequity and that the fair market value of the subject was not accurately reflected in its assessed value.[2] In support of these arguments an appraisal was submitted with an estimated fair market value of $5,800,000 as of January 1, 2008 using the three traditional approaches to value.[3]

Edward V. Kling, a licensed appraiser, was called as a witness to testify regarding the appraisal methodology and final value conclusion using the three traditional approaches to value. Kling has the Member, American Institute Real Estate Appraisers (MAI) designation from the Appraisal Institute. David M. Rogers, a Certified General Appraiser, inspected the subject parcel in October 27, 2008 and along with Kling developed a cost approach, sales comparison approach and income approach to estimate the subject's market value. The purpose of the appraisal was to estimate the market value of the subject property as of January 1, 2008 for an ad valorem tax assessment appeal. The property rights appraised were the fee simple estate (Appraisal, page 2). The appraisal report depicts the highest and best use of the subject site as vacant is to develop the parcel with industrial improvements. The highest and best use as improved is its existing use as improved (Appraisal, page 20).

Under the cost approach to value, Kling estimated the subject's site value of $1,944,520 or $8.00 per square foot of land area. Kling examined four land sales in Roselle, Itasca, Glendale Heights and Carol Stream, Illinois that ranged in size from 142,006 to 428,194 square feet of land area. The sales occurred from April 2006 to January 2008 for prices ranging from $1,000,000 to $4,020,000 or from $7.04 to $9.83 per square foot of land area. Kling used the Marshall & Swift Valuation Service, Section 14, Page 18, Computer Data Centers, Class C, Type Average, to estimate a replacement cost new for the improvements of $14,883,523 or $119.37 per square foot of

[2] Appellant's contention of law argument was withdrawn at hearing and the comparable sales argument was in relation to the sale comparables contained within the appraisal report.
[3] For his inequity argument, appellant's counsel relied on examination and evidence presented by the local assessor.

building area. Physical depreciation was estimated using the age/life method at 6%.

Kling estimated functional obsolescence to be 45% based on excessive build-out of storage areas on the first floor and mezzanine level, excessive wiring capacity due to the data center along with the climate controlled and raised flooring in the warehouse area, all of which were considered super adequacies. Kling testified the subject was improved for a specific use and should the appellant not use the facility any more, it is unlikely another user would come in and be able to utilize the building in its exact configuration as a data center (Transcript, page 8).

External obsolescence was estimated to be 23% because of the current excessively high vacancy rates in the subject's area for the subject's property type. Vacancy rates were reported to be between 17% to 18%; while the normal vacancy rates were reported to be from 5% to 8%. In support of the accrued depreciation estimate, Kling also used the age/economic life method. Effective economic life was estimated to be 25 years and was divided by the estimated economic life of 35 years to arrive at an estimated accrued depreciation of 71% (Appraisal, page 34). With consideration of both methods, accrued depreciation was estimated to be 73%.

The estimated land value of $1,940,000 was added to the estimated cost new of $14,883,523 and accrued depreciation of $10,864,972 was deducted to arrive at a depreciated value of the improvements of $4,018,551. Site improvements of $42,000 were added to this amount which indicated an estimated value by the cost approach of $6,000,551 or $6,000,000, rounded, or $48.12 per square foot of building area, including land (Appraisal, page 36).

Kling next developed the sales comparison approach. Kling examined six single tenant comparable sales. Kling testified a single tenant facility will sell for less than a multi-tenant facility because there is more risk involved. The sales were located in Carol Stream, Long Grove, Itasca and Addison, Illinois. The comparables ranged in age from 23 to 36 years old and consisted of five, single tenant industrial buildings and one single tenant showroom/warehouse. They had office build-outs ranging from 4% to 100% of total building area and land-to-building ratios ranging from 1.62:1 to 8.13:1. The sales were situated on sites ranging from 191,664 to 607,226 square feet of land area. The comparables sold from October 2005 to September

2007 for prices ranging from $2,523,500 to $6,600,000 or from $37.37 to $53.95 per square foot of building area, including land. Kling adjusted the comparables for differences when compared to the subject for proximity to interstate roadway, size, land-to-building ratio, construction quality, age, condition and utility. The comparables had adjusted sales prices ranging from $43.89 to $51.71 per square foot of building area, including land. Based on these adjusted sales, Kling estimated a value for the subject property under the sales comparison approach of $5,859,960 or $5,860,000 rounded, or $47.00 per square foot of building area, including land.

