FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Kraft Foods, Inc.
DOCKET NO.: 12-00918.001-I-3 through 12-00918.002-I-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Kraft Foods, Inc., the appellant, by attorney Patrick C. Doody of The Law Offices of Patrick C. Doody, in Chicago; the Winnebago County Board of Review by William D. Emmert, Assistant State's Attorney; and Harlem Consolidated School District #122, intervenor, by attorney Timothy A. Miller of the Law Office of Timothy A. Miller P.C., in Rockford.

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

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
12-00918.001-I-3	12-07-202-003	138,978	663,255	$802,233
12-00918.002-I-3	12-07-202-004	26,267	0	$26,267

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant, Kraft Foods, Inc., timely filed the appeal from decisions of the Winnebago County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessments of the subject property for the 2011 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

Pursuant to Property Tax Appeal Board rule 1910.78 (86 Ill.Admin. Code §1910.78) due to the common issues of law and fact despite some differences in the parties in the proceedings, Docket No. 10-02280.001-I-3 was consolidated with Docket Nos. 11-01881.001-I-3 through 11-01881.002-I-3 and 12-00918.001-I-3 through 12-00918.002-I-3 for purposes of a single oral hearing. The Board shall issue separate decisions for each docket number.

The subject is an industrial property consisting of two parcels totaling 34.94-acres. The subject is improved with two primary buildings connected by a grade-level metal-panel tunnel along with additional outbuildings designed to manufacture and package chewing gum. The part one-story, part two-story, part three-story and/or part four-story buildings are masonry or masonry and metal framed construction that were built in 1956, 1966 and 1977. One of the buildings has a partial basement. Clear ceiling heights range from 9 feet to 22 feet and the property has 11.1% of office space. The subject is mostly wet sprinklered, there are at least three freight elevators and approximately nine dock doors with levelers along with a drive-in truck door. The property is also improved with both asphalt and concrete parking areas and a rail spur all of which is located in unincorporated Loves Park, Rockford Township, Winnebago County.

The initial dispute between parties concerned the correct size of the subject improvements. The board of review and taxing district rely upon the appraisal report prepared by Charles G. Argianas of Argianas & Associates, Inc (hereinafter "Report"). Among the "source of property data" in Argianas' report on page 4 was a statement: "We engaged Dave Newman, Architectural Engineer, to measure and calculate building sizes. Based upon his measurements and calculations, the combined gross area of the buildings is estimated at 602,757 SF." Newman was not called as a witness for hearing. Argianas testified that from his portion of the appraisal fee, he hired Newman to ascertain the building area square footage of the subject. According to Argianas, the architect spent about a day measuring "the building" and reportedly Argianas reviewed his conclusion against whatever public records were available. In the appraisal report, Argianas opined a total building area of 602,757 square feet which "includes usable lower level" of one of the buildings of 56,219 square feet of building area. (Argianas Report, p. 26-28)

The appellant relied upon the appraisal report prepared by McCormick & Wagner, LLC (hereinafter "Kraft Ex. 1"). In accordance with his testimony, Terrence P. McCormick determined a total building area of 545,987 square feet which includes basement area of 57,015 square feet which was determined using building plans provided by owner Kraft. The plans were prepared by architects and engineers Larson & Darby Group, dated June 15, 2010, with a building size of 536,200 square feet. McCormick testified that the drawings were re-measured resulting in the appraiser's larger size determination. (Kraft Ex. 1, p. 24-28)

The Property Tax Appeal Board also finds that the assessing officials submitted a property record card for the subject with a reported total building area of 525,200 square feet.

While neither appraiser included a detailed schematic drawing in their respective appraisal reports to support their size determinations, on this record, the Board finds that McCormick & Wagner provided the best evidence of building size for the subject property for purposes of this appeal of 545,987 square feet, which is somewhat supported by the subject's property record card of 525,200 square feet and building plans at 536,200 square feet. Moreover, Argianas asserted the property record card was reviewed as part of his analysis of building size data, but he provided no indication why the figure of the assessing officials was erroneous in his opinion.

On this record, the Board has given little weight to Argianas' size determination of 602,757 square feet due to his failure to disclose in a clear and concise manner that he utilized the services of an architect to arrive at his building size determination. The reference to use of the architect was in small typeface on page 4 as "dot point 3" of the appraisal report along with a statement on page 2 that Argianas, Nicholas Cipriano (another appraiser on the report) and Dave Newman inspected the subject property on June 8, 2011. Moreover, Argianas did not discuss the source of the subject's building size on page 26 and the succeeding pages of the appraisal report concerning "improvement data." Most importantly, the Board finds that Argianas failed to provide Newman's report as part of the addendum to the appraisal report which was paid for in conjunction with the appraisal which further detracts from the credibility and/or reliability of the stated size determination. Finally, Argianas testified that an appraiser should not make a 56,000 square foot mistake as it is "mortal" and "so egregious" that it is "damning." (TR. 66-67)[1]

[1] References to the Transcript of the proceedings will be designated "TR." followed by page number(s).

Appellant Evidence

In support of its contention of the correct assessment, the appellant, Kraft Foods, Inc., submitted an appraisal prepared by McCormick & Wagner, LLC, estimating the subject property had a market value of $2,500,000 as of January 1, 2010. (Kraft Ex. 1)

The appellant presented the testimony of one of the appraisal's authors, Terrence P. McCormick who is a principal and co-owner of McCormick & Wagner. He is an Illinois Certified General Real Estate Appraiser who also holds the Member of the Appraisal Institute (MAI) and the MAI general review specialist designations from that organization. Additionally, he is a broker in Illinois.

He testified he has been an appraiser for 35 years and has appraised approximately 100 properties that are similar in size to the subject and about eight food manufacturing buildings. He has also appraised over 1,000 industrial properties. He has been qualified as an expert previously in several courts and administrative agencies, including the Illinois Property Tax Appeal Board. Upon being tendered and without objection, the Property Tax Appeal Board accepted McCormick as an expert witness in appraisal theory and practice.

Although he had assistance in preparation of the appraisal report, McCormick takes total responsibility for the report. McCormick testified he inspected the interior and exterior of the subject on September 16, 2010.

The witness described the subject property and its environs. He described the subject's location as surrounded by residential properties with a church across the street with average accessibility for an industrial property. (TR. 119-20) McCormick testified the subject contains approximately 35-acres of land area with the improvements having been built in stages beginning in 1956 with a second stage in 1966 followed by an addition in 1977 resulting in a weighted age of 46 years. Due to the various construction stages, the ceiling heights vary from 14 feet to 22 feet with a 10 foot ceiling height in the basement and 9 foot ceiling heights in upper floors resulting in an average weighted clear ceiling height of 18 feet. The improvements contain approximately 546,000 square feet of building area with approximately 11% office space and adequate truck loading facilities for a single-user industrial property.

