FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Armstrong World Industries
DOCKET NO.: 09-04575.001-I-3
PARCEL NO.: 17-09-28-302-018

The parties of record before the Property Tax Appeal Board are Armstrong World Industries, the appellant, by attorney Ellen G. Berkshire of Verros, Lafakis & Berkshire, P.C., in Chicago, and the Kankakee 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 **Kankakee** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$401,960
IMPR.:	$866,355
TOTAL:	$1,268,315

Subject only to the State multiplier as applicable.

ANALYSIS

The property at issue consists of an industrial complex of 39.4-acres located in Kankakee, Bourbonnais Township, Kankakee County and commonly known as Armstrong World Industries. The complex is actually composed of three parcels of which only parcel number (PIN) 17-09-28-302-018, consisting of 23.74-acres, was on appeal in this proceeding; despite the actual location of the improvements, this parcel has been assessed as if it contains all of the improvements. The other two parcels comprising the complex are identified by PINs 17-09-28-302-008 (2-acres) and 17-09-28-302-024 (13.66-acres).[1]

[1] The 2009 appraisal by Salisbury reported a larger land size for parcel 17-09-28-302-024 than had been previously presented concerning this parcel. Also, based on data in the record, these two additional parcels had 2009

The subject property is improved with a multi-building, interconnected one, two and three-story industrial facility containing a total of approximately 383,385 square feet of building area[2]; the office areas are air-conditioned and total 3.08% office build-out. Most of the buildings are one-story brick and concrete block structures, but there are three three-story buildings and warehouse/storage areas of metal frame and metal sandwich panel walls or steel frame with metal panel exterior walls. Original construction was in 1947 with additions occurring in various years through 2004. Clear ceiling heights vary from 12' to 15' in older portions of the facility and are 17' to 20' in newer additions; the racked warehouse is the tallest with a clear span of 70'. There are 12 dock doors and an interior loading bay in the facility. Most of the buildings have a wet sprinkler system.

The appellant timely filed the appeal from a decision of the Kankakee County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2009 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

The parties presented no objection to a decision in this matter being rendered on the evidence submitted in the record and prior testimony in light of the decision rendered in Docket No. 06-01787.001-I-3. (Letter of appellant's counsel dated June 26, 2013; electronic mail communication from Assistant State's Attorney Teresa Kubalanza issued May 23, 2013). Therefore, the decision of the Property Tax Appeal Board contained herein for the 2009 assessment appeal shall be based upon the evidence contained in and made a part of this 2009 record along with the adoption of testimony as applicable from Docket No. 06-01787.001-I-3. Furthermore, it should be noted that the Board's decision in Docket No. 06-01787.001-I-3 was affirmed on appeal by the Illinois Appellate Court in Kankakee County Board of Review v. Property Tax Appeal Board, 2012 IL App (3d) 110045 (2012).

The documentary evidence filed in this 2009 proceeding by the appellant consists of a 61-page appraisal report with addenda prepared by J. Edward Salisbury with an opinion of market value

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farmland assessments of $26 and $280, respectively. (See Salisbury appraisal as of January 1, 2009, p. 15)

[2] In a 2006 appraisal report, Salisbury reported the subject improvements had a total of 395,669 square feet of building area.

of $2,300,000 as of January 1, 2009. For this 2009 appraisal report, Salisbury made an interior and exterior inspection of the subject property on July 22, 2010. This appraisal report is new evidence that was not part of the 2006 assessment appeal.

The purpose and intended use of the 2009 appraisal was to determine market value of the subject property for property tax purposes as of January 1, 2009. Salisbury in his cover letter to the appraisal summarized the concept of market value as contained in The Dictionary of Real Estate Appraisal, Fifth Edition, as published by the Appraisal Institute in 2010, as including a willing buyer, willing seller, neither party under duress, and the property being exposed to the open market. (See also p. 12 of the appraisal)

In researching the ownership history of the property, Salisbury found no changes in ownership in the past five years. As part of the scope of the appraisal, Salisbury reported that the cost approach was not utilized as the subject "is a large, older facility with multiple additions." No recent large industrial tracts of land could be found in the market area and the appraiser also noted the subject is "nearing the end of its economic life, and the amount of depreciation makes it difficult to accurately estimate." (Appraisal, p. 13-14; see also p. 32) The income approach to value also was not used since this is an older, multi-building facility which is typically not leased to a single tenant. (Appraisal p. 32)

Salisbury determined the property was improved with 383,385 square feet of building area consisting of a multi-building industrial facility. On page 25 of Salisbury's report, he presented a spreadsheet summarizing the building number/name, year built and square footage for each floor with a total size per building. Next, on page 26, Salisbury presented a weighted average age for the building of 41 years, rounded.