In developing the income approach to value the appraisers used six comparable rental properties to estimate market rent. Each comparable was located in Elk Grove, similar to the subject. The rental comparables were each described as industrial buildings. The rental spaces ranged in size from 96,633 to 121,728 square feet of building area; which were located in structures ranging from 121,728 to 698,317 square feet of total building area. Five of the comparables were described as being built from 1960 to 2004.[4] The market rents ranged from $2.87 to $6.75 per square foot of building area on a net basis.[5] The appraisers estimated the subject's market rent to range from $4.00 to $4.50 per square foot of building area on a net basis. Based on the specialized build-out being a tenant improvement paid for by the tenant, it was estimated the subject's market rent was $4.50 per square foot of building area on a net basis, due to the power and cooling add-ons which increase the likelihood for research and development use (Appraisal, page 50). Thus, the appraisers estimated the subject had a potential gross income of $561,060.

Expense recoveries for such items as pass through real estate taxes and insurance ($140,888) were added to the potential gross income; and vacancy and credit losses of 12% ($84,234) were subtracted from the potential gross income to arrive at an estimated effective gross income for the subject of $617,715. Management fees of 3% ($18,531), real estate taxes of $115,952, insurance of $24,936 and reserves for replacements of $31,170 resulted in total expenses of $190,590 which were deducted from the potential gross income of $617,715 to arrive at an estimated net income for the subject of $427,125 (Appraisal, page 53).

The subject's estimated net income was converted using an overall capitalization rate to present value. The appraisers

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[4] The age of comparable rental #5 was not disclosed.
[5] Rental comparable #3 was reported to be $4.35 on a triple net basis.

used the band of investments method as one method in selecting the appropriate overall capitalization rate. Based on conversations with local lenders, typical financing for the subject property was determined to be 80% loan-to-value, a 6.75% fixed interest rate and a 25 year amortization period with refinancing required after 5 years. The mortgage constant was determined to be 0.0829. Based on the loan percentage of 80%, the equity percentage remaining of 20% was utilized. Considering the risk associated with the investment, the appraisers estimated that capital could be attracted to an investment of the above described characteristics with an anticipated return on equity of 10%. The appraisers next examined the amortization of the loan during the five years until refinancing was required. An adjustment based on the percentage of the loan paid off in 5 years (0.0913) times the loan ratio (0.80) times the sinking fund factor at the 10% equity yield rate (0.1638), indicated an overall capitalization rate of 0.0744 (Appraisal, page 55). The reasonableness of the previously described overall capitalization rate was checked against an overall capitalization rate determined from a debt coverage ratio. The appraisal describes this as the ratio of annual net income to annual debt service required by the terms of the loan (Appraisal, page 55). A ratio of 1.25 means net income is 25% greater than the required annual debt service. The debt coverage ratio is multiplied by the loan constant which is multiplied by the loan to value ratio to arrive at an overall capitalization rate. Using this formula, the appraisers multiplied a debt coverage ratio of 1.20 by the loan constant of 0.0829 and the loan to value ratio of 0.80 which indicated an overall capitalization rate of 0.0796 or 7.96%. The appraisal depicts the Korpacz Real Estate Investor Survey for the last Quarter of 2007 indicated overall capitalization rates ranged from 5.5% to 10% with an average of 7.6%. Utilizing this and the above described methods the appraisers selected an overall capitalization rate of 7.75%. Dividing the estimated net income for the subject of $427,125 by the estimated overall capitalization rate of 7.75% indicated an estimate of value for the subject using the income approach to value of $5,511,287 or $5,510,000, rounded (Appraisal, page 56).

Kling testified they also calculated a loaded overall capitalization rate for the subject wherein the taxes were not expensed out and they basically examined the gross economic rent. In utilizing the loaded overall capitalization rate, they concluded an estimated value for the subject of $5,700,000 (Appraisal, page 57; Transcript, page 14).

