



State of Illinois

# PROPERTY TAX APPEAL BOARD

## SYNOPSIS OF REPRESENTATIVE CASES

### DECIDED BY THE BOARD

*During Calendar Year 2006*

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PROPERTY TAX APPEAL BOARD  
Section 16-190(a) of the Property Tax Code  
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)  
Official Rules - Section 1910.76  
Printed by Authority of the State of Illinois

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### **2006 FORWARD**

In the following pages, representative decisions of the Property Tax Appeal Board are reported. An index is also included. The index is organized by subject matter, and is presented in alphabetical sequence. Section 16-190(a) of the Property Tax Code (35 ILCS 200/16-190(a)) requires the Board to publish a volume of representative cases decided by the Board during that year.

Should the reader wish to become more completely informed about an appeal than is permitted by a reading of this volume, he or she need only access the Property Tax Appeal Board's website on-line at [www.state.il.us/agency/ptab](http://www.state.il.us/agency/ptab) and click on the link that says "Appeal Status Inquiry." Access to Board records is addressed in Section 1910.75 of the Official Rules of the Property Tax Appeal Board.

The reader should note that a docket number is created as follows: the first two digits indicate the assessment year at issue; the digits following the first hyphen identify the particular case; the letter following the second hyphen indicates the kind of property appealed ("R" for residential, "F" for farm property, "C" for commercial property, and "I" for industrial property), and the number which follows the final hyphen indicates the amount of assessed valuation at issue ("1" indicates less than \$100,000 in assessed valuation is at issue, "2" indicates between \$100,000 and \$300,000 is at issue, and "3" indicates \$300,000 or more is at issue). Thus, a docket number might appear as: 03-01234.001-I-3.

The reader should also note that Property Tax Appeal Board appeals are docketed according to the particular appeal form filed by the appellant rather than on the basis of the kind of property that is the subject matter of the appeal. Thus, a property that is actually an income producing or commercial facility might have a letter in the docket number that is inconsistent with the actual property type in the appeal.

The Property Tax Appeal Board anticipates this volume of the 2006 Synopsis will continue to aid in the understanding of the issues confronted by the Board, and the kinds of evidence and documentation that meet with success.

### **BOARD MEMBERS**

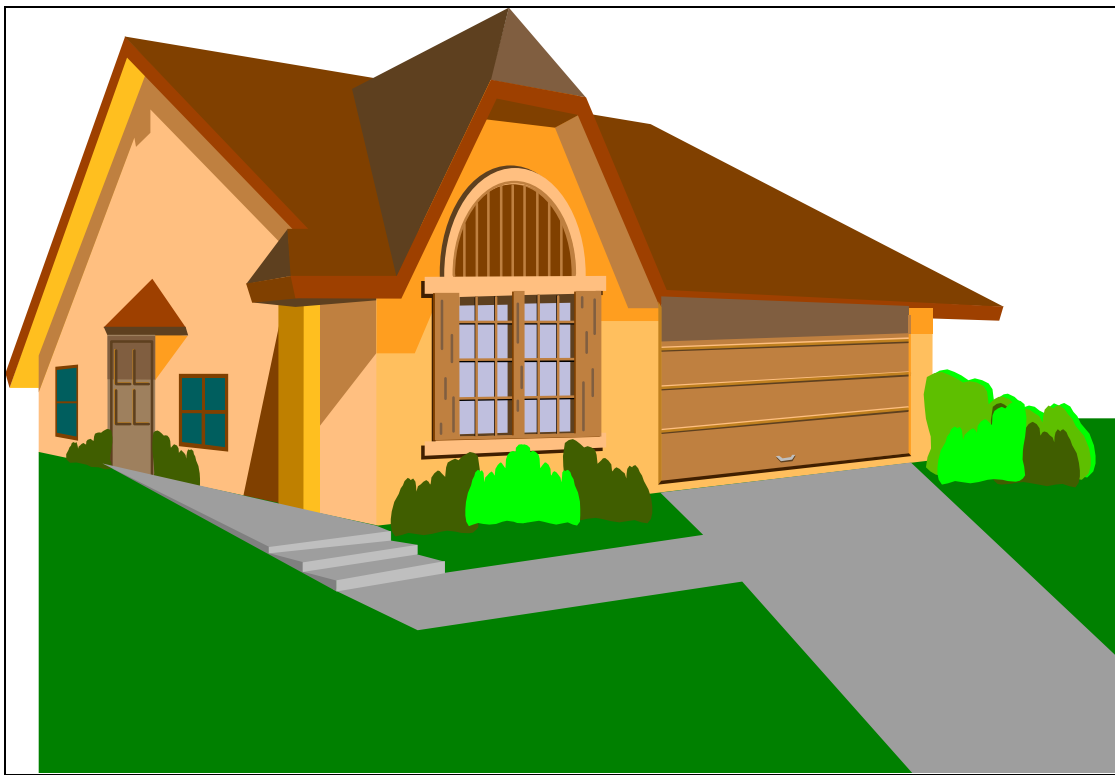
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**PROPERTY TAX APPEAL BOARD**  
**SYNOPSIS OF REPRESENTATIVE CASES**  
**2006 RESIDENTIAL DECISIONS**