Salisbury was of the opinion the subject's highest and best use as vacant would be for continued use as an industrial site and as improved the subject's highest and best use would be for continued industrial use. (See Appraisal, p. 29-30) Salisbury estimated in his report that a realistic marketing time for the subject would be from 18 to 24 months due to the size of the facility which limits the number of potential purchasers. (Appraisal, p. 31)

Of the three approaches to value, for this report Salisbury used the sales comparison approach. He selected six sales and three

listings which were located in Decatur, Effingham, Danville, Freeport, Rockford and Kankakee. These nine comparables range in size from 120,881 to 667,752 square feet of building area and range in average age from 34 to 64 years old. Salisbury reported the buildings were constructed from 1922 to 1995 with all but two having additions/remodels in years after initial construction. The comparables feature land-to-building ratios ranging from 1.81:1 to 8.99:1, clear ceiling heights range from 12' to 45' and office build-outs ranging from .83% to 20.61% of building area or from 1,000 to 103,280 square feet of office area. The six sales occurred between January 2005 and August 2008 for prices ranging from $457,500 to $2,090,000 or from $1.20 to $4.35 per square foot of building area, including land; the three listings presented asking prices from $750,000 and $1,600,000 or from $1.50 to $6.20 per square foot of building area, including land.

After making adjustments to the comparables as outlined on page 55 of the report for date of sale, location, size, land-to-building ratio, age, property condition and market conditions along with an overall adjustment, the appraiser was of the opinion that all of the comparables except listing #3 required an overall upward adjustment. Salisbury's adjustments were further articulated on pages 56 and 57 of the appraisal report. After an analysis of the data, Salisbury opined that the subject had an indicated value under the sales comparison approach of $6.00 per square foot of building area or $2,300,000, rounded.

In the Industrial Appeal petition, the appellant requested a reduction in the subject's assessment to $1,049,895 which would reflect a market value of $3,150,000 based upon the statutory level of assessment of 33.33%.

The board of review filed its "Board of Review - Notes on Appeal" wherein the subject's total assessment of $2,866,380 was disclosed. The subject's assessment reflects a market value of $8,662,375 using the 2009 three-year median level of assessments for Kankakee County of 33.09%.

The board of review's documentary evidence consists of three appraisals of the subject property prepared by Andrew Brorsen, each with an opinion of market value of $8,600,000 as of January 1, 2006, January 1, 2007 and January 1, 2008. Besides the "Board of Review - Notes on Appeal," the only new evidence submitted by the board of review in this 2009 assessment appeal is the Brorsen update appraisals as of January 1, 2007 and January 1, 2008.

All findings as previously set forth by the Board in Docket No. 06-01787.001-I-3 are adopted and incorporated herein as if fully set forth. The Board will now discuss the Brorsen update reports.

The 46-page report plus addenda appraisal as of January 1, 2007 presented a cost approach to value with a conclusion of $10,400,000 on page 31 of this report. As part of the cost approach, Brorsen estimated the subject's land value to be $35,000 per acre which is the same land value estimate that was presented in his 2006 appraisal report. In summary, for the estimated replacement cost new Brorsen set forth a figure of $23,787,553 for the building(s) plus an additional $1,204,966 for site improvements (see page 31). Next, the appraiser displayed varying depreciation figures for the various components of both the building improvements and the site improvements resulting in a total of approximately 63% for depreciation or $15,815,335 which then resulted in a depreciated cost new of $9,177,200. To this figure, Brorsen added the land value of $1,206,000 to arrive at an indicated value under the cost approach of the subject of $10,400,000, rounded.

On page 32 of this report, Brorsen determined that as an owner/user property, too many assumptions would be necessary to utilize the income approach to value for the subject property as the rental data did not have the size and complexity of the subject property. (See also p. 42)

Commencing on page 33, Brorsen performed a sales comparison approach to value. In describing the appraisal process, Brorsen reported that his search parameters did not reveal any additional sales in the local Kankakee County market since the January 1, 2006 appraisal was developed. "An area wide search resulted in the selection of six (6) sales that met the criteria stated above."