In reconciling the three approaches to value, Kling gave primary weight to the sales comparison approach. The cost approach to value was given less consideration because it was considered to be less relevant to the typical purchaser than the other two approaches. The income approach was also given less weight by the appraisers based on the excessive build-out of the subject property which was opined to make it difficult to estimate a lease rate for the subject. After consideration of the factors involved in each approach, primary consideration was ultimately given to the sales comparison approach and it was opined that the subject's estimated value was $5,800,000 as of January 1, 2008.

Based on this evidence the appellant requested a reduction in the subject's assessment to reflect the estimated market value of $5,800,000 as set forth in the appraisal.

On cross-examination, Kling acknowledged that if functional obsolescence was used in the cost approach, that the value would represent value-in-use as opposed to market value. Kling also acknowledged that comparable sale #2 was not located in DuPage County. Kling explained that it was included as a comparable to show it had a 100% office build-out and still sold for the same rate as a typical industrial building. In addition, Kling acknowledged comparable #2 was sold at an auction; however, it was on the market for over a year. Kling could not recall if all of his rental comparables were located in Cook County, however, he testified that they were all in the same market area as the subject near Elk Grove and that there was very little difference in the rental rates between properties on the DuPage County side of Elk Grove and those located on the Cook County side of Elk Grove. Kling ended his testimony by stating that his estimated opinion of value for the subject would not change, even if all of his rental comparables were located in Cook County.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $2,637,000 was disclosed. The subject's assessment reflects a market value of approximately $7,926,060 or $63.57 per square foot of building area, including land, using the 2008 three-year average median level of assessments for DuPage County of 33.27% as determined by the Illinois Department of Revenue. In support of the subject's assessment, the Addison Township Chief Deputy Assessor, Frank Marack, was called as a witness. Marack has been with the Addison Township Assessor's office since 1979 and has been in charge of assessing commercial industrial property since 1981. Marack described the subject as an industrial type warehouse building containing 124,680 square feet of building area. The subject is located on 243,065 square feet of land area, was built in 2003, has an exterior height of 32 feet, 7,008 square feet of finished office area and is 100% sprinkled. He described the construction as tilt-up or otherwise referred to as poured concrete. The subject was further described as having eight overhead doors and seven load levelers. In support of the assessment, he submitted two grid analyses, one containing 11 sales[6] and the other being a qualitative adjustment grid.

Marack testified the 11 comparable sales were each an industrial building located in DuPage County. The sales grid analysis depicts the comparables were located in Elk Grove, Itasca, Bensenville, Wood Dale and Lombard, Illinois. They had land-to-building ratios ranging from 1.56:1 to 2.85:1; exterior construction was depicted as tilt-up, masonry or masonry/metal. The comparables were built from 1976 to 1995 and consisted of one-story or part one-story and part two-story buildings with building heights ranging from 20 to 40 feet and percentage of office space ranging from 4.68% to 16.61% of total building area. The properties sold from March 2006 to July 2008 for prices ranging from $6,510,000 to $20,200,000 or from $47.01 to $83.59 per square foot of building area, including land. The adjustment grid depicts the sale comparables were adjusted for location, date of sale, size, land-to-building ratio, construction, age, height and percentage of office space. Marack testified that after making adjustments to the comparable sales, he opined the subject had a market value of $8,727,600 or $8,730,000, rounded or $70.00 per square foot of building area, including land. Based on this evidence, the board of review requested an increase in the subject's assessment.

On cross-examination, Marack acknowledged that the "Board of Review Notes on Appeal" depicted the subject's total assessment which reflected a market value of approximately $7,900,000. Marack testified that at that time, he believed that valuation to be correct. Marack further acknowledged that at hearing, he was arguing that the subject property was worth $8,730,000. Marack testified that during the mass appraisal, his office came up with an estimated value of $7,911,791 and once a person appeals to the Property Tax Appeal Board for relief, his office starts from scratch to see what the property is worth. Marack stated that based on the evidence he submitted to the Property Tax Appeal Board, the subject property is worth $8,730,000.

