FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Inland Real Estate Corporation
DOCKET NO.: 10-01799.001-C-3 through 10-01799.002-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Inland Real Estate Corporation, the appellant, by attorneys Franco A. Coladipietro and Daniel R. Lynch of Amari & Locallo in Bloomingdale; the Kane County Board of Review; and Batavia School Dist. No. 101, intervenor, by attorney Joshua S. Whitt of Whitt Law LLC in Aurora.

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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
10-01799.001-C-3	12-16-151-003	1,024,139	1,400,004	$2,424,143
10-01799.002-C-3	12-16-100-025	928,537	0	$928,537

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2010 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of two parcels with a combined land area of 350,832 square feet. The property is improved with a one-story neighborhood shopping center constructed in 2002 with a net rentable area of 72,342 square feet. The improvement is divided into 13 units ranging in size from 1,192 to 32,924 square feet of building area. The shopping center is known as the Fabyan Randall Plaza.[1] The property has a land to building ratio of 4.85:1. The property is located at the southeast corner of the intersection of Randall Road and Fabyan Parkway in Batavia, Geneva Township, Kane County.

At the beginning of the hearing the parties stipulated to the qualifications of the appraisers to give opinion testimony, the characteristics of the building and the highest and best use of the subject property.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by Thomas W. Grogan of Sterling Valuation Real Estate Appraisers & Consultants estimating the subject property had a market value of $8,300,000 as of January 1, 2010.

Grogan was called as a witness on behalf of the appellant and identified Appellant's Exhibit #1 as the appraisal of the property he prepared. Grogan inspected the property on August 5, 2011. The witness described the subject property as being located at the corner of Fabyan Parkway and Randall Road, however, Randall Road has no curb cuts to the subject property. He testified that a broker had commented that the lack of curb cuts was one of the prohibitive factors of leasing the central vacant tenant. In estimating the market value of the subject property the appellant's appraiser considered the cost approach, the sales comparison approach and the income approach.

Under the cost approach the first step was to estimate the value of the land using four land sales located in St. Charles, North Aurora, Geneva and Batavia. The comparables ranged in size from 145,926 to 692,604 square feet of land area. The land comparables sold from April 2007 to October 2009 for prices ranging from $1,133,500 to $3,230,000 or from $3.90 to $12.82 per square foot of land area. Grogan indicated in the report that adjustments were considered for such areas as property rights sold, market trends, financing, location, conditions of sale and physical characteristics. Based on these sales the appraiser estimated the subject land had a market value of $10.00 per square foot of land area or $3,510,000, rounded.

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[1] The shopping center also includes a free-standing Walgreen's store and a Lumes Pancake House which are not part of the subject parcels.

Grogan estimated the replacement cost new of the improvements using the *Marshall & Swift Valuation Guide*, which indicated the subject should be classified as a Class C Average Shopping Center, with an adjusted based cost of $77.63 per square foot of building area, inclusive of sprinklers. The appraiser adjusted the base cost by an area multiplier and a local multiplier to arrive at a adjusted base cost of $78.41 per square foot of building area and a building cost of $5,672,336. To this Grogan added 5% for indirect costs to arrive at a replacement cost new of $5,955,953. The appraiser then added 5% for entrepreneurial profit to arrive at a total replacement cost new of $6,253,751.

Using an effective age of 8 years and an economic life of 40 years the appellant's appraiser estimated the subject property suffered 20% or $1,250,750 in physical incurable deterioration. Due to the use of replacement cost, the appraiser made no deduction for items of functional obsolescence. Grogan made no deduction for external obsolescence but indicated in the report that the local economy was struggling, which he reflected in the estimated land value and thus no further deduction was made for external obsolescence. The depreciated cost new of the building improvements was estimated to be $5,003,001. Grogan also estimated the depreciated cost of the site improvements to be $180,000. Adding the various components the appellant's appraiser estimated the subject property had an indicated value under the cost approach of $8,690,000.