Next, as depicted in a chart on page 34 of the report, Brorsen identified nine (9) properties suggested as similar to the subject. The sales occurred between January 2006 and November 2007 with buildings that range in size from 213,640 to 612,000 square feet and were constructed from 1940 to 1987. As summarized on page 34, the improvements had land-to-building ratios ranging from 1.02:1 to 8.64:1 with office space ranging from 1% to 13% and wall heights ranging from 12' to 36'. These comparables had gross land areas ranging from 5 to 51.4-acres. The properties were located in Chicago, Chicago Heights, Blue

Island, Matteson, North Aurora, St. Charles and Joliet. Seven comparables were described as manufacturing with warehouse and two were described as warehouse with some light manufacturing. These comparables had weighted ages ranging from 19 to 51 years old. The sales prices ranged from $3,600,000 to $15,000,000 or from $16.85 to $46.35 per square foot of building area, including land. Brorsen's report summarized the subject as a manufacturing with warehouse facility of 356,276 square feet of building area and a gross land area of 34.46-acres. The subject had a land-to-building ratio of 4.21:1 with 4% office space and was built between 1947 and 2004 resulting in a weighted age of 40 years old and presented ceiling heights of 14' to 68'.

As part of the addenda, Brorsen had individual sheets with photographs of the nine comparable sales which he analyzed. Each of the nine comparables was reported to be leased from 10% to 100% with five of the properties being 100% leased facilities.

On page 35 of the report, Brorsen outlined his consideration of adjustments to the comparables for differences from the subject. The appraiser applied either downward or upward adjustments to all comparables for location except as to sale #2 located in Joliet. Additional adjustments were made for land contribution, improvements, general overall utility, design utility and office finish utility. These various adjustments are summarized in grids on pages 38 and 39 of the report. As summarized, Brorsen determined that overall downward adjustments were warranted for most of the comparables and three comparables, #5, #7 and #8, warranted overall upward adjustments. As written on page 40 of this report:

> The adjustment process resulted in a negative overall adjustment to the unit price of three of the comparable data presented, with positive overall adjustment on the other three comparable data presented. The least adjusted were given the most emphasis.

As depicted in the report, Brorsen opined a unit value of $24.00 per square foot of building area "as the most apparent unit price" which resulted in a value indication for the subject of $8,600,000, rounded. (Report, p. 40)

In reconciling the two approaches to value utilized in this report, Brorsen opined a market value of $8,600,000 for the

subject giving primary emphasis to the sales comparison approach.

The 9-page Brorsen appraisal report with an opinion of value as of January 1, 2008, acknowledged the appraisals of the subject property with effective dates of January 1, 2006 and January 1, 2007 and noted "[t]he opinions stated in this letter can not [*sic*] be understood and could be misleading without reference to the previous appraisal reports." (See p. iii). In substance, page 5 of this report stated in pertinent part:

> In brief, the same cost sources used in the previous appraisals were used for this assignment. Although there was a slight increase in cost, the estimates were offset by an increase in the overall depreciation estimate.
>
> As before, no income approach was developed for this assignment.
>
> The relevant sales data discovered indicated no measureable trend in the unit prices being paid, which resulted in no change in the indicated adjusted unit value applicable to the subject property.

Next, Brorsen concluded, "based on a study of relevant market data, the market value of the subject property as of January 1, 2008 has not changed from the market value opinion reported for the January 1, 2006 and January 1, 2007 [appraisals]." Thus, Brorsen opined a market value of $8,600,000 as of January 1, 2008.

Based on the foregoing, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant filed a review of the three Brorsen appraisal reports prepared by Michael J. Kelly, MAI, SRPA (reviewer) of Real Estate Analysis Corporation. This 36-page review document will be summarized as this is new evidence filed by the appellant for this 2009 assessment appeal.

The stated purpose of Kelly's review was to determine if Brorsen's three appraisal reports are credible (page 4). As further set forth on page 6 of the review report, Kelly outlined the scope of the assignment to (1) develop an opinion as to the completeness and accuracy of the appraisal; (2) develop an opinion as to the adequacy and relevance of the market data and

the adjustments made; (3) develop an opinion as to the reasonableness of the analysis used; and (4) develop an opinion as to whether the conclusions are credible. Kelly's chosen method of analyzing the Brorsen appraisals was to set forth section headings from USPAP Standard Rules and then set forth the appraisal data for each of those standards.