He opined the highest and best use for the subject as vacant is industrial use primarily due to its proximity to the railroad tracks. (TR. 122-23) The highest and best use as improved is continuation of an industrial facility. McCormick stated the purpose of the highest and best use determination is to assemble the proper comparable sales for the subject being appraised. (TR. 123) He further opined an economic life for the subject of 60 years with an effective age of 50 years taking into consideration the subject's large size and multi-story design resulting in a remaining economic life of 10 years. (TR. 123; Kraft Ex. 1, p. 31-32)

Rockford area market conditions from 2005 to the writing of the appraisal report involved very limited data according to McCormick with the best available comparables being in the appraisal. He also opined that the conditions have remained unchanged for 2011 and 2012 given the subject's large size and its age. (TR. 124)

McCormick considered all three traditional approaches to value in estimating the subject's market value, but determined that the subject as a large, older, part multi-story facility did not lend itself to single-use rental and multi-tenant rental would necessitate alterations to mechanicals and loading facilities which would be speculative. As a consequence, after searching for recent leases of similar industrial space and finding insufficient comparable data, McCormick determined that he could not perform an income approach analysis for this appraisal. (Kraft Ex. 1, p. 54; TR. 124-25)

The initial step under the cost approach to value was to estimate the land at $1.00 per square foot or $1,520,000, rounded. In doing so, McCormick considered three land sales and three listings or offerings located in Winnebago County. The land comparables range in size from 33,277 to 1,488,445 square feet with the sales occurring from March to December 2008. All six properties sold or had asking prices ranging from $1.03 to $2.48 per square foot of land area.

Using the Automated Marshall Valuation Service, the appraiser estimated the reproduction cost new of the manufacturing facility, maintenance shed and site improvements to be $38,577,280. (Kraft Ex. 1, p. 51) McCormick estimated total depreciation to be 97%. As depicted in a chart on page 49 and further explained in page 50, McCormick analyzed the five sales of properties included in the sales comparison approach. The average annual rate of depreciation ranged from 1.2% to 1.6%.

McCormick established a total depreciation of 97% or $37,419,962 which is an average annual rate of depreciation of 2.1% to arrive at the depreciated value of the improvements of $1,157,318. Adding the land value resulted in a final value estimate under the cost approach of $2,680,000, rounded.

Given the substantial depreciation that was applied to the subject, McCormick testified this does not mean in another year or so from the valuation date the subject would be worthless, but instead means that 97% was the appropriate amount of applicable depreciation as of January 1, 2010 in McCormick's opinion given economic conditions. (TR. 127-28)

Next, McCormick developed the sales comparison approach as he found there was an adequate actual market for properties similar to the subject. McCormick used sales and listings of properties located within both Winnebago and Cook Counties which he both inspected and verified with a party to the transaction or preparer of the documents. He also noted the Cook County properties were more similar to the subject in size, multi-story design and/or prior use as a food manufacturing facility. It was McCormick's opinion that if the subject were offered for sale, buyers other than just food manufacturers would be interested noting that the life of the property typically exceeds the life of the business. (TR. 128-29) Based upon his highest and best use determination, McCormick was guided in his selection of comparable properties.

The seven properties had parcels ranging in size from 27,115 to 900,786 square feet of land area improved with multi-story buildings ranging in size from 66,000 to 683,700 square feet. The properties range in age from 45 to 103 years old giving due consideration to weighted average age. Similarly, in light of weighted averages, ceiling heights ranged from 10 feet to 21 feet and office areas ranged from 2% to 20%. Six of the properties were single-user facilities and one was multi-tenant. Five of the comparables had sales that occurred between May 2004 and December 2009. The comparables had sale or asking prices ranging from $275,000 to $4,300,000 or from $1.98 to $6.29 per square foot of building area, including land. The properties ranged in land-to-building ratio from .18:1 to 4.87:1 whereas McCormick reported the subject had a land-to-building ratio of 2.79:1.

McCormick acknowledged that his sale #2 was remote from the valuation date, but was included due to the lack of additional available sales similar to the subject in Rockford noting the area market has been very slow. He also asserted sale #3 has information in the report that after the sale, the property was foreclosed by the bank which subsequently sold the property to the city of Rockford who plans to demolish the property and redevelop the land. (Kraft Ex. 1, p. 58) As to sale #5, he described this property as the former Campbell Soup manufacturing facility. (Kraft Ex. 1, p. 60)

Next, McCormick considered appropriate adjustments to the comparables (pages 65 and 66) in the appraisal report along with considerations for market conditions, location, building size, land-to-building ratio, age, clear ceiling heights, percentage of office space and building type as discussed on pages 66 to 68. He estimated a value for the subject of $4.50 per square foot of building area, including land, which yields a value for the subject property under the sales comparison approach of $2,460,000, rounded.

In reconciling the two approaches, McCormick gave most weight to the sales comparison approach with some weight placed on the cost approach. After reconciliation, the appraisal estimated the value for the subject property as of January 1, 2010 to be $2,500,000. McCormick further testified that there would be no significant difference in value for 2011 or 2012. (TR. 134-35)

Based on the foregoing evidence, the appellant requested an assessment reflective of the appraised value.

On cross-examination, McCormick testified that he has appraised at least 20 food processing properties which were located in the Illinois counties of Cook, DuPage, Winnebago and Will. One example was the Wrigley gum facility in Chicago performed in the late 1980's while the plant was still in operation. As to property accessibility, McCormick found the subject had average accessibility with a location about four miles from the nearest interstate highway; a location closer to the interstate would raise his accessibility opinion.

McCormick determined the market area to be the general Chicago metropolitan area. For highest and best use as improved, the appraiser reiterated his opinion that continuation of its current use as an industrial facility and the witness disagreed with the characterization that the highest and best use would be as a food processing facility because McCormick believes the subject could have other uses as well. (TR. 140-41)

As to the sales comparison approach, sales #2 through #5 and the offerings had no existing leases; sale #1 had a notation on the transfer declaration regarding a lease in place, "but it wasn't a transfer of what an appraiser would call the leased fee interest" and McCormick did not have a copy of the lease; McCormick knew the school district took possession of the property as a consequence of the sale from Goodwill Industries. (TR. 143-45, 151-52) Sale #2 was a logistics supplier/trucking company that moves product for customers. When questioned about the utility of comparable #2 when compared to the subject, McCormick testified the property had previously been used as a manufacturing facility of fuel pumps which went out of business and the property sat empty for "a couple years" and was vacant when last purchased. (TR. 152-53)

McCormick was not sure of the overall length of time that comparable sale #3 was vacant prior to 2005 sale; the appraiser acknowledged the building's windows are broken out, has lacked utilities for many years and was foreclosed upon in November 2008 with additional deterioration since the date of sale; the property is now scheduled to be demolished. The appraiser found this property to be comparable to the subject in location, construction-type and multi-story design although it was deemed to be inferior to the subject. (TR. 153-55) Upon additional questioning, McCormick opined that the length of vacancy is less important than whether the property is appropriately maintained in terms of its condition. (TR. 166-68) McCormick determined the property's condition from an exterior visual inspection. (TR. 168)