Grogan next developed the sales comparison approach using four sales and one listing of shopping center properties located in Elgin, West Dundee, Aurora and South Elgin. The comparables ranged in size from 41,875 to 238,115 square feet of gross leasable area. The appraisal indicated that comparables #1 through #4 were built from 1961 to 2008 with comparable #3 having an addition in 1994. No age was reported for comparable sale #5. The appraisal indicated that comparable sale #1 was 50% occupied on the date of sale, comparable #3 was 88% occupied at the time of sale and comparable sale #4 was 97% occupied at the time of sale. Comparables #1 through #4 sold from January 2007 to March 2010 for prices ranging from $6,700,000 to $24,000,000 or from $43.44 to $112.32 per square foot of gross leasable area, including land. Comparable #5 had a list price of $3,850,000 or $91.84 per square foot of gross leasable area. Adjustments were made to the comparables for location, gross leasable area, year built, condition, land to building ratio and occupancy. Based on these sales the appraiser estimated the subject property had an indicated value of $110.00 per square foot of gross leasable area, land included, or $7,960,000, rounded.

The final approach to value developed by Grogan was the income approach. The first step was to estimate the market rent. Grogan testified that the potential gross income was estimated through the use of market rents and talking with the broker of the property. The witness testified he reviewed the subject property's actual operating and expense statements but those included Walgreens and the Lumes restaurant, therefore, he relied mostly on market derived operating expenses.

Grogan's report also indicated that the subject's October 2010 rent roll disclosed the subject property had a net rentable area of 72,342 square feet with one 1,192 square foot unit vacant for an occupancy rate of 98.35%. He explained that this was misleading because the subject's largest unit with 32,924 square feet, located in the middle of the property, was on a short term lease ending on October 31. Grogan stated in the report that management has had problems leasing this unit since the end of 2008 when the previous tenant, Circuit City, filed for bankruptcy. The appraiser further stated the leasing agent informed him this unit was listed on Loopnet as available for lease for $12.00 per square foot on a net lease basis, although a more realistic rate is closer to $8.00 to $9.00 on a net lease basis. The 1,192 square foot unit was available for $20.00 per square foot on a net lease basis. Grogan also indicated that the most recent leases signed for the subject property were for units ranging in size from 1,192 to 2,250 square feet. The leases were entered from September 2009 to July 2010 for $5.33 to $22.00 per square foot, net. The lease at the high end was to Smashburger and included tenant improvement concessions. Three of the leases were for terms of approximately 5 to 6 years while the lease to Vignette Home Décor, at $5.55 per square foot, was for a term of two years.

Grogan's report also contained five comparables located in Geneva, West Dundee, St. Charles and Warrenville that ranged in size from 31,095 to 171,648 square feet of gross leasable area with available space ranging from 11,200 to 36,143 square feet. The comparables had listing rentals ranging from $8.00 to $20.00 per square foot on a net basis.

Grogan testified he estimated three separate market rents: for smaller units less than 5,000 square feet of $17.50 per square foot on a net basis; medium size units with approximately 10,000 square feet of $15.00 per square foot net; and the larger unit with 32,924 square feet of $10.00 per square foot net. Grogan testified the weighted rent for the subject property was $13.32 per square foot net, for a total potential gross income of $963,555.

The appraiser then added recoverable expenses which included the tenants' pro-rata share of operating expenses and real estate taxes totaling $354,441. Adding these components the appraiser arrived at a total potential gross income of $1,317,996 or $18.22 per square foot. Grogan testified he estimated the subject's vacancy and collection loss to be 15% through the market. He testified market vacancy rates were approximately 12.1% but due to the subject's long-term problem with leasing the larger central vacant unit he estimated the vacancy and collection loss to be 15% resulting in an effective gross income of $1,120,297.

Grogan estimated operating expenses using the 2010 edition of the "Income/Expense Analysis for Shopping Centers" published by the Institute of Real Estate Management (IREM). Grogan testified that IREM classified shopping centers into different building sizes and he relied on the range between 50,000 and 99,000 square feet located in region five, which is roughly the Midwest area. The estimated operating expenses totaled $175,379 included: common area maintenance, $28,937; services, $54,257; utilities, $14,468; insurance, $10,851; management fee, $56,015; and replacement reserves, 10,851. Deducting expenses resulted in a net operating income of $944,917.

The next step was for the appraiser to estimate a capitalization rate. Grogan noted comparable #5 was listed for sale and had a 9.9% capitalization rate. The witness also stated that the Korpacz Real Estate Survey, First Quarter, 2010 had capitalization rates for shopping centers ranging from 7.75% to 11.40%. Grogan also developed the band of investment technique and arrived at a rate of 8.97%. Grogan estimated the subject had an overall capitalization rate of 9%. To this he added an effective tax rate of 2.44% to arrive at a loaded capitalization rate of 11.44%. Capitalizing the net operating income resulted in an estimated value under the income approach of $8,260,000, rounded.