Kelly further asserted on page 4 of the review that there were no new sales in the 2007 appraisal report prepared by Brorsen. This assertion is in error. The Property Tax Appeal Board has previously found that Brorsen's 2006 appraisal considered six sales which sold between September 2000 and June 2006 (see Property Tax Appeal Board Final Administrative Decision, pages 21-23 of Docket No. 06-01787.001-I-3 issued December 23, 2010). This is in contrast to the 2007 Brorsen appraisal report, as outlined above, where the appraiser examined nine sales of comparable properties that sold between January 2006 and November 2007. Given the foregoing erroneous analysis of the various appraisal Brorsen reports, Kelly then wrote, "[O]ur comments in this review will come from the data in the 2006 appraisal document which was the basis for Brorsen's 2007 and 2008 updated value opinions." (Id. at p. 4).

Kelly next noted that Brorsen did not completely and accurately describe the subject building(s) regarding size, ceiling heights and number of stories. In particular, he found that Brorsen's chart of the buildings lacked second and third floor areas in a portion of the complex above building No. 10. In addition, Brorsen excluded four yard buildings of 14,448 total square feet that should have been included in Kelly's opinion. Kelly opined that the subject contains 391,424 square feet of building area (p. 8).

For ceiling heights, Kelly found inconsistencies in Brorsen's appraisal setting forth various ranges of ceiling heights. In addition, Kelly opined that ceiling heights should have been converted to a weighted average for the entire facility. In his review report on page 10, Kelly provided a weighted average ceiling height based on Brorsen's gross building heights of 19 feet.

On page 11 of the review, Kelly noted that Brorsen failed to disclose the quantity of upper floor area. Kelly opined that this is important "because upper floor area in an industrial building has a substantially lower unit value than 1st floor and should be considered in the Sales Approach." From his analysis of the appraisal report, Kelly opined that 17% of the building

area was on the second and third floor(s) and should be considered in arriving at a final unit value for the subject in the sales comparison approach.

On page 12 of the review, Kelly agreed with Brorsen's opinion that the income capitalization approach was not necessary to the valuation of the subject property.

In Brorsen's discussion of the highest and best use of the property as if vacant, Kelly noted there was no discussion of the impact of the flood zone classification of AE on the north half of the site. Kelly asserted that the flood hazard map depicts that two-thirds of the existing buildings are within this area. According to Kelly's research with plant personnel, the nearby creek has exceeded its banks and been up to the buildings approximately three times in the past 40 years (p. 12-13).

As to Brorsen's market data in the appraisal, Kelly noted a "major concern" in the categories of location, multi-tenant design and leased fee property rights of sales in the appraisal report. Commencing on page 15 of the review report, Kelly asserted that three of the five sales were located in Cook County "which is vastly superior to the subject's location." Kelly contended that there were other sales available in central and northern Illinois which were much more comparable demographically to the subject's location; furthermore, Kelly opined that eliminating the three Cook County properties left only three sales, one of which Brorsen placed little weight upon because it occurred in 2000 which then left "only two sales from the Will County-Kankakee area." Kelly further supported his opinion of the differences between the subject in Kankakee and Cook County properties by analyzing several sales to establish the higher unit prices for land in Cook County as compared to Brorsen's local area land sales that range from $0.57 to $1.03 per square foot of land area (p. 16-20). In these pages, Kelly set forth industrial land sales for ten properties in Cook County that sold between February 2000 and February 2008 for prices ranging from $2.06 to $9.33 per square foot of land area. Based upon this analysis, Kelly opined that the three sales considered by Brorsen required substantial downward adjustment for their superior location as compared to the subject site which Brorsen opined had a land value of $0.80 per square foot of land area.

On page 22 of the review document, Kelly set forth a grid with five improved sales comparables in central Illinois which "could

have been included." These properties were located in LaSalle, Champaign, Galesburg, Milford and Ottawa. The buildings range in age from 27 to 43 years old and range in size from 165,000 to 796,464 square feet of building area. These buildings have from 2% to 17% office area and have land-to-building ratios ranging from 1.87:1 to 4.00:1. The sales occurred between April 2003 and February 2008 for prices ranging from $4.04 to $13.32 per square foot of building area, including land.