After selecting comparable sales from Rockford, McCormick expanded his search to find larger properties including comparable sale #4 which originally was listed for $5.5 million and subsequently was reduced to an asking price of $3.35 million. This property sold in February 2010 for $2.05 million after exposure on the market although the property was part of a bankruptcy case. The appraiser acknowledged this property was not used for food manufacturing and was vacant at the time of sale. (TR. 157-58)

The witness drew a distinction between a property's utility and its use. McCormick would not characterize the subject property as special use. He noted that a lot of manufacturing buildings can be used for other manufacturing uses. McCormick was asked if the subject and comparable sale #5, which was presently used as a warehouse, had the same utility. McCormick testified both properties had similar food processing uses at one time as comparable #5 had been a Campbell Soup manufacturing facility; that company left Chicago in the late 1980's or early 1990's. (TR. 146-47) McCormick opined that all five of his comparable sales could be food processing facilities with the installation of the appropriate equipment.

Listing #1 was deemed comparable to the subject by McCormick due to its location in Rockford, being an approximately 135,000 square foot multi-story building as of the date of valuation even though it was subsequently condemned and has been torn down. (TR. 161)

Listing #2 consisting of a 103 year old building of approximately 138,000 square feet operating as a moving and storage facility that lacks heat is still available for lease according to McCormick. (TR. 161-62) At the time it was listed for sale, it was vacant and said to be in average condition according to the listing realtor. (TR. 171-72)

With regard to the availability of parking, the witness testified that so long as there is adequate parking for the given property it would not be an issue for valuation purposes. In this regard, McCormick noted those comparables with equal or greater land-to-building ratios than the subject had adequate parking and any with smaller ratios, of which there were four sales, would be considered inferior. (TR. 148-49)

As to the depreciation calculation, McCormick reiterated that any subsequent valuation of the property would have its own analysis based upon the available data and may have greater or lesser depreciation than was reported in this appraisal. (TR. 149)

McCormick is aware that since the appraisal report, Kraft has taken out almost $13 million in building permits for structural renovations and additions. As to the remaining economic life determination of the subject, McCormick acknowledged that events subsequent to the date of valuation can definitely change the estimated remaining economic life determination. (TR. 150) The appraiser also acknowledged that Kraft purchased adjacent land for an addition at a price of $1.93 per square foot of land area which McCormick noted may be a premium to acquire adjacent land and has been addressed in a subsequent appraisal. (TR. 163)

Upon questioning by the Administrative Law Judge, McCormick explained the differences between reproduction cost and replacement cost as discussed on page 46 of the appraisal report. Replacement cost is an estimate of a structure with similar utility, but McCormick contends that part of the problem with the subject facility is depreciation given its multi-story design and having been built in stages. Given those characteristics, he prefers to utilize reproduction cost to actually cost out what is present rather than something of similar utility. (TR. 174)

The witness was also asked to articulate the difference between value in use and value in exchange. McCormick testified that value in use is when a property, such as an automotive manufacturing facility, is being appraised in that specific use versus the property being appraised as a large manufacturing facility that could be put to some other use. He further opined that the definition of fair market value and fee simple sales were value in exchange concepts which is the manner in which McCormick appraised the subject property. (TR. 174-75)

McCormick also testified that going a great distance, such as several states away, for comparable sales is not preferred as it requires a lot more adjustments as far as labor force, what the possible taxes are in whatever state and the changes there would be between two different properties in two different regions. He opined that an appraisal report which used such distant comparables would discuss those issues and why the appraiser thought the properties were similar or different and what adjustments were necessary for those differences. (TR. 175-76)

On re-direct examination, McCormick testified that typically an owner-occupied property goes on the market when the owner is no longer using the property and they vacate the premises to put it on the market. (TR. 176-77) He further testified that if Kraft removed their equipment from the subject property, it would not impact his opinion of value. (TR. 177)

As to the comparable sales that were subsequently demolished, McCormick testified that at the time of purchase there was no intention to demolish the properties, instead the intention was to redevelop the property into mixed use but the subsequent change in the economic climate ruined those plans. (TR. 178)

Board of Review & Taxing District Evidence

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject parcels of $2,663,246. The total assessment for the subject reflects a market value of $8,055,796, when using the 2012 three year average median level of assessment for Winnebago County of 33.06% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

The board of review and the intervening taxing district, Harlem Consolidated School District #122, appeared before the Property Tax Appeal Board contending undervaluation as the basis of the appeal. In support of this argument, these parties submitted a copy of an appraisal of the subject property estimating a market value of $8,420,000 as of January 1, 2010. These parties jointly presented their appraisal witness Charles G. Argianas for testimony.

Argianas was retained initially in mid-2011 by Ken Crowley, Rockford Township Assessor, to perform a retrospective appraisal of the subject property. The appraisal report was prepared for Harlem Consolidated School Dist. No. 122, Community College Dist. No. 511 and the Rockford Township Assessor.

Argianas is a Certified General Real Estate Appraiser licensed in the State of Illinois who has held the MAI or Member of the Appraisal Institute designation since 1990. He is an Illinois licensed attorney having graduated in 1987. For his employment, Argianas operates his own appraisal company and previously was a managing director with Deloitte & Touche.

Lately Argianas appraises special purpose properties such as food processing facilities like the subject; he has appraised 22 such facilities since 2011. Argianas has done thousands of appraisals of owner-user manufacturing-type facilities that are not necessarily income-producing real estate assets, but rather are owned and operated primarily as a function of carrying on the entity's business operation. In the course of direct examination, Argianas asserted the subject property has scalding hot water used to hose down walls and floors with accompanying floor drains, has zoned area HVAC for varying manufacturing processes and also has highway access. (TR. 21-23)

As part of his response to a question concerning his professional affiliations, Argianas volunteered that sometimes he works for assessors and sometimes he works for private property owners who are contesting their assessment. In addition, he stated:

> So I don't do a lot of property tax work, and the reason is I try to only take cases that I think are clear. I think this case here is a clear case, and I

> took it on and I feel comfortable with my experience and judgment and I attest to everybody here that I accept full professional responsibility for the report. It's my work product. Everything in that report is something that I worked upon. And if it's right, I should get the credit; and if it's wrong, I'll own up to it. (TR. 11)

Argianas reported the subject property was formerly owned and operated by Cadbury and was acquired by Kraft in February 2010. In reviewing various filings with the Securities and Exchange Commission to ascertain an allocated value as part of the merger (multiple locations and properties), a value allocation was not found. From what Argianas found in a 2010 Kraft Annual Shareholder Report, there were 62 manufacturing and processing facilities obtained as part of the Cadbury acquisition. (Report, p. 5-6)