**PROPERTY TAX APPEAL BOARD**  
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## 2006 SYNOPSIS – RESIDENTIAL CHAPTER

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### 2006 RESIDENTIAL CHAPTER

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<b>APPELLANT:</b>	<u>Albert V. Ancelet</u>
<b>DOCKET NUMBER:</b>	<u>03-02841.001-R-1</u>
<b>DATE DECIDED:</b>	<u>May 19, 2006</u>
<b>COUNTY:</b>	<u>Hancock</u>
<b>RESULT:</b>	<u>No Change</u>

The subject property is improved with a one-story, frame constructed, duplex that contains 1,872 square feet of living area. The duplex has central air conditioning, two bathrooms, and two, one-car attached garages. The duplex was constructed in 2002 on a slab foundation. The property is located on a 20,095 square foot lot in Carthage, Carthage Township, Hancock County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant provided information concerning the purchase of the subject property in January 2003 for a price of \$79,700. The appellant indicated that the property was purchased from the owner. The appellant indicated that the parties to the transaction were not related. The appellant further indicated the property was not advertised for sale. The appellant submitted a copy of the settlement statement documenting the sale price and closing date and also provided a copy of the warranty deed associated with the sale of the property. Based on this evidence the appellant requested the subject's assessment be reduced to \$26,566 to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject property totaling \$29,236 was disclosed. The subject's assessment reflects a market value of \$87,612 or \$46.80 per square foot of living area using the 2003 three year median level of assessments for Hancock County of 33.37%.

The board of review contends the purchase price is not indicative of the market value of the subject property due to the fact the property was not advertised for sale on the open market. To corroborate the fact that the property was not advertised for sale, the board of review submitted a copy of the Illinois Real Estate Transfer Declaration, form PTAX-203, associated with the sale of the property. Question 7 on the form disclosed the property was not advertised for sale or sold using a real estate agent.

To establish the market value of the subject property the board of review submitted a copy of the subject's property record card wherein the cost

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approach was used to value the property. To further support the assessment the board of review provided information on three comparable sales. The comparables were improved with one-story, frame constructed, single-family dwellings that ranged in size from 1,220 to 1,620 square feet of living area. These dwellings were constructed on crawl space foundations and ranged in age from 5 to 50 years old. The comparables had central air conditioning and either a one or two-car attached garage. One of the comparables also had a fireplace. Two of the comparables were located four and eleven blocks from the subject while the third comparable was located 16 miles from the subject property. These properties sold from April 2002 to April 2005 for prices ranging from \$79,900 to \$89,500 or from \$55.25 to \$68.91 per square foot of living area.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

The appellant contends overvaluation as the basis of the appeal. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002). The Board finds the appellant has not met this burden of proof and a reduction in the subject's assessment is not warranted.

The foundation of the appellant's appeal was the purchase of the subject property in January 2003 for a price of \$79,700. Although the evidence indicated the parties to the transaction were not related, the evidence presented by both parties disclosed the property was not advertised for sale. In its evidence the board of review specifically challenged whether the sale was reflective of market value due to the fact that the property was not advertised for sale. The appellant did not respond to this aspect of the board of review's argument.

As stated by the Appellate Court of Illinois in Kankakee County Board of Review v. Property Tax Appeal Board, 337 Ill.App.3d 1070, 1074, (3<sup>rd</sup> Dist. 2003):

In Illinois, property is to be assessed at 33 1/3 % of its "fair cash value." 35 ILCS 200/9-145 (West 2000). The term "fair cash value" is defined as what a willing buyer will pay a willing seller in an arm's length transaction. 35 ILCS 200/1-



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50 (West 2000). Further, "[f]air cash value is synonymous with fair market value and is defined as the price a willing buyer would pay a willing seller for the subject property, there being no collusion and neither party being under any compulsion." *Citation omitted.*

In order for the sales price of property to be used to establish the fair cash value for assessment purposes, the transaction must be arm's length in nature. One of the elements of an arm's length transaction requires a reasonable time being allowed for exposure on the open market. Property Assessment Valuation, 2<sup>nd</sup> ed., International Association of Assessment Officers, 1996, pp. 18-19. In this appeal both the appellant and the board of review established that the subject property was not advertised for sale allowing exposure on the open market. Based on this factor, the Property Tax Appeal Board finds the appellant failed to demonstrate that the subject's sale was an arm's length transaction with the purchase price being truly reflective of fair cash value.

The Property Tax Appeal Board finds the board of review provided a cost approach to value contained on the subject's property record card, which supports the subject's assessment. The board of review also provided information on three sales of older single-family dwellings that had unit prices ranging from \$55.25 to \$68.91 per square foot of living area. The subject property's total assessment of \$29,236 reflects a market value of \$87,612 or \$46.80 per square foot of living area using the 2003 three year median level of assessments for Hancock County of 33.37%. The subject property has a unit value below the range established by the comparables. The Property Tax Appeal Board finds this data demonstrates that the subject property is not overvalued for assessment purposes.