Next, Kelly addressed that five of the six comparable sales in the 2006 appraisal report prepared by Brorsen had multi-tenant design which he opined "have the capacity to be divided into smaller units and can then obtain higher rents on a per sq. ft. basis than larger single tenant buildings like the subject." This advantage required an adjustment in the sales comparison approach according to Kelly and none was made by Brorsen. Similarly, Kelly noted that five of these six sales had leases in place at the time of sale and appraiser Brorsen did not disclose the amount of the contract rent or the duration at the time of sale. Kelly wrote:

> The subject is being valued as a fee simple interest based on market rent. The sale comps are leased fee interests that represent contract rent. Leased fee sales can be converted to fee simple interests by quantifying the leasehold estate, but this requires knowledge of the existing contract rent and duration. None of this was disclosed or quantified in the appraisal making the leased improved comps inadequate and not comparable.

(See p. 23 of review report).

Next, Kelly analyzed the six sales from the Brorsen 2006 appraisal report and considered the adjustment process from page 24 through page 30. Although the Board has already noted that Kelly inappropriately ignored the nine sales presented in Brorsen's 2007 appraisal report, the Board will briefly outline the comments Kelly made in the review concerning the lack of a ceiling height adjustment, the lack of building size adjustment, land-to-building ratio adjustments are inconsistent in comparison to the subject property and the final unit price presented by Brorsen should be in the indicated mid-range of $21.00 to $22.37 per square foot, but the appraiser chose a final value of $24.00 per square foot of building area. Kelly further pointed out that this final value conclusion was twice the unit price of the only Kankakee area sale from September

2000 indicating a 16.6% appreciation in value per year; this comparable is smaller in building size than the subject, has a higher land-to-building ratio, is a one-story structure and is newer than the subject.

Next, as a reviewer Kelly analyzed Brorsen's cost approach method where he found deficiencies in the depreciation method, layout-multi-year construction, low ceiling heights, upper floor areas and large building size (see pages 29-30).

Based on the foregoing, Kelly opined that the appraiser's value conclusion was not credible, the value conclusion on a per-unit basis was too high and was not supported.

In rebuttal, the board of review filed twelve documents to dispute the sales and listings contained within the Salisbury appraisal report.[3] To the extent that specific facts regarding the sales and listings presented in Salisbury's appraisal report can be gleaned from these exhibits, those facts will be set forth in this decision.

Exhibit A is a CoStar data sheet concerning sale #1 which disputes the sale price reported by Salisbury of $457,500 or $1.20 per square foot of building area, including land, and instead indicates the property sold for $475,000 or $1.25 per square foot of building area, including land. Moreover, the data sheet asserts that the property was 100% leased for multi-tenant purposes.

Exhibit B is a PTAX-203 Illinois Real Estate Transfer Declaration that substantially confirms the sale date and sale price of sale #2 presented by Salisbury. However, this document indicates that the property was not advertised for sale prior to the transaction. Exhibit C concerns this same property and indicates the property also sold in March 2007 for $4,194,477 between related parties and was not advertised prior the

[3] The Property Tax Appeal Board acknowledges that a form letter was issued to the board of review at the same time that the appellant was given 30 days to submit rebuttal evidence to the board of review's filing(s) in this matter. It is noted that while the form letter generated to the board of review referenced an ability to submit rebuttal for 30 days, the procedural rules of the Property Tax Appeal Board envision that the board of review files BOTH any rebuttal and its evidence in support of the assessment of the subject property at the same time. (86 Ill.Admin.Code §1910.40) There is, of course, the possibility of surrebuttal in response to any appellant rebuttal evidence which is forwarded to the board of review and/or rebuttal to any intervenor evidence that may have been forwarded to the board of review.

transaction. Salisbury's report, however, did not utilize this latter transaction in his appraisal.

Exhibit F is a CoStar data sheet which indicates that Salisbury's sale #5 was a vacant, multi-tenant facility. Exhibit G, a PTAX-203, also concerns Salisbury's sale #5 and confirms the sale date, sale price and that the property was advertised prior the transaction.

Exhibits H and I, CoStar data sheets concerning two buildings with the address set forth in sale #6 from Salisbury which he reported as having occurred in May 2006 for $1,300,000 or $3.39 per square foot of building area, including land. The board of review's exhibits reflect that each of these buildings is being offered for sale, presumably in 2011, for $5.5 million and $750,000, respectively. The data sheets indicate these are single tenant facilities.