Appraisal pages 14 through 17 are entitled "Overview of Kraft Foods" addressing various aspects of the company and concluding that Kraft is a multi-national corporation with a focus on the sale and manufacture of food products with well-known brands and being the second largest food corporation in the world. Concluding this section of the report, Argianas opined that "Kraft should continue to be a profitable company given its diverse product line and its market-share production of household staples." (Report, p. 17) The witness testified he was surprised that of the various types of food products manufactured by Kraft at the time, the largest category, comprising 28% of total sales, was confectionary; although the appraiser professed he was not valuing the business. (TR. 49-51; Report, p. 15-16) Argianas, however, stated "this property's value is integral and functional as a result of the operations that they carry out." (TR. 51)

On page 31 the appraiser opines that given the current economic recession, the highest and best use of the subject site as though vacant is to hold for non-speculative industrial development until economic conditions can justify development. As improved, Argianas determined the subject's highest and best use was for continued chewing gum manufacturing/processing and packaging. (Report, p. 32)

In estimating the market value of the subject property, Argianas developed the three approaches to value. The first approach to value developed was the cost approach. Argianas first estimated the value of the land using four land sales that were located in

Belvidere and Rockford and ranged in size from 424,274 to 925,650 square feet of land area. The sales occurred from November 2004 to December 2008 for prices ranging from $585,000 to $1,150,000 or from $1.24 to $1.78 per square foot of land area. As shown on page 36 of the appraisal report, downward adjustments were made for market conditions (date of sale), site size and/or zoning resulting in adjusted sales prices ranging from $0.68 to $1.12 per square foot of land area. Based on these adjustments, Argianas estimated the subject property had a land value of $0.90 per square foot of land area or $1,370,000, rounded.

For the subject's improvements, Argianas estimated the replacement cost new using the unit calculator method of the <u>Marshall & Swift Cost Manual</u>. (Report, p. 38-42) He calculated costs of the two buildings and also estimated a cost for the usable lower level (basement). As shown in the chart on page 42, he applied adjustments for heating and cooling, sprinklers, ceiling height multiplier and/or floor area multiplier. Additional adjustments were applied for both current cost and local multipliers resulting in a total base building cost of $42,882,778 when applying Argianas' total building area of 602,757 square feet. Next, 5% of the base building costs was added for site improvements such as paving, fencing and storage buildings for an addition of $2,144,139 resulting in a direct building cost of $45,026,917. To this figure, Argianas added indirect costs of 5% or $2,251,346 which were described on page 39 of the report as including developer overhead, property taxes, legal and insurance costs which average 2% to 15% of the total direct costs. With this addition, Argianas opined a replacement cost new of $47,278,262. Given the current economy, the appraiser found that entrepreneurial profit was not a warranted addition. (Report, p. 39)

For depreciation, while Argianas did not think that the subject suffered from much physical depreciation based upon his inspection (TR. 29), he utilized the age/life method with an effective age of 25 years and an expected life of 50 years resulting in a 50% downward adjustment of $23,639,131 for physical depreciation. As to functional obsolescence, Argianas testified that by virtue of applying a replacement cost "you're assuming that the building is of modern type and technique" and thus there was no functional obsolescence deduction. (TR. 29; see also appraisal, p. 40) Next, Argianas applied external obsolescence of 35% or $16,547,392 noting in testimony that while the Rockford area for 20 to 30 years has had a tough manufacturing climate, "to the extent that this is one of the largest manufacturing chewing gum properties anybody seems to know about, it's pretty hard to say this thing is suffering. It's not suffering from any external because there's a demand for the product and the building serves its need." (TR. 30) In the appraisal report (p. 40-41), utilizing the income approach to value Argianas quantified external obsolescence based upon industrial space demand and prevailing rental rates which did not support the construction cost new. Given the difference between the required rental rate and market rent resulted in estimated external obsolescence figures ranging from 27% to 41% based upon the appraiser's calculations. (See also TR. 34-36) In conclusion, the appraiser opined a depreciated replacement cost new of $7,091,739 and added the land value of $1,370,000 for a value indication under the cost approach of $8,460,000, rounded.

As a prelude to testifying about the income approach, Argianas reiterated that he does not believe the income approach to be a strong valuation technique as to the subject property, but he determined it was at least necessary for computation of external obsolescence in the cost approach to value previously discussed. (TR. 37; see also TR. 19, 26, 42)

In the income approach to value, the appraiser applied the direct capitalization approach and used rent comparables located in Rockford, Franklin Park, West Chicago, Streamwood, Joliet, Champaign, Carol Stream, Peru and Centralia. The rental comparables were large properties that ranged in size from 140,440 to 606,000 square feet of available space. These properties had from 1% to 14.5% of office space with rents ranging from $1.95 to $5.00 per square foot either on a triple net or gross basis. In consideration of this data, the appraiser estimated the older primary building of the subject had a market rent of $1.75 per square foot of building area on a triple net basis with the basement having a market rent of $0.75 per square foot of basement area on a triple net basis and the newer primary building had a market rent of $2.50 per square foot of building area on a triple net basis. Given the blended calculation and the sizes attributed by Argianas, he estimated the subject had a gross income of $1,283,532. (Report, p. 46)

Argianas then applied a vacancy and collection loss rate of 20% or $256,706, noting in testimony that Rockford has a 15% or 16% vacancy rate, resulting in net rental income of $1,026,825. (Report, p. 46-50; TR. 40) The analysis then added back $439,543 modeled as reimbursable expenses of taxes, insurance and common area maintenance resulting in effective gross income of $1,466,369 [*sic*]. (Report, p. 47, 50) Next, the appraiser utilized published surveys for industrial properties to estimate various expenses along with actual real estate taxes. These expenses in addition to reserves for replacements reflected an expense ratio of 46.6% or $683,834 resulting in a net operating income of $782,535.

Argianas next estimated the capitalization rate for the subject to be 9.50% using investor surveys with rates ranging from 5.93% to 13.82%. Capitalizing the subject's net operating income resulted in an estimate of value under the income approach of $8,240,000, rounded.

The next approach to value developed by Argianas was the sales comparison approach. In the appraisal report, he presented five comparable sales and five comparable listings. Argianas testified in part that properties are "comparable" because they are "doing the same sort of things in the building." (TR. 17) Although Argianas searched, he found no comparable properties in the Rockford area; the search was then expanded to the Midwest and then to the entire United States. (TR. 42-43, 45) The appraiser opined that for a special purpose product in the food processing industry, the comparable properties must be viewed from the standpoint of an owner-user who will not expend funds to retrofit a building and, only in the absence of an existing suitable building, will the manufacturer build a new facility. (TR. 43-45)

The comparable sales are located in Macon, Georgia; Chicago, Illinois; Pennsburg, Pennsylvania; Alsip, Illinois; and Kennewick, Washington. The improvements range in size from 209,318 to 454,476 square feet of building area. The comparables were constructed in whole or in phases from 1941 to approximately the 1990s. The comparables had clear ceiling heights ranging from 12 to 35 feet and office areas ranging from 2% to 11% of building area. These properties had parcels ranging in size from 7.72 to 49.4-acres with land-to-building ratios ranging from 1.61:1 to 4.73:1. The sales occurred from April 2006 to July 2009 for prices ranging from $3,150,000 to $12,500,000 or from $7.70 to $28.69 per square foot of building area, including land. As part of the sales summary on page 52 of the appraisal report, Argianas also reported the population totals for the subject and comparables within a 25-mile radius where the subject has a population of 497,846 and the comparables have populations ranging from 241,998 to 6,379,139. Argianas similarly reported average household income for the subject and comparables within a 25-mile radius where the subject has an average household income of $67,172 and the comparables range from $57,689 to $84,058. None of the analysis in the appraisal report discussed the considerations of population and/or household income as part of the appraisal process.