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<b>APPELLANT:</b>	<u>Meher Balagam</u>
<b>DOCKET NUMBER:</b>	<u>03-22973.001-R-1</u>
<b>DATE DECIDED:</b>	<u>April 7, 2006</u>
<b>COUNTY:</b>	<u>Cook</u>
<b>RESULT:</b>	<u>No Change</u>

The subject property consists of a one-year-old, two-story style single-family dwelling of masonry construction containing 5,331 square feet of living area and located in Niles Township, Cook County. Amenities include five full baths, one half-bath, a fireplace, central air-conditioning, an unfinished full basement and a two-car garage.

The appellant, through counsel, submitted evidence before the Property Tax Appeal Board claiming the subject is incorrectly assessed. In support of this argument, counsel offered a brief indicating the subject improvement was newly constructed and occupied in late August 2003. The appellant's counsel asserted that in August 2000 a fire damaged an existing improvement; in January 2003 the appellant demolished that improvement; and in June 2002 began construction on the current improvement. Counsel further argued the subject was not inhabited during the time the current improvement was under-construction. The appellant's attorney argued the subject's improvement assessment should be reduced to its 2002 assessment of \$14,420, and then additionally reduced 33% to \$9,661. Also proffered was a demolition affidavit indicating the fire damaged improvement was demolished in February 2002 and a "Temporary until July 30, 2003 Certificate of Use and Occupancy" dated and agreed to by the appellant on June 29, 2003, issued by the Village of Lincolnwood. A copy of the subject's 2003 board of review final decision was also included. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final improvement assessment of \$31,650, or \$5.94 per square foot of living area, was disclosed. In support of the subject's assessment, the board of review offered property characteristic sheets and a spreadsheet detailing two suggested comparable properties located in the same coded assessment neighborhood as the subject. The comparables consist of seven-year-old, two-story style single-family dwellings of masonry construction. Both of the comparables contain full basements, central air-conditioning, multiple fireplaces and multi-car garages. These properties contain 5,972 square feet of

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living area and have improvement assessments of \$6.14 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The Official Rules of the Property Tax Appeal Board states, in pertinent part as follows:

Under the burden of going forward, the contesting party must provide substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property. (86 Ill.AdM.Code 1910.63(b))

Further,

The Property Tax Appeal Board may consider appeals based upon contentions of law. Such contentions of law must be concerned with the correct assessment of the subject property. (86 Ill.AdM.Code 1910.63(d))

In this appeal, the appellant's counsel presented a brief contending the subject is incorrectly assessed. Counsel argued that the subject improvement was only occupied after late August 2003. Therefore, the Property Tax Appeal Board finds that the appellant has met this burden.

The Board finds the appellant's evidence consisted of a short brief written by its attorney. Based on the subject's assessment, the appellant's attorney simply stated the subject's improvement assessment should be reduced to \$14,420, or its 2002 assessment. Further, counsel contends a 33% occupancy factor should be applied to the subject's improvement assessment. This would result in a reduction in the improvement assessment from \$31,650 to \$9,661 based solely on this brief and a temporary certificate of use and occupancy.

The Board finds there is no evidence in the record to indicate the market value reflected in the assessment is not indicative of the subject's value in 2003 when occupancy is considered. The Board further finds no explanation for the occupancy factor given. Rather, the appellant's attorney simply stated a

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proposed improvement assessment for the subject, applied a purported occupancy factor and argued the calculation justified a significant assessment reduction. The Board finds this evidence is insufficient to support a reduction.

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<b>APPELLANT:</b>	<b>James R. Buckley</b>
<b>DOCKET NUMBER:</b>	<b>04-00395.001-R-1</b>
<b>DATE DECIDED:</b>	<b>August 17, 2006</b>
<b>COUNTY:</b>	<b>Marshall</b>
<b>RESULT:</b>	<b>No Change</b>

The subject property consists of an 8.5-acre rural parcel improved with a single-family dwelling.

The appellant appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process regarding the subject's land assessment and overvaluation as the bases of the appeal. In support of the inequity argument, the appellant submitted photographs of the subject land, along with data on three comparable properties located within ½ mile of the subject. The comparables reportedly range in size from 5 to 64 acres and have land assessments ranging from \$1,222 to \$1,434, or from \$22.41 to \$245.80 per acre. The subject parcel has a land assessment of \$8,161 or \$960.12 per acre.

In support of the overvaluation argument, the appellant submitted sales information on the same three comparables used to support the land inequity argument. The appellant submitted no descriptions of any improvements on the comparable parcels. The comparables were reported to have sold between December 1997 and July 2001 for prices ranging from \$25,000 to \$135,000 or from \$2,109.38 to \$5,000 per acre. Based on this evidence, the appellant requested a reduction in the subject's assessment.

During the hearing, the appellant testified he purchased the subject parcel along with an adjacent two-acre tract in 1997. The two parcels total approximately 10.5 acres, but he was only appealing the land assessment of parcel 11-25-200-006, upon which the subject dwelling is situated. The appellant testified that he thought the subject parcel should receive a timber assessment because it consisted largely of woods. He claimed he was unaware that the Real Estate Transfer Declaration which documented his purchase of the subject indicated the two parcels were described as rural residential land. He testified that no farming activity had taken place on the land since he has owned it, but that in the future, he might farm a portion of it. The appellant claimed his 1997 purchase of the subject as residential land has no bearing on its proper classification as farmland with a timber assessment. The appellant finally

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claimed that if all of the approximately eight acres of wooded land on the subject parcels was to be classified and assessed as farmland, his land assessment should correctly total \$177.