Salisbury's listing #1 was "verified" in July 2010 with a reported asking price of $1.6 million and Exhibit J, with a print date in December 2011, reflects an asking price of $1.5 million or $4.41 per square foot of building area, including land. This CoStar data sheet also indicates the facility is a single tenant, 100% leased building.

Similarly, Salisbury's listing #2 was "verified" in July 2010 with a reported asking price of $1 million which is confirmed by Exhibit K that further indicates this property has been on the market for 1,352 days. The building is a single tenant, 100% leased facility.

Exhibit L is a 9-page CoStar data report concerning Salisbury's listing #3 which reflects a print date of December 22, 2011. Salisbury's listing #3 was "verified" in July 2010 with an asking price of $750,000 or $6.20 per square foot of building area, including land. Exhibit L describes the property as consisting of three buildings, two are still being offered for sale and one single-tenant 100% leased building sold in January 2011 for $300,000 or $10.00 per square foot of building area, including land. The documentation indicates that this sale property suffered from deferred maintenance and the seller was motivated to dispose of the facility which they were no longer using since the third quarter of 2009. The two other multi-tenant buildings have reported asking prices of $550,000 and $450,000, respectively, which reflect asking prices of $8.09 and $15.63 per square foot of building area, including land,

individually or both buildings for $1 million and an average of $10.33 per square foot of building area, including land.

a. "Correct assessment of property ... subject of an appeal"

The Property Tax Code (hereinafter "the Code") authorizes the Property Tax Appeal Board to determine the correct assessment of "property which is the subject of an appeal." (35 ILCS 200/16-180) There is no dispute on the record that there is only one parcel under appeal in this matter. Moreover, there is no dispute on this record that portions of the improvements are located on the other two parcels which comprise the subject complex, however, the assessing officials placed all of the improvement assessment on the parcel currently on appeal. The evidence further reveals that the assessments on the other two parcels are *de minimus*. (See Footnote 1)

Illinois' system of taxing real property is founded on the Code. (35 ILCS 200/1-1 et seq.) Section 1-130 of the Property Tax Code defines "real property" in pertinent part as:

> The land itself, with all things contained therein, and also all buildings, structures and improvements, and other permanent fixtures thereon. . . and all rights and privileges belonging or pertaining thereto, except where otherwise specified by this Code. (35 ILCS 200/1-130).

The evidence reveals that the Kankakee County Board of Review accepted the assessor's practice with regard to the subject property by placing the value of the industrial complex on primarily one parcel number (which is the subject of this appeal), rather than to assess the property in accordance with Sections 9-155, 9-160 and 9-180 as may be appropriate from time to time to reflect the value of each parcel and its respective improvements.[4] Despite the provisions of the Code, the Property

[4] As a general proposition, except in counties with more than 200,000 inhabitants that classify property for taxation purposes, each tract or lot of property is to be valued at 33 1/3% of its fair cash value. 35 ILCS 200/9-145. As stated by the Illinois Supreme Court in Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d 428, 430 (1970), "[e]ach tract or lot of real property shall be valued at its fair cash value, estimated at the price it would bring at a fair, voluntary sale." Furthermore, the Code specifies valuation is to be "the value of each property listed for taxation as of January 1 of that year, or as provided in Section 9-180, and assess the property at 33 1/3% of its fair cash value" (35 ILCS 200/9-155). Moreover, Section 9-160 of the Code (35 ILCS 200/9-160) provides in pertinent part:

Tax Appeal Board using its equitable jurisdiction will recognize this practice of the Kankakee County Board of Review and its assessing officials in assessing primarily the subject parcel with the value of the industrial complex despite the fact that the complex was actually spread over three separate parcel numbers. The Property Tax Appeal Board further recognizes that this practice of the Kankakee County Board of Review was not in conformance with the terms of the Code, however, equity and the weight of the evidence mandate accepting this practice lest there be an unsubstantiated windfall reduction in the assessment to reflect the proportionate value of the only parcel on appeal while the Board simultaneously does not have jurisdiction to make upward adjustments to the assessments of the other two parcels comprising the complex.

b. The appraisal evidence

The appellant contends the assessment of the subject property is excessive and not reflective of its market value. 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); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal

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> Valuation in years other than general assessment years. On or before June 1 in each year other than the general assessment year, in all counties with less than 3,000,000 inhabitants, . . . , the assessor shall list and assess all property which becomes taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements. [Emphasis added.] (35 ILCS 200/9-160)

Section 9-180 provides further support for the proposition that valuation of property is specific to the tract or lot identified for assessment purposes (35 ILCS 200/9-180):

> The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year. (35 ILCS 200/9-180)

of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). Having considered the evidence presented, the Property Tax Appeal Board finds that the evidence indicates a reduction is warranted.