Comparable sale #1 is a Keebler-Kellogg cookie and cracker manufacturing plant which is large with five buildings that are climate controlled; the property sold in September 2006. (TR. 60) Comparable #2, operating as World's Finest Chocolate, produces candy bars and is a large confectionary facility. This transaction was a sale lease-back with 18 years remaining on the lease that occurred in July 2009. Argianas admitted this was not really "a good sale." (TR. 61) Comparable #3, a Hershey chocolate processing plant, sold in April 2006; over 50% of the plant is air conditioned and contains 293,140 square feet of building area. (TR. 62) Comparable #4, a licorice company, sold in April 2008; the building contains 209,907 square feet with ceiling heights of 18 feet to 25 feet which was built originally in 1975 with various additions through the 1990's. (TR. 62-63) Comparable #5 mixes and packages juice and juice bars with the ability to store 2.2 million gallons at or near freezing. (TR. 45-46) This property sold in December 2006 and is about one-third the size of the subject buildings. (TR. 63) Comparable #1 is one-story and two-story and comparable #5 has from one to three stories. The remaining comparables are primarily one-story structures. The comparables were occupied and operating as food manufacturing facilities at the time of sale. (TR. 70) Argianas stated preferably the sales would have been more recent than 2006 for a 2010 valuation date, but there simply were no other available sales which results in an inherent weakness in the sales comparison approach. (TR. 60-61)

After making compounded adjustments as depicted on page 54 of the appraisal report for financing, conditions of sale (sale lease-back) and market conditions (date of sale), Argianas opined adjusted sale prices ranging from $6.93 to $23.24 per square foot of building area, including land. Then he made additional adjustments for location, size, land-to-building ratio, ceiling height, office space, age/condition and/or construction/mechanical resulting in additional net adjustments ranging from +10% to -35%. Argianas also wrote "the basis for adjustments is often fairly subjective, which somewhat diminishes the reliability of this approach." (Report, p. 55) The analysis resulted in adjusted sales prices ranging from $6.93 to $18.59 per square foot of building area, including land. Based on this data and analysis, the appraiser concluded a value of $14.00 per square foot of building area.

Due in part to the limited availability of sales, Argianas also presented nationwide data concerning five improved offerings of large manufacturing/warehouse and food product related facilities located in Galesburg, Illinois; Perrysburg, Ohio; Rock Falls, Illinois; Cincinnati, Ohio; and Franklin Park, Illinois. (Report, p. 57; TR. 53) Argianas testified that listings #1 and #3 were manufacturing buildings, not USDA compliant; listing #2 is a former ConAgra food-grade facility; listing #4 is a former Jim Beam facility; and listing #5 is a former Unilever food processing plant. (TR. 53-54) The comparables were constructed in whole or in part from 1935 to 1999. The structures range in size from 201,500 to 850,000 square feet of building area. Four of the comparables had ceiling heights ranging from 14 feet to 30 feet. The land sizes of only comparables #1 and #2 were reported as 75.83 and 100-acres, respectively. The asking prices range from $3,750,000 to $14,150,000 or from $8.90 to $22.11 per square foot of building area, including land.

For the sales comparison approach to value, Argianas concluded a fair cash value for the subject of $4.00 per square foot for the usable lower level and $15.00 per square foot for the above-grade building area which, based upon his size determinations, resulted in a value conclusion of $8,420,000, rounded. (Report, p. 58)

In reconciling the three approaches to value, Argianas gave strong consideration to the cost approach and the sales comparison approach with support from the income approach to value. (Report, p. 59-60) Argianas in testimony supplemented the report with the opinion that the subject property will never sell on the income approach, but this approach was utilized to compute external obsolescence. (TR. 55-56) At hearing, the appraiser "wished" he could just utilize the cost approach, but he noted that would be disingenuous and must be tempered with sales. "If we had better sales, perhaps the cost might not be as crucial." (TR. 56) Argianas estimated the subject property had a market value of $8,420,000 as of January 1, 2010.

In closing his direct testimony, the witness offered that the "property is as much integral to the operations of what's carried on in there as it is a real estate asset" and while the business was not considered, the witness opined that any sale of the subject would be the acquisition by one company of another in which accountants will prepare a purchase price allocation for the subject which would be an income tax based determination. (TR. 58-59)

Under cross-examination, Argianas stated that the opinion of value would not differ if the equipment was removed as the equipment was not included in the value estimate. (TR. 71) In preparing the appraisal, Argianas had assistance from Nick Cipriano who took some of the photographs and did some of the research along with the architectural engineer Dawson who calculated the subject's square footage. Argianas authored the entire appraisal report. (TR. 73)

The appraiser did not measure the net rentable area of the subject property "because that's not how this property type is measured." (TR. 74-75) Argianas acknowledged that if the subject were leased to a single user, it would be rented on a gross building area basis, but for multi-tenant leasing, it would rent on a net rentable area basis. (TR. 75)

Argianas agreed the cost new of the subject was calculated as a one-story structure due to general modern manufacturing design strategies despite that the subject property is actually a part one, two, three and four story structure. (TR. 80) He did not recall whether he observed any physical incurable obsolescence at the subject facility. (TR. 86)

The witness acknowledged the Rockford industrial market had a large negative absorption rate. (Report p. 12-13; TR. 81) When asked to explain what Kraft's gross revenues and income have to do with the valuation of the subject property, Argianas spoke at length noting initially "it's my opinion that a property like the subject isn't going to sell based purely on bricks and sticks." The underlying foundation of the appraisal was the subject is an owner-user property and the market will be "people that do what Kraft does." (TR. 81-83)

Argianas testified that the industrial real estate market collapsed around Halloween of 2006, but as of that date, values in Rockford were already depressed. He further opined that between 2006 and 2010, the Rockford area market got a little worse. Argianas also acknowledged that three of his improved comparable sales occurred in April, September and December 2006. The witness also cited to page 12 of his report displaying the increasing percentages of vacancy in the metropolitan Rockford industrial market which began in 2006 and worsened through the end of 2009. (TR. 97-100)