During cross-examination, the board of review chairman asked the appellant if he had submitted and had approved by the Department of Natural Resources a forestry management plan for the subject parcel. The appellant responded that he had neither prepared nor submitted such a plan. The chairman asked the appellant if he had trimmed trees, cleared undergrowth, or engaged in other activity to maintain or manage the timber stand on the subject property. The appellant responded that he had performed no such maintenance or management.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$44,821 was disclosed. The subject has an estimated market value of \$24,552, as reflected by its assessment and Marshall County's 2004 three-year median assessment level of 33.24%.

In support of the subject's land assessment, the board of review submitted farmland data sheets and aerial photographs for six land comparables. The properties, which are all classified as rural residential land, range in size from 0.83 acre to 5 acres, and have land assessments ranging from \$964 to \$5,797, or from \$601 to \$1,194 per acre. The 8.5-acre subject parcel has a land assessment of \$8,161 or \$960 per acre. The board of review contends the subject is properly classified as rural residential land according to the Real Estate Transfer Declaration signed by the appellant and that its assessment is in line with other rural residential parcels.

In support of the subject's estimated market value, the board of review submitted only the Real Estate Transfer Declaration documenting the subject's 1997 sale. Based on this evidence the board of review requested confirmation of the subject's total assessment.

The board of review chairman explained that Marshall County has a policy of not considering parcels containing fewer than ten acres to qualify for timber assessments. The chairman could cite no statutory authority for the policy. The chairman testified the appellant's comparable 1 contains a one-acre home-site, 10 acres of cropland, and 53 acres of timber adjacent to the cropland. The chairman was unaware of how much cropland, if any, was contained on the appellant's other two comparables.

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During cross-examination, the appellant asked the board of review why it used comparables of less than ten acres in its support of the subject's land assessment, when such parcels obviously could not meet the 10-acre minimum requirement for timer assessments because of their smaller size. The board of review chairman responded that the board selected comparables located near the subject that were similarly classified as rural residential land.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds that a reduction in the subject's assessment is not warranted. The appellant's argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not overcome this burden.

The Board finds the parties submitted nine equity comparables for its consideration. The Board gave less weight to the appellant's comparables because portions of them were classified and assessed as farmland, dissimilar to the subject. The Board finds the six comparables submitted by the board of review were classified and assessed as rural residential land like the subject. These comparables had land assessments ranging from \$601 to \$1,194 per acre. The subject's land assessment of \$960 per acre falls within the range of the most similar comparables in the record. The Board further finds the appellant testified he had never before requested the subject parcel be classified and assessed as farmland, that he has performed no farming activity on the land and has not submitted a forestry management plan to be considered by the Illinois Department of Natural Resources.

Section 10-150 of the Property Tax Code is instructive, where it states in part:

In counties with less than 3,000,000 inhabitants, and land being managed under a forestry management plan accepted by the Department of Natural Resources under the Illinois Forestry Development Act shall be considered as "other farmland" and shall be valued at 1/6 of its productivity index

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equalized assessed value as cropland. (35 ILCS 200/10-150).

The Board finds the appellant testified he has not engaged in any farming activity or maintenance of the subject's timber stand.

Section 1-60 of the Property Tax Code provides guidance as to what constitutes a farm where it states:

When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use of combination thereof; including, but not limited to hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. (35 ILCS 200/1-60).

Section 10-110 of the Code also provides in part:

Farmland. The equalized assessed value of a farm, as defined in Section 1-60 and if used as a farm for the preceding two years, except tracts subject to assessment under Section 10-45, shall be determined as described in Sections 10-115 through 10-140... (35 ILCS 200/10-110)

The Board finds the evidence in the record reveals that no portion of the subject parcel was used for farming purposes in the two years prior to the subject's January 1, 2004 assessment date. The Board further finds the appellant testified he has neither submitted nor even prepared a forestry management plan as required by the Illinois Forestry Development Act. The Board finds that the subject property was properly classified and assessed as rural residential land for 2004 and no reduction is warranted.

The appellant also claimed the subject's market value was not reflected in its assessment. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of



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Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2<sup>nd</sup> 1256 (2<sup>nd</sup> Dist. 2000).

The Board finds the appellant submitted sales information on the same three comparables he used to support his inequity contention. The Board gave little weight to the appellant's comparables because they were significantly larger than the subject parcel, included portions of farmland, and were thus dissimilar to the subject's residential classification, or sold too long before the subject's January 1, 2004 assessment date to be reliable indicators of the subject's market value. The Board further finds the Real Estate Transfer Declaration documenting the subject's 1997 vacant land sale for \$34,500. As noted above, the subject's 2004 land assessment reflects an estimated market value of \$24,552, well below the subject's 1997 purchase price. Therefore, the Board finds the appellant has not met his burden of proving by a preponderance of the evidence that the subject's assessment does not reflect its estimated market value.