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[6] Sale comparable #9 sold twice and was depicted as "9a" and "9b."

Marack further acknowledged that his comparable sale #1 had an indicated sale price of $83.59; however, it was valued by the assessor at $60 per square foot of building area, including land. Marack testified that the difference was the result of utilizing the mass appraisal system and preparing an individual assessment. Comparable sale #3 was shown to have been valued by the assessor's office at $26.91 and not the $60.13 as shown on the grid analysis.

After hearing the testimony and having considered the evidence, the Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The appellant contends overvaluation as one basis of the appeal. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board further finds the manifest weight of the evidence in this record supports a reduction in the subject's assessment.

The appellant's appraisers estimated the subject's market value of $5,800,000 using the three traditional approaches to value. The Board finds the manifest weight of the evidence presented depicts this estimated value is not adequately supported by the evidence contained in this record.

The Board finds the appellant submitted an appraisal of the subject property in which the subject's market value was estimated to be $5,800,000 as of January 1, 2008. The subject's assessment reflects an estimated market value of approximately $7,926,060 or $63.57 per square foot of building area, including land. The board of review submitted 11 comparable sales that sold for prices ranging from $6,510,000 to $20,200,000 or from $47.01 to $83.59 per square foot of building area, including land.

During questioning regarding his cost approach to value, Kling testified he deducted 45% or $6,680,354 from the subject's value based on his estimate of functional obsolescence. Kling testified that the subject's functional obsolescence represents the functional superadequacy that could not be recovered on the open market for such items as excessive build-out of storage areas on the first floor and mezzanine level, the excessive wiring capacity due to the data center along with the climate controlled and raised flooring in the warehouse area. The board of review argued that it was improper to deduct functional obsolescence in a replacement cost new analysis, and further argued that including functional obsolescence in his analysis, Kling was really estimating the subject's value in use, not its fee simple value. The Board finds the textbook published by the International Association of Assessing Officers, describes the proper method for estimating accrued depreciation. "In a replacement cost new estimate, theoretically the cost to replicate the superadequate item would not be included in the cost new estimate. However, the cost to cure the superadequate item is still valid. The measurement would simply be the cost to remove the item less salvage value (if any)."(Property Assessment Valuation, International Association of Assessing Officers, 1996, pp. 164-186.) Another textbook, The Appraisal of Real Estate, 13th Edition, published by the American Institute of Real Estate Appraisers, also specifically refers to curable functional obsolescence cause by a superadequacy. "If the replacement cost of the appropriate . . . [item] is used as the cost basis rather than reproduction cost, the superadequate item would not be included in the substitute property, so there would be no charge for the existing item, nor for the item as installed new. The measure of depreciation due to curable functional obsolescence caused by a superadequacy would be the cost to cure (i.e., the cost to remove the superadequate item less salvage value plus the cost to install the appropriate item)." The Appraisal of Real Estate, American Institute of Real Estate Appraisers, 13th Edition, pp. 434-441. This treatise goes on to depict "the corresponding estimates of total cost using replacement cost would probably be lower than the estimate provided by reproduction cost figures because replacement cost would not include an oversized, atypical . . . [item]. Therefore, less depreciation would be subtracted from the replacement cost estimate than from the reproduction cost estimate to arrive at the same figure. . . . (The Appraisal of Real Estate, p. 441) The Appraisal of Real Estate further depicts "[a] superadequacy in an existing improvement would not be installed in a replacement structure, so the cost of that item would not be included in the estimation of functional obsolescence when replacement cost figures are used." (p. 441). The Board finds the board of review's argument has merit. The appraisal report is void of any reference regarding whether the superadequacy is curable or incurable, and is void as to the cost to cure the superadequacy items described by Kling, the cost to remove the items, including salvage value, if any. The Board finds Kling deducted 45% or $6,680,354 from the subject's total value without supporting this estimate with the cost to remove the superadequacy items and salvage value, if any. The Board finds this error would be compounded in any cost approach to value estimate. Therefore, the Board gave little weight to the cost approach to value estimate as developed by Kling.