Argianas was shown Chapter 19, "Depreciation Estimates" from a book by the Appraisal Institute. (Kraft Ex. 2) While the chapter begins with the notion that the three principle methods for estimating depreciation are the market extraction method, the economic age/life method and the breakdown method, Argianas contended that his method of economic or external obsolescence is both a type of market extraction and is further addressed elsewhere in the chapter, citing to pages 443 and 444 of the chapter. (TR. 101-03)

Upon questioning by the Administrative Law Judge, Argianas testified that for this property type it was typical to include a multi-page overview of the business. The rationale is that persons do not purchase the properties as real estate, but do so because they are acquiring the business and in doing so there is acquisition of all of the assets associated with the business. (TR. 105-08)

The next witness called by the board of review was Richard Crosby who has been a member of the Winnebago County Board of Review since 1998. He has also been a licensed real estate broker in Illinois for more than 40 years. He has been involved in commercial, residential, business, industrial and warehouse transactions in Winnebago, Boone, Ogle and Stephenson counties. (TR. 181-82)

Prior to his real estate work, for 13 years Crosby was a senior officer in a Fortune 500 company involved in the purchase and sale of real estate. (TR. 183-84) Given that experience, Crosby opined the four primary considerations for corporations seeking a facility will be a property suitable for the product being produced, the workforce, the distribution patterns and its proximity to the customer base. (TR. 185)

As a broker and within the context of an offer of proof, Crosby opined that he would market the subject property if it were for sale to a national market of food processing companies although he also acknowledged that the subject facility could be used for a warehouse or a sheet metal bending company. (TR. 191-92)

On cross-examination, Crosby identified the subject as the only national food manufacturing company in Rockford. Nearby in South Beloit there is a Frito-Lay factory and in the county there is a manufacturer of coffee creamers. (TR. 194)

Upon questioning by the Administrative Law Judge, Crosby acknowledged that the Argianas appraisal report did not discuss available workforce or the customer base although the witness believed the data included consideration of rail service. (TR. 195)

Appellant's Rebuttal

For rebuttal, the appellant presented the testimony of Anthony J. Uzemack along with his review report concerning analysis of the Argianas appraisal report. (Kraft Ex. 3) Uzemack has been an appraiser since 1977 and has both the Member of the Appraisal Institute (MAI) and AIGRS designations from that entity, the latter one attesting to expertise in reviewing real estate appraisals. Uzemack is self-employed as president of Appraisal Systems, LLC and also is an instructor for the Appraisal Foundation, a qualifications board, concerning USPAP, ethics and business standards, appraisal principles and industrial appraisal techniques. In addition, he is a member of the disciplinary committee of the State of Illinois concerning real estate appraisers.[2] Uzemack has been previously qualified as an expert witness in various forums, including the Property Tax Appeal Board.

The witness testified that in the past year he has performed two to three review appraisals monthly in his private business and 20 to 40 appraisals related to his functions with the State of Illinois' disciplinary committee. Furthermore, Uzemack has appraised approximately four large manufacturing/distribution facilities like the subject on an annual basis. Uzemack was tendered and accepted as an expert in appraisal theory and practice and in review appraisals without objection.

Uzemack performed the review appraisal report on his own. The scope of the Uzemack's review was to inspect the subject property which was done on May 12, 2012 to familiarize himself with the surrounding area and the exterior, the general nature of the industrial market in Winnebago County and within the Loves Park/Rockford metro area. He returned to the office to search comparable sales files to determine the validity and applicability of the sales included in the Argianas report. In particular, on page 4 of the review report, Uzemack independently researched additional market data to determine whether the reviewed appraisal represents the most appropriate

[2] The witness is a board member for the Appraisal Administration and Disciplinary Board of the Illinois Department of Financial and Professional Regulation. (TR. 253)

data available. (Kraft Ex. 3) He also researched and analyzed building replacement costs, equity return rates, and Appraisal Institute publications regarding appraisal theory and property appraisal technique. (Id.) The review was to develop an opinion as to whether the analyses, opinions and conclusions of the reviewed appraisal are complete, adequate, appropriate and reasonable under the scope of work performed in the assignment and for Uzemack to develop reasons for any disagreement. (Kraft Ex. 3, p. 2)

As to a "competitive supply and demand analysis," Uzemack found that no market survey was included in the Argianas appraisal and there was no discussion of economic conditions in the Loves Park market area along with little discussion of the surrounding Rockford industrial market. (Kraft Ex. 3, p. 6) The reviewer found this to be a significant error in the report "which directly reflects in the lack of understanding of the appraisal problem affecting the subject property." (Id.) He further noted the Argianas' appraisal did not explain the lack of leasing activity for most classes of industrial properties in the surrounding market. "The appraisal does not address the lack of sales for properties like the subject." (Id.) More specifically, Uzemack wrote:

> The appraisal does not explain how an obsolete, multi-story, concrete loft manufacturing building, specifically adapted to chewing gum manufacturing by an owner/user would attract a flock of investors once vacated in 12 months and sell at premium prices when investors can't be attracted to the nicer industrial buildings immediately surrounding the outskirts of the city. (Kraft Ex. 3, p. 6)

As to the subject's market area, Uzemack testified that for large industrial properties like the subject there is a very extended marketing period; properties are not aggressively being bought and sold for continued use or alternate use. He further opined that seldom would another user purchase the subject other than an inter-corporate exchange due to differing processing machinery, innovations and other manufacturing dynamics that would necessitate changes in utilities and the facility which is not designed to accommodate changes. He also noted a 2012 warehouse expansion at the subject consumed the available land area for plant expansion. (TR. 212-13)

As to the highest and best use in an appraisal, Uzemack stated it is the starting point and alerts the appraiser to issues for future development, demand, compliance with market needs and user needs. In his report, Argianas found that as vacant the highest and best use was to hold and wait as there was no demand for industrial properties which according to Uzemack should tell the appraiser the appraisal will be difficult due to the lack of sales as the market has become weak/soft. As improved, Uzemack found Argianas' determination to be a generic statement, but the assertion was not really proven in the appraisal report. (TR. 214-15)

Uzemack opined that for each of the three traditional approaches to value performed by Argianas there were "rather large gaping holes in their credibility and relationship to attempting to estimate value properly." (TR. 214) Uzemack's review analysis included land sales data, income rental data concerning industrial properties and a search for competitive properties to the subject regarding age, size, utility and use, food-related, candy-related, confectionary-related facilities. These types of buildings differ slightly in the manufacturing processes and interior upkeep; he found there "wasn't much of a market to examine." (TR. 211-12) "Going outside the area is a little bit peculiar because there are other extraneous influences that impact value that wouldn't be similar to what is happening with the subject property's market, so you're kind of in a conundrum." (TR. 212)

For the cost approach to value, Uzemack found its development by Argianas did not conform to the highest and best use determination. For the replacement cost new, Uzemack found the report to be confusing with an attempt to extract depreciation through an age-life method with a 50% deduction and there was a second calculation of external obsolescence of 35% due to cost and available rent not being in balance for the subject property; however, Uzemack could not understand the calculations of what was being done with the numbers. (TR. 215-17; Kraft Ex. 3, p. 6) Uzemack also found that estimated rates of depreciation did not conform to the deficiencies in the improvement section and the lack of functional obsolescence was an erroneous assertion given that there are two obsolete multi-story industrial buildings on the site. According to Uzemack the subject's design is not efficient to current use standards. (TR. 218-19) He further opined that the use of replacement cost new was not done properly in order to eliminate functional obsolescence. The proper method to account for all types of obsolescence is to calculate the replacement cost new (the ideal improvement) and the reproduction cost new (a replica of the subject) and subtract the two figures. (TR. 219) Given these issues, Uzemack found little credibility in the cost approach.