In summary, the Board finds the appellant has failed to prove either unequal treatment in the assessment process by clear and convincing evidence or overvaluation by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is warranted.

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<b>APPELLANT:</b>	<u>Itzhak Garti</u>
<b>DOCKET NUMBER:</b>	<u>02-22844.001-R-1</u>
<b>DATE DECIDED:</b>	<u>October 18, 2006</u>
<b>COUNTY:</b>	<u>Cook</u>
<b>RESULT:</b>	<u>No Change</u>

The subject property consists of a 2,976 square foot parcel of land containing an improvement that is partially built. At the time of assessment, the three-story, masonry, single-family dwelling was under construction and did not have an occupancy permit. The appellant argued that the market value of the property was affected by the demolition of the improvement and that the property should be assessed as vacant land for the 2002 assessment year.

In support of this argument, the appellant submitted pictures of the subject property on February 3, 2003 showing the property in the construction process and an affidavit from the appellant stating the land was vacant for all of 2001, construction on the improvement began in 2002 and was not complete until March of 2003. The appellant also submitted a demolition invoice and a building permit for the subject property as well as a closing statement showing the subject property was purchased, and occupied, in May 2003 for \$1,400,000.

At the hearing, the appellant's attorney argued that the land was vacant for most of 2002 while a dwelling was being constructed on the land. Counsel stated that the board of review stipulated to reduce the 2001 assessment to reflect a value for vacant land after an appeal was filed with the Property Tax Appeal Board. He stated that for the 2002 assessment year, the assessor valued the improvement at 50% of its value even though the dwelling was not complete.

In response to questioning, counsel acknowledged that the subject property sold in 2000, prior to the demolition of the improvement, for \$451,000. He stated that the new improvement was completed and sold in May 2003 for \$1,400,000. The appellant's attorney was not aware of when an occupancy permit was issued for the subject property.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's improvement assessment was indicated to be \$40,688, or \$11.00 per square foot using 3,645 square feet as the living area, which is the square footage of the completed improvement. The board also submitted copies of the property characteristic printouts for the subject as well as four suggested

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comparables with all the properties located within four blocks of the subject. The board's properties contain a three-story, masonry, single-family dwelling with three, four or six baths. The properties contain a partial or full, finished basement, air conditioning, one or two fireplaces and a multi car garage. The improvements range: in age from one to 10 years; in size from 3,296 to 3,781 square feet of living area; and in improvement assessment from \$21.00 to \$23.71 per square foot of living area. In addition, the board submitted copies of its file from the board of review's level appeal. As a result of its analysis, the board requested confirmation of the subject's assessment.

The board of review's representative stated that the board considers the sale date of a newly constructed property as the date of occupancy and that she had no knowledge as to how the assessor's office values property that is under construction.

After considering the testimony and reviewing the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Property Tax Appeal Board Rule 1910.65(c)*. Having considered the evidence presented, the Board finds that the appellant has not met this burden and that a reduction is not warranted.

The Board finds that the subject property's current assessment is supported by the evidence and testimony presented by the parties. The appellant testified that the assessor's office had assessed the subject improvement at 50% of its assessed value for the 2002 assessment year. In addition, the appellant submitted photographs of the subject property from February 2003 that document a structure in place and almost fully completed on that date. Neither party could state when an occupancy permit was issued for the subject property. Therefore, the fact that the property was completed in 2003 with supporting photographs establishes that there was some dwelling in place during the 2002 assessment year in question. This is also supported by the fact the assessor's office placed a 50% valuation proration on the improvement. The land was not

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vacant during all of 2002; the appellant's evidence shows that a new improvement was under construction at that time.

As a result of this analysis, the PTAB further finds that the appellant has failed to adequately demonstrate that the subject property was overvalued by a preponderance of the evidence and a reduction is not warranted.

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<b>APPELLANT:</b>	<u>Larry Goodnow</u>
<b>DOCKET NUMBER:</b>	<u>04-00604.001-R-1</u>
<b>DATE DECIDED:</b>	<u>December 12, 2006</u>
<b>COUNTY:</b>	<u>Lake</u>
<b>RESULT:</b>	<u>Reduction Warranted</u>

The subject property consists of a 6,250 square foot parcel improved with a split-level style brick and frame dwelling built in 1975. The home contains 1,189 square feet of living area and has features that include central air-conditioning, one fireplace and a 440 square foot garage.

The appellant appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process and overvaluation as the bases of the appeal. In support of the land inequity argument, the appellant submitted land assessments information on three comparable properties located near the subject. The comparables range in size from 6,250 to 10,230 square feet of land area and have land assessments ranging from \$49,958 to \$55,656 or from \$1.75 to \$2.02 per square foot. The subject has a land assessment of \$12,639 or \$2.02 per square foot.