In reconciling the three approaches to value, Grogan placed minimal weight on the cost approach, secondary consideration on the sales comparison approach and primary consideration on the income approach to value in arriving at an estimated value of $8,300,000 as of January 1, 2010. Based on this evidence the appellant requested the subject's assessment be reduced to reflect a market value of $8,300,000.

Under cross-examination Grogan clarified that he had the operating expenses for the shopping center but there was no allocation between the subject property and the Walgreens and the Lumes restaurant. With respect to the comparable rental listings in the appraisal Grogan indicated they were listings at the time he prepared the appraisal as opposed to the date of valuation. The witness also acknowledged his rental comparable located on Randall Road had listing rents of $16.00 to $20.00 per square foot, net.

Grogan also agreed both Randall Road and Fabyan Parkway are major thoroughfares in Kane County. With respect to his land sales the witness indicated that land sales #1, #2 and #3 were interior parcels not located on major thoroughfares. Land sale #4 was a corner parcel located on Fabyan Parkway that sold for $12.82 per square foot of land area, the highest of his four land comparables.

Grogan testified he made no deduction for functional obsolescence and the external obsolescence was reflected in the estimated value of the land price. The appraiser stated the land sales themselves reflect the economic obsolescence within the market.

Grogan also agreed his comparable sales #1 through #4 were leased fee sales and he had no information about the leases that were in place at the time of sale. He also agreed his comparable sale #5 was a listing and he had no information about the leases that were in place. He made the assumption that the leases were at market value in his analysis.

Grogan testified his rental comparable #1 was roughly thirty miles north of the subject property; rental comparable #2 was roughly twenty miles north of the subject property; rental comparable #3 was six miles north of the subject property; rental comparable #4 was one mile north of the subject property; and rental comparable #5 is roughly ten miles east of the subject property in DuPage County. Rental comparable #4 was closest to the subject property, located along Randall Road and had the highest rental rate.

Grogan also indicated the overall vacancy for the Chicago Retail market in the First Quarter of 2010 was 12.1% and 11.8% for the Far West Suburbs. He selected a vacancy rate of 15%.

Grogan agreed that the large retail space in the subject property is approximately 48% of the subject's leasable area. He also testified this large unit was not leased as of the hearing date (4/23/14). He also explained the short term lease for this area to Spirit Halloween was for three months. On page 15 of his appraisal Grogan reported that the for the first quarter of 2010 the Far West Suburbs had a retail vacancy rate of 11.8% while Kane County had a retail vacancy rate of 17.6%. He thought the higher rate in Kane County was due to new construction.

With respect to his estimate of entrepreneurial profit in the cost approach Grogan testified that in January 2010 the economy was struggling, developers were trying to keep costs down, and he believed 5% was fair. The witness also explained that a leased fee sale can reflect market value when the lease reflects the market.

With respect to the recent lease signings at the subject property, the appraiser agreed the lease to Vignette Home Décor was low at $5.33 per square foot. He also explained that the lease to Smashburger for $22.00 per square foot included tenant improvement concessions meaning that ownership or management would make the renovations for Smashburger then adjust the rent accordingly.

The board of review submitted its "Board of Review Notes on Appeal" on which it stated that it was adopting the evidence of the intervenor. The subject parcels had a combined total assessment of $3,364,853. The subject's assessment reflects a market value of $10,086,489 or $139.43 per square foot of building area, land included, when using the 2010 three year average median level of assessment for Kane County of 33.36% as determined by the Illinois Department of Revenue. Timothy Sullivan, member of the Kane County Board of Review, stated that the board of review would not be presenting any evidence.

In support of its contention of the correct assessment Batavia School Dist. No. 101 submitted an appraisal prepared by Jason A. VanDevelde and James A. Gibbons of Gibbons & Sidhu, Ltd. estimating the subject property had a market value of $10,050,000 as of January 1, 2010. The intervenor called James A. Gibbons as its witness.