For the income approach, Uzemack did not understand the use of this value approach given the assertions the property is owner-built, owner-occupied for a specific function of chewing gum manufacturing. The subject cannot be made into a multi-tenanted property easily. Since there is a weak market with excess rental space and little market participation, Uzemack found the income approach exercise did not make sense. (TR. 220-21) Based on the appraisal data, Uzemack testified that asking rents were utilized for the analysis which rents are open to negotiation, particularly in a market like Rockford, and thus there would be additional concessions. In summary, Uzemack determined the income approach was not accurate or indicative of what the subject could rent for as of the valuation date resulting in an erroneous or misleading value conclusion. (Kraft Ex. 3, p. 7) Also the development of the capitalization rate was made from investment grade properties which sold subject to leases. The witness testified the subject is not an investment grade property due to the lack of generic ceiling height clearances of 35 to 38 feet, lack of uniform dock approaches, lack of staging areas for trucks and employee parking, small office size and lack of a one-story design. (TR. 222-23) Finally, Uzemack did not comprehend the reimbursement of the expense allowance and had not seen this type of exercise presented before on a net rent. (TR. 222)

Uzemack found Argianas' sales comparison approach to be the least impressive of the approaches to value due to the lack of any sales from the immediate market. Uzemack wrote, "this approach does not contribute any valid proof of market behavior for multi-story, concrete loft and steel framed manufacturing buildings adapted for food processing use located in Loves Park, Illinois." (Kraft Ex. 3, p. 7) The witness testified that for a weak market, the appraiser may use dated area sales with an explanation of applicable appreciation or further depreciation over time since sales from as close as logistically possible to the subject are the best indicator of value. (TR. 223-24) Even sales of properties in Chicago are problematic according to Uzemack due to better distribution, better linkages with transportation, better power sources and a larger labor market to draw from. He further opined that food processing is custom-made, involves logistics and specific markets. Uzemack found this approach detracted from the credibility of the final value estimate.

Next Uzemack testified to his opinion regarding the individual comparable sales. Comparable #1 was too distant in Georgia, was much smaller than the subject and while age is similar, there was no information regarding Macon, Georgia as a comparison to Rockford. Sale #2 in Chicago was a sale-leaseback transaction and the Argianas appraisal report did not address whether the property was exposed on the open market prior to the transaction. Sale #3 was a former chocolate company that was partitioned on the interior into a statue manufacturing plant which was purchased by an owner-user. Uzemack opined that sale #3 did not meet the definition of highest and best use as improved. Regarding sale #4, Uzemack had difficulty investigating the transaction but believes the purchaser, after the sale, leased the property to a long existing neighborhood bakery that wanted to expand and grow which the witness characterized as a "very complex sale-leaseback." (TR. 227-28) The property is food related with ovens and the processes involve clean handling of food. Sale #5 was food processing limited to a very specific type of crop and specific type location near a vineyard crop so as to accept daily hundreds of tons of grapes. This property processes juice and has valuable stainless steel tanks and piping along with a water source to access huge volumes of water to process juice and grapes; these features have nothing to do with chewing gum.

As to demand for the subject property amongst food processing operators, Uzemack understood from brokers in the industry that the more specific and specialized the layout to a certain manufacturing process, in the absence of buying the entire formula/operation, it does not pay to modify an obsolete factory for a new user. (TR. 229)

In his review, Uzemack did not believe the Argianas value opinion was at all well-supported due to the lack of good market evidence. (TR. 229-30; Kraft Ex. 3, p. 7-8)

Under cross-examination, Uzemack acknowledged that he did not appraise the subject property and as such, did not make a calculation of depreciation for the subject property. The witness has been engaged by Kraft about six times over the prior five or six years. From his exterior only inspection of the subject property, Uzemack would characterize the subject property as well maintained.

Uzemack spoke with probably three brokers on the telephone who specialize in food processing/large industrial plants and obtained sales information on at least six properties that was not included in the Argianas appraisal; those additional sales were either too small or otherwise not comparable and according to one of the brokers there was not much information available on large industrial plants. (TR. 244-51) For comparable sales, Uzemack testified he was not focusing on the food processing aspect, but rather on location as how comparable distant places would be to Loves Park and how comparable such places would be to parties to a sales transaction.

Conclusion of Law

The issue before the Property Tax Appeal Board is the determination of the correct assessment of the subject property as of January 1, 2012. Each of the parties to this proceeding contends the market value as reflected by the assessment is incorrect. 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). Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). 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); see also 86 Ill.Admin.Code §1910.63(e).

Given the record evidence, the Board finds the appellant met this burden of proof and a reduction in the subject's 2012 assessment is warranted.

In this consolidated hearing for the 2010, 2011 and 2012 tax years the parties presented virtually the same evidence for all three years.

Both the appellant and the intervening taxing district along with the board of review presented appraisal reports of the subject property for consideration by the Property Tax Appeal

Board. The appellant presented the testimony and an appraisal prepared by McCormick estimating the subject property had a market value of $2,500,000 as of January 1, 2010. The board of review and intervening taxing district presented the testimony and an appraisal prepared by Argianas estimating the subject property had a market value of $8,420,000 as of January 1, 2010. The board of review also presented the testimony of Richard Crosby, a board of review member, who had real estate experience in a large corporation and testified to various considerations that a potential buyer of a large industrial facility would evaluate as part of the purchase decision. In addition, the appellant presented the testimony of review appraiser Uzemack concerning his analysis of the Argianas appraisal report.

The 2012 assessment of both parcels comprising the subject reflects a market value of $8,055,796, including land, using the 2012 three year average median level of assessments for Winnebago County of 33.06% as determined by the Illinois Department of Revenue.

The appraisal evidence presented for the Board's consideration includes the two appraisals prepared by appraisers who each have the MAI designation and are State of Illinois Certified General Real Estate Appraisers. Despite similar credentials the appraisers arrived at vastly different opinions of market value of $2,500,000 and $8,420,000, respectively.

To begin, the appraisers agreed on the lot size of the subject property. In their respective cost approaches to value, the appraisers also had similar estimates of the subject's land value of $0.90 and $1.00 per square foot of land area or $1,370,000 and $1,520,000, rounded, respectively for Argianas and McCormick, respectively.