In support of the inequity argument regarding the subject's improvement assessment, the appellant submitted improvement assessment information on the same three comparables used to support the land inequity argument. The comparables consist of two, two-story style dwellings and one, tri-level style dwelling. These properties feature frame or brick and frame exterior construction and were built between 1973 and 1997. The comparables range in size from 1,602 to 1,728 square feet of living area and have features that include central air-conditioning, one fireplace and garages that contain from 378 to 504 square feet of building area. One comparable was reported to have a partial unfinished basement. These properties have improvement assessments ranging from \$49,958 to \$55,656 or from \$28.91 to \$34.74 per square foot of living area. The subject has an improvement assessment of \$55,013 or \$46.27 per square foot of living area.

In support of the overvaluation argument, the appellant submitted an appraisal of the subject with an effective date of June 12, 2003. The appraiser was not present at the hearing to answer questions as to how the report was prepared or be cross-examined. In the cost approach the appraiser concluded the subject's site value was \$42,000, but provided no explanation as to how this value was

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determined. Regarding the subject's improvements, the appraiser used the Marshall and Swift Residential Cost Manual to derive a replacement cost new of \$142,552. Depreciation of \$23,763 was subtracted, leaving a depreciated value for the improvements of \$118,789. Site improvements of \$10,000, added to the depreciated improvement value, plus the site value resulted in a value for the subject by the cost approach of \$170,789.

In the sales comparison approach, the appraiser examined three comparable properties located 0.47 to 0.79 mile from the subject. The comparables consist of two, one-story style frame dwellings and one "Cape Cod" style frame dwelling. The comparables range in age from 23 to 28 years and range in size from 1,040 to 1,220 square feet of living area. The comparables feature full basements, two of which have some finished areas. Two comparables have central air-conditioning, two have one-car or two-car garages and one has a fireplace. These properties sold between November 2002 and March 2003 for prices ranging from \$152,500 to \$175,000 or from \$140.16 to \$162.79 per square foot of living area including land. The appraiser made adjustments to the comparables for such items as construction quality, room count, living area, basement finish, garage size and decks or patios. After adjustments, the comparables had adjusted values ranging from \$139.34 to \$155.81 per square foot of living area including land.

In his final reconciliation the appraiser relied most heavily on the sales comparison approach in concluding a final value for the subject of \$166,000. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$67,652 was disclosed. The subject has an estimated market value of \$204,325 or \$171.85 per square foot of living area including land, as reflected by its assessment and Lake County's 2004 three-year median level of assessments of 33.11%.

In support of the subject's land assessment, the board of review submitted land assessment data on three comparables. The comparables range in size from 6,250 to 12,500 square feet of land area and have land assessments ranging from \$12,639 to \$19,415 or from \$1.55 to \$2.02 per square foot of land area.

In support of the subject's improvement assessment, the board of review submitted property characteristic sheets and a grid analysis of the same three comparables used to support the subject's land assessment. The comparables

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consist of split-level style frame or brick and frame dwellings that were built between 1961 and 1985. The properties range in size from 1,073 to 1,517 square feet of living area and have features that include central air-conditioning and garages that contain from 440 to 604 square feet of building area. Two comparables have a fireplace. These properties have improvement assessments ranging from \$46,330 to \$56,929 or from \$37.53 to \$46.16 per square foot of living area.

In support of the subject's estimated market value, the board of review submitted sales information on the same three comparables used to support the subject's land and improvements assessments. The comparables sold between April 2002 and July 2003 for prices ranging from \$217,500 to \$256,000 or from \$168.75 to \$202.70 per square foot of living area including land. Based on this evidence the board of review requested the subject's total assessment be confirmed.

The board of review's representative stipulated to 1,189 square feet as the correct living area for the subject.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds that a reduction in the subject's land assessment is not warranted. The appellant argued unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not overcome this burden.

The Board finds six land comparables had land assessments ranging from \$1.55 to \$2.02 per square foot of land area. Three comparables contained 6,250 square feet, like the subject, while one appeared to be a double lot containing 12,500 square feet. All four of these comparables had land assessments of \$2.02 per square foot and support the subject's land assessment of \$2.02 per square foot of land area. Therefore, the Board finds a reduction in the subject's land assessment is not warranted.

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However, the appellant also claimed inequity regarding the subject's improvement assessment. The Board finds that a reduction in the subject property's improvement assessment is warranted.

The Board finds the parties submitted six comparables for its consideration. The Board finds the comparables were similar to the subject to varying degrees and had improvement assessments ranging from \$28.91 to \$46.16 per square foot of living area. The subject's improvement assessment of \$46.27 per square foot of living area falls just above this range. The Board finds the comparable in the record with the highest improvement assessment was the board of review's comparable 1, which was similar to the subject in size and design and had an improvement assessment of \$46.16 per square foot. However, this comparable was ten years newer than the subject, has a larger garage and has a deck. Thus, the Board would expect this property to have an improvement assessment greater than the subject. Since this property was assessed below the subject, the Board finds a reduction in the subject's improvement assessment is warranted.