Gibbons described the subject property as a newer community shopping center known as Fabyan Randall Plaza that is located at the southeast corner of the intersection of Fabyan Parkway and Randall Road. The center was constructed in 2002 on an 8.05 acre site. The center has 72,342 square feet of building area and is anchored by a Trader Joe's grocery store and an Office Depot. Also located at the center are two freestanding buildings, a Walgreens and a Lumes Pancake House, which are not part of the subject parcels.

Gibbons testified that Fabyan Randall Plaza, which included the Walgreens and the Lumes restaurant, was transferred in June 2006 for a price of $26,000,000, inclusive of an outstanding mortgage that was assumed by the buyer. The appraiser testified Randall Road is a major commercial corridor for Kane County. On the northeast corner of Randall Road and Fabyan Parkway intersection, north of the subject property, is a Home Depot. On the northwest corner of the intersection are a Dominck's, a Best Buy, a Michael's, Party City and a Pet Smart. Walmart is located on the southwest corner of the intersection. Gibbons testified Randall Road is a heavily commercialized and the corridor has a million square feet of retail space. He also testified the overall combined average daily traffic count at Fabyan Parkway and Randall Road is 51,950.

In estimating the market value of the subject property Gibbons developed the three traditional approaches to value. As part of the cost approach he first estimated the value of the land using four comparable land sales located in Batavia, Geneva, St. Charles and North Aurora. The comparables ranged in size from 99,752 to 660,892 square feet of land area and sold from June 2008 to January 2010 for prices ranging from $1,350,000 to $7,675,000 or from $11.22 to $14.23 per square foot of land area. Gibbons land sale #1 was the same property as Grogan's land sale #4, although they reported different land sizes. Gibbons indicated the land comparables were located within the Fox Valley area in Kane County. He considered adjustments to the comparables for factors such as market conditions, location, size and accessibility. Land sale #1 is a corner parcel located on Fabyan Parkway that sold for $14.23 per square foot of land area. Gibbons testified land sale #2 was a corner parcel that sold for $13.53 per square foot and land sale #3 is a corner parcel located on South Randall Road that sold for $11.61 per square foot. Based on these sales Gibbons estimated the subject property had a land value of $12.00 per square foot of land area or $4,210,000, rounded.

Gibbons used the *Marshall Valuation Service* in estimating the replacement cost new of the subject improvements. Gibbons used a per square foot replacement cost for a Class C Good Quality Neighborhood Shopping Center buildings because of the property's construction including elevations, façade, part face brick façade and better than average quality of construction. The base cost was $89.13 per square foot to which he added $3.00 per square foot for sprinklers. Gibbons also applied a combined height and size multiplier of .831 and a local multiplier of 1.22 to arrive at a final square foot cost of $93.40. The building replacement cost was estimated to be $6,756,977. Site improvements were estimated to be $700,000 resulting in a total improve improvement replacement cost of $7,456,977. Gibbons then estimated the subject had an entrepreneurial profit of 15% or $1,118,547 to arrive at a total replacement cost of $8,575,523. The witness explained entrepreneurial profit is the incentive for the developer to undertake the venture and is basically the difference between what it would cost and what it would sell for after it is completed. Gibbons was of the opinion a developer would not undertake the process of acquiring the land and constructing a building such as the subject for a 5% return on the investment.

Gibbons testified he deducted 20% for physical incurable depreciation based on an age of 8 years and an expected physical life of 40 to 45 years. The appraiser also deducted 10% for external obsolescence due to the decline in market conditions. Total depreciation of $2,572,657 was deducted to arrive at a depreciated cost of $$6,002,866. Adding the land value resulted in an estimated market value under the cost approach of $10,210,000, rounded.

The next approach to value developed by Gibbons was the income capitalization approach. Gibbons testified he was not provided with a rent roll or the historical operating statements for the subject property. He did have information regarding recent leasing activities for the subject property from the Sterling appraisal which showed leases ranging from $5.33 to $22.00 per square foot with an average of $14.10 per square foot. The appraiser testified that if the lease to Vignette Home Décor of $5.33 per square foot was excluded the average would be $17.69 per square foot. The witness testified that, based on information found on the internet, Vignette Home Décor used to occupy more space in the center. He assumed that the tenant down-sized and was given a discounted rent on a short-term basis in order to maintain occupancy. Gibbons did not consider the rent of $5.33 per square foot to be market rent and was an outlier when considering the other rents at the subject property.