The appellant submitted an appraisal estimating the subject property had a market value of $2,300,000, as of January 1, 2009. The Kankakee County Board of Review submitted three separate appraisals estimating the subject property had a market value of $8,600,000 as of January 1, 2006, January 1, 2007 and January 1, 2008. The parcel under appeal has an assessment of $2,866,380 reflecting a market value of $8,662,375 using the 2009 three-year median level of assessments for Kankakee County of 33.09%. Thus, the Board finds that the evidence provided by both parties demonstrates the subject's assessment is excessive.

One of the differences in the appraisals was with respect to the building area associated with the subject property. Moreover, although the size discrepancy was raised by the Hearing Officer at the hearing of this property concerning the 2006 assessment appeal, the parties did not stipulate regarding the total building size. Therefore, the Board will make a determination based on the best evidence in the record regarding the building size.

Although Brorsen had testified he utilized GIS data and data from the assessor regarding building size, his appraisal did not contain the building area associated with the "yard" improvements. This issue was also noted by Kelly in his review report. Moreover, Brorsen was unable to measure any of the improvements while touring the facility. More importantly, while Brorsen testified that the assessor's records assisted him in determining the building size, the property record card of the subject property has no building size data which raises the question as to what data he was examining that provided building size data. In this regard, the Property Tax Appeal Board finds the basis for the data obtained from the assessor in terms of building size is not credible and based on the totality of the evidence, the Board finds Brorsen understated the size of the subject improvements. Although Salisbury did not measure each building according to his testimony in the 2006 assessment appeal, he was allowed to use data from the owner as to each building's size and was able to spot check some measurements upon inspection. In summary, the Board finds that Salisbury's estimate of size of the building improvements of now 383,385 square feet is the better supported of the two conclusions as to the size of the subject complex. Furthermore, this figure is

also similar to the calculation Kelly presented in his review report.

There are three methods used to evaluate property: (1) the comparison or market approach which focuses on sales of comparable property; (2) the income approach which is used when the property is most valuable as rental property; and (3) the reproduction or replacement cost method which focuses on what it would cost to recreate real property with the same value. Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9, 14 (5th Dist. 1989). In this matter, both appraisers did not perform an income approach to value. Furthermore, review appraiser Kelly agreed that the income approach was not an appropriate method to be used in valuing the subject property. While Brorsen also developed the cost approach, ultimately both appraisers placed the greatest weight upon the sales comparison approach to value in their respective appraisals in arriving at their final value conclusions. Additionally, review appraiser Anderson noted that primary reliance upon the sales comparison approach would be appropriate for the subject property. Therefore, in analyzing the appraisal evidence, the Board will focus on the sales comparison approaches used by Salisbury and Brorsen. The Board will focus on Brorsen's 2007 appraisal report in this proceeding as the most recent value conclusion which contains comparable sales which were utilized in arriving at the final opinion of value; Brorsen's brief 2008 appraisal report lacks any additional data and simply concluded that no change was necessitated since the prior appraisal reports. Similarly, the Board will solely focus on Salisbury's 2009 appraisal report submitted in this proceeding as the most recent value conclusion which contains comparable sales and listings which were utilized in arriving at the final opinion of value.

Based upon the board of review's rebuttal submission, at least three of the sales and listings analyzed by Salisbury involved ongoing leases (see board of review Exhibits A, J & K). Likewise, the Board finds that the 2007 appraisal report based on the individual data sheets within that appraisal reflect that at the time of sale, five of the properties involved ongoing leases of 100% of the facility at the time of sale. The Board finds that both appraisers should have made adjustment(s) for sales which were leased. Neither appraiser provided specifics as to lease terms, length of the lease, or any other details by which the Board could analyze these sales which involve ongoing

leases.[5] Furthermore, the Board does not find credible Brorsen's opinion, as provided in his testimony in the 2006 appeal that being leased does not have an impact on the sale. It is further found that Kelly's review report agrees with these criticisms of the 2006 Brorsen appraisal report. Finally, the Board finds Brorsen's opinion particularly suspect when, in this prior testimony, he next acknowledged that the property was purchased "as an investment."