The appraisers agreed that there were two primary multi-story buildings on the property for purposes of manufacturing connected by a tunnel. The appraisers did not, however, agree on the total building size of these structures. The Board previously in this decision made a size determination based upon the best evidence finding a gross building area of 545,987 square feet.[3]

[3] When applying Argianas' average sales price conclusion of $13.97 per square foot (page 58 of his report) to the smaller building size of 545,987 square feet, the value conclusion would be reduced slightly to $7,627,438 under the sales comparison approach.

The appraisers agreed somewhat on the subject's highest and best use, both as vacant and as improved. As vacant, the property should continue to be utilized for industrial development although Argianas specifically noted the property should be held until such time as development was feasible/warranted given current economic conditions. As improved, Argianas took a more limited view of the property's highest and best use finding its use to be for "continued chewing gum manufacturing/processing and packaging" whereas McCormick more generally characterized the highest best use as improved as continuation of an industrial facility (TR. 140-41) as did Crosby from the board of review (TR. 191-92). The Board finds this highest and best use as improved distinction between the appraisers is indicative of Argianas' valuation of the subject property under the concept of value in use rather than value in exchange as necessitated for an estimate of fee simple fair cash value. Repeatedly in testimony, Argianas referred to the value of the subject as integral to the operations that were carried out on the premises despite his protestations that he was not valuing the business. (TR. 51, 58-59, 81-83, 105-08) The Board finds the Argianas opinion of value is not credible in part due to Argianas' determination of highest and best use as improved being specifically linked to continued use as a chewing gum manufacturing facility, i.e., value in use. The Board finds that McCormick provided the better and more credible analysis of the subject property using the concept of value in exchange. (TR. 128-29, 140-41, 174-75)

Both appraisers substantially agreed that the industrial market climate in Rockford was poor with numerous vacancies and few sales in the relevant time period for purposes of the sales comparison approach to value. The area market also further declined between 2006 and 2010. Additionally, there were very few facilities similar in size to the subject property in the Rockford area that had sold.

The Board gives no weight to the income approach to value performed by Argianas. It was Argianas who testified that the subject property would not be purchased for purposes of renting the premises and the income approach was not independently an appropriate method to arrive at a value conclusion for the subject property. (TR. 19, 26, 42) He further testified that he only performed the approach to assist in calculating external obsolescence. Thus, the Board will not further analyze the income approach to value given that even the appraiser who presented it contended in testimony it was not independently a useful valuation concept for the subject property. Likewise, McCormick did not develop the income approach to value finding there was insufficient comparable data as the subject is a large, older, part multi-story facility that did not lend itself to single-use rental. (TR. 124-25)

Both appraisers developed both the cost and sales comparison approaches to value in arriving at an estimated market value for the subject property. The courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (2nd Dist. 1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available.

Notwithstanding the case law and precedent concerning the cost approach, it is undisputed on this record that the subject is an older, built-in-phases, multi-story industrial complex utilized since its original construction by an owner-user. Argianas presented an erroneous building size as previously determined on this record which overstated the building improvements by approximately 50,000 square feet which detracts from his cost approach analysis. Additionally, the replacement cost was calculated based upon a one-story structure which differs from the subject's design. The Board finds the Argianas appraisal report has no support for the addition of 5% of base building costs related to indirect costs which included developer overhead and property taxes, among other items as described on page 39. Also within the cost approach, the Board finds Argianas' depreciation calculations to be suspect unlike those presented by McCormick which were market derived and well-articulated.

In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (5th Dist. 1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. Utilizing the sales comparison approach, McCormick estimated the subject had a unit value of $4.50 per square foot of gross building area. Using the sales comparison approach, Argianas estimated the subject property had a unit value of approximately $14.00 per square foot of gross building area on average. In developing the sales comparison approach, both McCormick and Argianas used five comparable sales, but there were no common properties between the appraisers. In addition, both appraisers included listings in their respective analyses with McCormick including two properties from Rockford and

Argianas presented five offerings, three of which were located in Illinois. Both appraisers used sales that were dated from the valuation date; McCormick included two of the five sales from 2004 and 2005 whereas Argianas included three of the five sales from 2006.

The Board gave less weight to the sales comparison approach to value developed by Argianas. The Board finds Argianas utilized an incorrect building size for the subject property which undermines the veracity and validity of the appraisal report. More importantly, the Board finds the majority of the sales analyzed by Argianas were located in the states of Georgia, Pennsylvania and Washington with no analysis as to the comparability of these distant locations to Rockford, Illinois. The Board finds Argianas' estimated value overstates the market value of the subject property considering three of the five the sales relied upon were located in the states of Washington, Pennsylvania and Georgia. The Board finds no support in the record for location adjustments and/or analysis of the different dynamics between the Illinois industrial market and the industrial markets of these respective states, which diminishes the credibility of the analysis presented by Argianas. Of the two sales from Illinois analyzed by Argianas, sale #2 was admittedly a sale-leaseback transaction which is not a fee simple market transaction that would be useful in determining the applicable fair market value of the subject property. The Board also finds that consideration of sale #2 is not appropriate and detracts further from the value conclusion opined by Argianas. Finally, the Board gave little weight to Argianas' sale #4 from Alsip, Illinois as this parcel is less than half the size of the subject, the building is less than half the size of the subject's improvements and the property is much newer than the subject. Even after considering logical adjustments to sale #4 for differences when compared to the subject, the Board finds Argianas' value conclusion of roughly $14.00 per square foot including land area is not supported.

The Board finds the value conclusion determined by McCormick to be better supported than Argianas' value conclusion based on the comparable sales and testimony elicited at hearing. In reviewing the comparables, the Board finds they are more similar to the subject in location, age, multi-story design, clear ceiling height and functional utility. These properties sold or had unadjusted asking prices ranging from $275,000 to $4,300,000 or from $1.98 to $6.29 per square foot of building area, including land. While it was noted that two of the comparables were subsequently demolished, McCormick provided credible testimony that there was no intent to demolish the properties at the time of purchase, but the subsequent economic climate simply ruined the buyers' plans to redevelop the properties. (TR. 178) This testimony was not refuted by the opposing parties. Furthermore, the Board finds the appellant's appraiser made competent, logical and reasonable qualitative adjustments (Kraft Ex. 1, p. 65 - 69) to the comparables for differences when compared to the subject in arriving at the opinion of value under the sales comparison approach of $2,460,000 or $4.50 per square foot of building area, including land.

Considering the totality of the evidence in this record and giving more deference to McCormick's value conclusion under the sales comparison approach to value, the Property Tax Appeal Board finds the subject property had an estimated market value of $2,500,000.[4]

[4] In light of the Board's decision rendered in Docket No. 10-02280, the Board has carried the total assessment forward for both years 2011 and 2012 given that the substantive evidence was unchanged.

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: December 19, 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.