Gibbons identified seven comparable rentals located in Geneva, Schaumburg, Yorkville, West Dundee and Woodridge. The leased areas ranged in size from 1,000 to 43,273 square feet with base net rents or asking rents ranging from $8.38 to $22.50 per square foot of building area. Rental comparables #1 and #3 were located along Randall Road with rents of $22.50 and $17.50 per square foot, net.

Gibbons agreed that Randall Road and Fabyan Road are major thoroughfares in Kane County. He was of the opinion that, all things being equal, he would expect property located on a major thoroughfare would lease for more than property located on a non-major thoroughfare because commercial tenants are sensitive to traffic counts and exposure.

Gibbons determined based upon the market data and his experience, that smaller spaces tend to rent for higher amounts, therefore, he broke down rentals based upon size. He determined the smaller spaces at the subject of 10,000 square feet and less would have a rent of $18.00 per square foot net; the medium size space at the subject from 10,001 to 30,000 square feet would have a market rent of $16.50 per square foot net; and the large space at the subject property greater than 30,000 square feet would have a market rent of $10.00 per square foot net. Using these estimates Gibbons determined the subject had an overall average rental of $13.90 per square foot net and a potential gross income of $1,005,464.

In the appraisal Gibbons noted the First Quarter 2010 MarketView Chicago Retail report published by CBRE, Inc., reported that the Chicago Metro Area had a vacancy rate of 12.1% and the Kane County market had a vacancy rate of 17.6%. Based on the subject's prime location Gibbons estimated the subject had a vacancy and collection loss of 13% or $130,710, resulting in an effective gross income of $874,754.

Gibbons explained that a net lease requires the tenant to reimburse their proportionate share of the operating expenses and the owner would have some minor administrative costs and reserves for replacement. Citing the First Quarter 2010 PwC Real Estate Investor Survey, published by PricewaterhouseCoopers, management fees for national power centers and strip shopping centers averaged 3.10% and 3.43%, respectively, and he used a management fee of 3.50% of effective gross income or $30,616. The First Quarter 2010 PwC Real Estate Investor Survey, reported that replacement reserves for national power centers and strip shopping centers averaged $.23 and $.29 per square foot, respectively. Gibbons estimated reserves for replacement of $.25 per square foot of building area or $18,086. Deducting the management fee and reserves resulted in a net operating income of $826,052.

Gibbons next estimated the capitalization rate to be applied to the subject's net income. Gibbons reported that First Quarter 2010 PwC Real Estate Investor Survey indicated national strip overall capitalization rates (OAR) for institutional quality national regional malls, nation power centers and national strip shopping centers ranging from ranging 8.34% to 8.55%. National strip shopping centers, which are most similar to the subject, had OARs ranging from 7.25% to 11.40% with an average of 8.49%. The witness also testified that CBRE's Inc.'s Year end 2009 Capital Markets Cap Rate Survey indicated that capitalization rates for neighborhood community centers in Chicago had rates ranging from 8.00% to 8.50%. Using the band of investment method Gibbons developed a capitalization rate of 7.80%. Using comparable sales #1, #2 and #4, Gibbons extracted capitalization rates from the market of 7.50% to 11.0% with a median average of 8.0% and a weighted average of 8.4%. Gibbons estimated the subject property would have a capitalization rate of 8.0%. To this appraiser added a partial tax load factor of .3% which was calculated by multiplying the tax load factor by the vacancy rate resulting in a total capitalization rate of 8.3%. Capitalizing the net income resulted in an estimated value under the income capitalization approach of 9,950,000, rounded.

The final approach to value developed by Gibbons was the sales comparison approach using four comparables sales located in South Elgin, Elgin and North Aurora. Gibbons' sales #1 and #4 were the same properties as Grogan comparable sales #4 and #1, respectively. The comparables were improved with shopping centers or inline stores that ranged in size from 121,000 to 238,115 square feet of building area and were constructed from 1992 to 2007. The comparables had land to building ratios ranging from 4.42:1 to 5.85:1. The sales occurred from January 2007 to March 2010 for prices ranging from $19,750,000 to $24,000,000 of from $95.75 to $188.84 per square foot of building area, including land.