The Board also previously found that the Brorsen 2006 appraisal involved four multi-tenant buildings, dissimilar to the subject's single user configuration, although according to Kelly's review report five of these six sales were of multi-tenant design (see p. 23 of Kelly review report). Additionally, based upon the board of review's rebuttal evidence, two of Salisbury's sales #1 and #5 were multi-tenant facilities (Exhibit A & F) and listing #3 had two multi-tenant buildings (Exhibit L). The Board also previously found in the 2006 assessment decision that using multi-tenant buildings runs counter to Brorsen's highest and best use determination of the subject as improved. This similarly applies to Salisbury who also acknowledged that the subject property was a single owner/tenant property. In fact, the subject is an owner occupied and built property for a specific purpose. In light of these considerations, the Board will give reduced weight to multi-tenant facilities in its analysis of the best comparable sales/listings.

The Board also finds that Salisbury's sale #2 was not advertised prior to the sale transaction according to the board of review's rebuttal Exhibit A. As such, the Board will give little weight to this unadvertised sale price. Furthermore, the one non-leased sale property, Sale #6, in Brorsen's appraisal as of January 1, 2006 was a dated sale from 2000 which Brorsen acknowledged would be inappropriate to rely upon.

Given the foregoing analysis, the Board finds the sales #3, #4 and #6 considered by Salisbury in his 2009 appraisal of the subject property are fee simple sales which are more indicative of market value than sales of fully leased properties which were considered by Brorsen in either his 2006 or his 2007 appraisal reports. Salisbury's three best sales occurred between December 2005 and June 2007 for prices ranging from $2.99 to $4.35 per square foot of building area, including land. Examining the

[5] In the most recent appraisal report, Brorsen for comparables #1 #2, #5 and #6 revealed lease amounts ranging from $1.25 to $4.50 per square foot. (See addendum pages)

nine sales considered by Brorsen in his appraisal as of January 1, 2007, the Board finds that sales #2 and #5 from Joliet and Matteson were the best sales in terms of similar market, despite the need for downward adjustments due to the existing leases of 20% and 10%, respectively. These two properties sold in September 2006 and January 2007 for $20.76 and $23.20 per square foot of building area, including land.

Turning next to the listings considered by Salisbury, the Board has given less weight to listings #1 and #2 due to the properties being 100% leased and listing #3 has been shown through Exhibit L to consist of three buildings, one of which sold in January 2011 for $10.00 per square foot with deferred maintenance issues and two other buildings were multi-tenant facilities that were being offered for sale for approximately $10.33 per square foot of building area, including land.

Having analyzed both appraisals presented by the parties, the Board finds that neither report presents a credible and well-supported final value conclusion for the subject property in light of the numerous deficiencies that have been found in the appraisers' respective sales and/or listings utilized to arrive at their value conclusions. Moreover, it is noteworthy that Salisbury concluded a value of $6.00 per square foot for the subject whereas Brorsen concluded a value four times that of Salisbury at $24.00 per square foot.

The record in this 2009 assessment appeal reveals that the best comparable sales range from $2.99 to $23.20 per square foot of building area, including land. In his 2009 appraisal report, Salisbury opined that all but one of his comparables required upward adjustments in order to arrive at a value conclusion of $6.00 per square foot of building area, including land, for the subject property. The Board gives most weight to Salisbury's listing #3, located in Kankakee, which was shown by Salisbury to have an asking price of $6.20 per square foot and was shown by the board of review to have sold a 30,000 square foot building in January 2011 for $10.00 per square foot of building area, including land. Listing #3 from Salisbury is located on the same street as the subject property, thus reflecting a market nearly identical to the subject's market area. The Board further finds that but for this property's significantly smaller size and deferred maintenance, this is the most similar comparable to the subject.

After reviewing the appraisals and considering the previous testimony provided by both appraisers and the entire documentary

record in this appeal, the Board finds the subject property to have an estimated fair market value as of January 1, 2009 of $10.00 per square foot of building area, including land, or $3,833,850. Having concluded the subject parcel's assessment as established by the board of review is incorrect and since fair market value has been determined, the 2009 three-year median level of assessments for Kankakee County of 33.09% shall apply less the *de minimus* assessments of the two additional parcels that comprise the subject property.

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: August 22, 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.