The Board also gave less weight to Kling's estimate of value as indicated by his income approach to value. Kling was unable to testify whether his rental comparables were located in DuPage County or Cook County. Kling testified that if the rental was located outside of DuPage County, it would have a minimal negative impact on its income because of the higher tax burden in Cook County. The Board finds the rental comparables used by Kling were not similar to the subject in use. The rental comparables were industrial shell buildings like the subject; however, they did not enjoy the superadequacy items such as excessive build-outs, raised flooring, high capacity wiring and climate control enjoyed by the subject, which allows it to operate as a data center. In addition, the Board finds they are dissimilar to the subject because they have an available rail spur, trailer parking, and/or are significantly older than the subject. Because of the dissimilarities between the subject and the rental comparables, the Board finds the estimate of value as developed by Kling in the income approach is not credible.

Kling testified that he considered the subject to be an industrial building that is built-out for a data center. The evidence revealed the subject was originally constructed in 2002 as a shell industrial building and then purchased by the appellant in 2002 for approximately $5,500,000 and then retrofitted for its current use as a data center. Kling testified that it was a fairly extensive, expensive build-out. Even though Kling adjusted five of the six comparable sales for the subject's excessive build-out, the Board finds the final estimate of value utilizing the sales comparison approach is not well supported or verified by his cost approach or income approach to values. Because the sales comparison approach to value is not well supported by the other two approaches to value, the Board gave Kling's sales comparison analysis little weight. Therefore, based on the above findings, the Board finds the final value conclusion contained in the appellant's appraisal report is not well supported and is not a reliable indicator of the subject's fair market value on January 1, 2008. Based on this analysis, the Board next examined the raw sales data presented by both parties.

The Board finds the best evidence of the subject's market value is found utilizing the raw sales data from the comparable sales submitted by both parties. Kling utilized six sale comparables while the board of review utilized eleven comparable sales.

Based on location, size, land-to-building ratio, age and/or date of sale, the Board finds the best sales in this record which reflect the subject's market value are appellant's sale comparables #3, #4, #5 and #6 along with board of review sale comparables #2, #3, #5 and #6. The subject has 124,680 square feet of building area with the eight sales ranging in size from 108,117 to 148,844 square feet of building area. The subject has a land-to-building ratio of 1.95:1 while the most similar comparables have land-to-building ratios ranging from 1.6:1 to 3.56:1. The subject is 5 years old with the comparables ranging from 18 to 36 years old. These most similar comparables sold from January 2007 to May 2008 for prices ranging from $4,040,000 to $9,272,149 or from $37.37 to $68.39 per square foot of building area. The subject's assessment reflects a market value of $7,926,060 or $63.57 per square foot of building area. The Board finds the appellant's most similar comparables (#3, #4, #5 and #6) required an upward adjustment when compared to the subject based on size, land-to-building ratio, date of sale and/or age. The Board further finds two of the board of review's most similar comparables (#2 and #3) required an upward adjustment when compared to the subject based on size, land-to-building ratio and/or age; and the other two (#5 and #6) required a downward adjustment when compared to the subject based on size and/or land-to-building ratio. The Board finds that none of the comparables were truly similar to the subject. The comparables were industrial buildings, however, the evidence and testimony revealed the subject enjoyed excessive build-out of storage areas on the first floor and mezzanine level, contained excessive wiring capacity to operate as a data center along with climate controlled and raised flooring in the warehouse area. Because of these features, the Board finds the most similar comparables required a downward adjustment when compared to the subject. After considering the adjustments and the differences in both parties' suggested comparables when compared to the subject property, the Board finds the subject's assessment is not supported by the most comparable properties contained in this record and a reduction in the subject's assessment is warranted.

The Board further finds the appellant failed to submit equity evidence into the record, and therefore this argument was given no weight in the board analysis, and no further reduction is warranted on this basis, other than stated above.

In conclusion, the Board finds the appellant has demonstrated the subject property was overvalued by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is incorrect and a reduction is warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman

Member

Member

Member

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: January 24, 2014

Clerk of the Property Tax Appeal Board

**IMPORTANT NOTICE**

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.