Gibbons testified comparable sale #1 was located on Randall Road but was an REO (real estate owned) sale by Key Bank. This property was significantly larger than the subject and not broadly marketed with the buyer given little due diligence time. Gibbons stated that comparable sale #2 was located on the

Randall Road retail corridor and was the same age as the subject property. The appraiser's notes in the report indicated the property was not offered for sale on the open market and the buyer had approached the seller directly. The property was reported to have a net operating income per square foot of $11.04 and a capitalization rate of 7.50%. The witness explained that sale #3 was slightly off Randall Road and was the inline retail space between a Target and JC Penny. Gibbons testified that sale #4 was also located on Randall Road and was 50% occupied at the time of sale. He indicated there was some deferred maintenance with this property and it sold at an 8.0% capitalization rate. Gibbon's, emphasizing the importance of location, noted his report contained a map depicting the location of the subject property and the comparable sales along the same retail corridor.

Gibbons testified about the adjustments he made to the sales based on the consideration of such factors as size, market condition, age and location. The appraiser estimated the subject had an indicated value under the sales comparison approach of $140.00 per square foot or $10,125,000, rounded.

In reconciling the three approaches to value, Gibbons placed little weight on the cost approach, significant weight on the income approach and significant weight on the sales comparison approach. Gibbons estimated the subject property had an estimated market value of $10,050,000 as of January 1, 201o.

On cross-examination the Gibbons agreed his inspection would have occurred over three years after the valuation date. He also agreed there are no curb cuts to the subject property from Randall Road. Gibbons was also questioned why he reported the size of land sale #1 to be smaller than reported by Grogan as his land sale #4 (the same property) and explained he used a variety of sources to determine the land size and thought the reported land size for the comparable by CoStar Comps was incorrect.

Gibbons further explained that he estimated the subject's vacancy and collection loss to be 13% even though a survey indicated the vacancy rate in Kane County was 17.6% was due to the subject's prime location. Gibbons testified he inspected the subject property on April 22, 2014, and that the 32,000 square foot unit at the subject was still vacant and had been vacant since the time he initially did his report.

Gibbons explained he determined the subject to be of good as opposed to average construction based on the materials used, the facade, the fenestration as well as the quality of the interior and exterior construction.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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). 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds Batavia School Dist. No. 101 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the subject's total assessment of $3,364,853 reflects a market value of $10,086,489 when using the 2010 three year average median level of assessment for Kane County of 33.36% as determined by the Illinois Department of Revenue. The appellant submitted and appraisal and presented the testimony of the appraiser, Thomas W. Grogan, estimating the subject property had a market value of $8,300,000 as of January 1, 2010. Batavia School Dist. No. 101 submitted an appraisal and presented the testimony of the appraiser, James A. Gibbons, estimating the subject property had a market value of $10,050,000 as of January 1, 2010. Both appraisers offered opinions of value below the market value reflected by the subject's assessment. The Board finds the best evidence of market value to be the appraisal and the testimony of the appraiser, James A. Gibbons, presented by Batavia School Dist. No. 101.

With respect to the cost approach developed by the appraisers, the Board finds that Gibbons' estimated land value was better supported through the use of land sales more similar to the subject in location. Additionally, the appraisers had a common land sale located on Fabyan Parkway that sold for either $12.82 or $14.23 per square foot of land area, depending on the size of the parcel. Gibbons estimated site value of $12.00 per square foot of land area is better supported by this data.

Both appraisers used the *Marshall and Swift Valuation Service* to estimate the replacement cost new of the building improvements.

Grogan classified the subject as a Class C Average Shopping Center. Gibbons classified the subject as a Class C Good Quality Neighborhood Shopping Center. Grogan also indicated the adjusted base cost included sprinklers while Gibbons added $3.00 per square foot as an adjustment to the base cost for the sprinklers. The Board finds Gibbons testimony with respect to his reasons for classifying the subject as good quality as opposed to average quality was credible and persuasive based on the factors he considered such as materials used, the facade, the fenestration and the quality of the interior and exterior construction. Thus the Board finds Gibbons' estimated replacement cost of the building was better supported.

The Board also finds the appraisers differed in amount of entrepreneurial profit that should be added to the cost new. Grogan estimated entrepreneurial profit to be 5% while Gibbons estimated entrepreneurial profit to be 15%. Gibbons testified that entrepreneurial profit is the incentive for the developer to undertake the venture and is basically the difference between what it would cost and what it would sell for after it is completed. The Board finds Gibbons' opinion that a developer would not undertake the process of acquiring the land and constructing a building such as the subject for a 5% return on the investment was credible and logical. Thus the Board gives this aspect Gibbons' cost approach more weight.