As to the overvaluation argument, the Board finds the appellant submitted an appraisal, but the appraiser was not present to be cross-examined or answer questions about how the report was prepared, or how he derived the subject's site value. The Board gave little weight to the appraisal because the comparables included two, one-story or ranch style homes and one "Cape Cod" style home. The Board finds these properties significantly different in style when compared to the subject. The comparable sales submitted by the board of review sold for prices ranging from \$168.75 to \$202.70 per square foot of living area including land. The subject's estimated market value of \$165.00 per square foot of living area including land, after making the adjustment for uniformity, falls below this range. Therefore, the Board finds the evidence in the record supports the subject's estimated market value and no further reduction in the subject's assessment is warranted.

In conclusion, the Board finds the appellant sufficiently established unequal treatment in the assessment process by clear and convincing evidence and the subject property's improvement assessment as established by the board of review is incorrect and a reduction is warranted.



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<b>APPELLANT:</b>	<b>Timothy &amp; Jandelynn Hansen</b>
<b>DOCKET NUMBER:</b>	<b>04-01407.001-R-2</b>
<b>DATE DECIDED:</b>	<b>February 27, 2006</b>
<b>COUNTY:</b>	<b>DuPage</b>
<b>RESULT:</b>	<b>No Change</b>

The subject property consists of a part one, part two, and part three-story masonry and frame dwelling that was built in 2000 and contains 3,843 square feet of living area. The property features six bathrooms, central air conditioning, two fireplaces, a partially finished basement, and a 612 square foot attached garage. The dwelling is situated on a 13,126 square foot lot.

The appellants submitted documentation before the Property Tax Appeal Board claiming unequal treatment in the assessment process as the basis of the appeal. The subject's land assessment was not contested. In support of this claim, the appellants submitted a letter explaining the appeal, a grid analysis detailing six suggested comparables, an appreciation analysis, photographs, and property record cards.

The appellants' letter explained the subject property is located on a block in Hinsdale that has R3 zoning, which reflects smaller less expensive homes typically located in a "buffer" area. The letter explains the "buffer" nature of the block is due to its proximate location near railroad tracks that are within sight of the subject property. The appellants' letter explained a majority of the homes in the southeast section of Hinsdale are zoned R1. The appellants also argued the subject property is negatively impacted due to its low elevation relative to other neighboring properties. The appellants claimed the subject's low elevation caused a drainage problem for the original builder, who had to install a series of dry wells and an extensive tiling system to manage water runoff.

The appellants completed Section V of the appeal petition describing six comparables located within one mile from the subject. The appellants indicated the comparables are located in a "buffer" area between southeast Hinsdale and other areas of town. The same builder who constructed the subject property also built five of the comparables. Another builder constructed comparable 5. The appellants' appeal petition described the comparables as two and one-half story frame or frame and masonry dwellings that were built from 1998 to 2003. Four comparables have full or partial finished basements and two comparables

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have unfinished basements. Other features include central air conditioning, one to three fireplaces, and garages ranging in size from 492 to 808 square feet. The dwellings range in size from 3,219 to 4,289 square feet of living area and are situated on lots ranging in size from 8,300 to 15,912 square feet. They have improvement assessments ranging from \$180,050 to \$220,760 or from \$49.67 to \$57.28 per square foot of living area. The appellant calculated the comparables have an average improvement assessment of \$194,499 or \$51.11 per square foot of living area. The subject property has an improvement assessment of \$312,210 or \$81.24 per square foot of living area.

The comparables also sold from February 2000 to November 2004 for prices ranging from \$1,033,500 to \$1,525,000 or from \$283.93 to \$402.54 per square foot of living area including land. In order to determine comparability, the appellants adjusted five comparables for appreciation by 6% per year from their date of sale. They also performed adjustments for differences to the subject in living area, land area, and functionality/style. The method or source of the adjustment amounts was not disclosed. Comparable 2 was not adjusted due to its 2004 sale date and similar characteristics. The adjustments resulted in adjusted sale prices ranging from \$1,399,097 to \$1,542,260 or from \$349.59 to \$479.11 per square foot of living area including land. The record disclosed the appellants purchased the subject property in July 2004 for \$1,435,000 or \$373.41 per square foot of living area including land. The appellants argued that only the subject and comparable 2 have resold since their original construction.

The appellants argued the subject property was originally built for the prior owners at a purchase price of \$1,333,963. Four years later, the appellants purchased the subject property for \$1,435,000 or a 1.8% appreciation rate over the four-year time period. The appellants argued the township assessor incorrectly applied a 6.75% and 8.8% increase in the subject's assessed valuation for assessment the years 2002 and 2003, considerably more than the appreciation rate derived from the subject's actual sale.

In summary, the appellants argued the subject property has not appreciated, and will continue to suffer a slower appreciation rate due to: the negative aspects of the lot; the negative effect of high real estate taxes compared to identical properties; overpayment of the prior owners due to the higher lot acquisition cost; and design features of the subject such as the sizable front and back stairways and the high number of bathrooms relative to other comparable homes. The appellants opined these factors negatively impact the resale price of the subject property due to cost, impact on space, small bedrooms, and

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maintenance requirements. Finally, the appellants disagreed with the comparables used by the township assessor at the local board of review hearing due to their location, school district, and quality of construction. Based on this evidence, the appellants requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$473,550 was disclosed. The subject's assessment reflects an estimated market value of \$1,421,219 or \$369.82 per square foot of living area including land using DuPage County's 2004 three-year median level of assessments of 33.32%.