Both appraisers were in near agreement that the subject property suffered from 20% physical depreciation. The appraisers differed with respect to external obsolescence with Grogan asserting that external obsolescence was accounted for in the land sales while Gibbons made a 10% deduction from the building cost new due to the decline in market conditions. The Board finds Gibbons estimate of external obsolescence attributable to the improvement component is appropriate and should be deducted. In conclusion, the Board finds Gibbons' estimated value for the subject property under the cost approach of $10,210,000 is better supported than the estimated value developed by Grogan under the cost approach.

With respect to the income approach to value, the Board gives more weight to Gibbons estimate of value than to that developed by Grogan. Both appraisers consider rental information from the subject property in part in developing market rent. Gibbons however also considered seven rental comparables with six being actual leases and one being an asking lease. Grogan had five comparable leases with four being asking rents and only one being an actual lease. The Board finds Gibbons use of more actual leases in estimating market rent, on a net per square foot basis, to be more credible.

The Board also finds that Grogan, in calculating the subject's effective gross income added back the real estate taxes and reimbursable expenses. Subsequently, Grogan then deducts operating expenses from the effective gross income to arrive at his estimate of net operating income. The Board finds this process adds elements of conjecture and assumptions not needed in light of the fact that the rental comparables used by Grogan were on a net basis. The Board finds Gibbons' method of estimating the subject's potential gross income and effective gross income using rent per square foot on a net basis is more consistent with his rental comparables. Furthermore, the Board finds that Gibbons' deduction of minimal expenses from the effective gross income to arrive at a net operating income is more reflective of the market and has fewer assumptions, making the calculation more credible.

With respect to the vacancy and collection loss the appraisers were in near agreement. The Board also finds that Gibbons deduction of minimal expenses from the effective gross income to account for management and reserves for replacement was supported by investor surveys. In conclusion the Board finds that Gibbons estimate of net operating income of $826,052 or $11.42 per square foot of building area is better supported than the estimated net income developed by Grogan.

The Board also finds that Gibbons estimated capitalization rate of 8.3%, which includes a partial tax load factor to account for the taxes the lessor/owner would be required to pay when the property is vacant, is supported the by investor surveys, the band of investment technique and the rate extracted from the market. The Board finds the estimated capitalization rate is appropriate considering the appraiser used rent on a per square foot net basis in developing the income approach to value. In conclusion the Board finds Gibbons' estimate of value under the income approach of $9,950,000 is better supported.

The final method developed by the appraisers was the sales comparison approach. The Board finds that Gibbons' estimate of value under the sales comparison approach is better supported through the use of comparable sales located along the Randall Road retail corridor. Additionally, the appraisals had two common sales located at 390-440 South Randall Road, South Elgin and 200-268 South Randall Road, Elgin. These comparables were improved with shopping centers that were significantly larger than the subject property with 234,717 and 238,115 square feet of building area, respectively. These properties sold in March 2010 and January 2007 for prices of $24,000,000 and $22,800,000 or $102.25 and $95.75 per square foot of building area, respectively. Both appraisers agreed that an upward adjustment was appropriate for the property located at 200-268 South Randall Road, Elgin that sold for $95.75 per square foot of building area. Gibbons was of the opinion an upward adjust was appropriate for the property located at 390-440 South Randall Road, South Elgin while Grogan was of the opinion a downward adjustment to this sale would be appropriate. The Board finds considering the fact this property is significantly larger than the subject property and the sale was an REO by Key Bank that was not broadly marketed the Board finds Gibbons conclusion that an upward adjustment to the price is more credible. Based on this record the Board finds Gibbons conclusion the subject property had an indicated value under the sales comparison approach of $10,125,000 or approximately $140.00 per square foot of building area, including land, is better supported.

Based on this record, giving most weight to the appraised value developed and testified to by Gibbons, the Property Tax Appeal Board finds the subject property had a market value of $10,050,000 as of January 1, 2010. Since market value has been established the 2010 three year average median level of assessments for Kane County of 33.36% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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: November 21, 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.