In support of the subject's assessment, the board of review submitted property record cards, a location map, a letter explaining the evidence, and a spreadsheet detailing five comparables. The comparable are located from 6 to 10 blocks of the subject and are in closer proximity than the comparables used by the appellants. They consist of four; part one, part two, and part three-story dwellings and a part two and a part three-story dwelling of brick, frame or brick and frame construction that were built from 2001 to 2003. The comparables have full or partial finished basements, central air conditioning, two to four fireplaces, and garages ranging in size from 440 to 772 square feet. They dwellings range in size from 3,885 to 4,203 square feet of living area and have improvement assessments ranging from \$278,230 to \$459,010 or from \$75.38 to \$115.91 per square foot of living area. The comparables also sold from November 2002 to June 2004 for prices ranging from \$1,465,000 to \$1,850,000 or from \$377.09 to \$464.12 per square foot of living area including land.

The letter submitted by the board of review argued the subject's assessment reflects a market value less than its 2004 sale price. The letter also acknowledged five of the six comparable submitted by the appellants are located in the subject's neighborhood code as assigned by the assessor; however, they are located on busy streets, unlike the subject. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

In rebuttal, the appellants argued the assessment methodology used by the county unfairly derives assessed values substantially over the market value of the subject property and the subject property was not accorded equal treatment in the assessment process in that similar properties are assessed substantially lower than the total assessment of the subject property.

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In exhibit 9 of rebuttal, the appellants argued the subject property's market value increased by 1.842% from 2000 to 2004 based on its actual sale prices. The appellants argued the assessed value of the subject dramatically increased above its actual fair market value for 2002 and 2003 by 2.95% and 10%, respectively.

In exhibit 10, the appellants performed an assessment to sale ratio analysis of both parties' comparables. The appellants calculated the comparables have 2004 total assessments that reflect market values ranging from 57.14% to 95.77% of their most recent sale prices or an average of 76.46%. Again, these properties sold between February 2000 and November 2004. The appellants calculated the subject's assessment reflects a market value of 99% of its 2004 sale price. The appellants also argued the board of review's comparable 3 sold for less in 2004 than its 2003 sale price. The appellants also submitted a graph (Exhibit 10) showing the subject's assessment history from 2000 to 2004.

In exhibits 11 through 14, the appellants submitted a list of 97 properties that are located in the Village of Hinsdale, DuPage County. The appellant indicated all of these properties sold in 2004 for over \$1,000,000 as reported by the Multiple Listing Service. The documentation indicates these properties are reported to have assessments reflecting market values ranging from 48.130% to 118.5253% of their sale prices or an average assessment to sale ratio of 78.66%. As a result, the appellants opined the subject property is over and inequitably assessed by 25.85%.

The appellants also noted differences in the subject property in relation to the comparables submitted by the board of review in age, size, location, builder and amenities. The appellants also argued three comparables submitted by the board of review are situated on corner lots, not interior lots. They also argued two of these comparables are located on heavily traveled arterial streets. Although the appellants did not contest the subject's land assessment, the appellants argued the subject's land assessment is higher than their comparables. The appellants also reiterated the subject property is located near train tracks. The appellants also identified two new comparables located in the same neighborhood code as the subject. These properties have lower improvement assessments than the subject. Additionally, one property is listed for sale for considerably more than the subject's 2004 sale price.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject

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matter of this appeal. The Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellants argued the subject property was inequitably assessed. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the evidence submitted, the Board finds the appellants have not overcome this burden and no reduction is warranted.

With respect to the sales ratio analyses offered by the appellants to demonstrate the subject property was inequitably assessed, the Board finds the courts have held that in determining whether to use a township or county sales ratio, considerations of practicality dictate the use of the county ratio. People ex rel. Kohorst v. Gulf, Mobile & Ohio R.R. Co., 22 Ill.2d 104, 174 (1961). The courts look to the county as a whole in order to determine whether the property at issue is being assessed in accordance with the constitutional guaranty of equity and uniformity of taxation. Furthermore, the courts have held that "even if the studies show a disparity in the levels of assessment of residential property within the same township, we cannot find that the evidence shows that a township level of assessment, rather than a countywide level, is the proper one." In re Application of County Treasurer (Twin Manors), 175 Ill.App.3d 562, (1st Dist. 1988). Thus, a review of case law indicates that the courts look at the "assessment level for the county as a whole" rather than selective sales in a given market area, as the appellants did in their assessment to sale ratio analysis. The Property Tax Appeal Board finds the three-year median level of assessments of DuPage County for 2004, as determined by the Illinois Department of Revenue was 33.32%. Therefore, the appellants' study cannot be said to demonstrate by clear and convincing evidence that the subject property was assessed at a disproportionately higher level of fair market value than other properties located within the same taxing jurisdiction.

The Property Tax Appeal Board further finds the appellants' sales ratio analyses to be flawed. The Board finds the appellants' study was not performed on a countywide basis, the sales selected were not random, and the appellants did not properly edit the data. Additionally, the Property Tax Appeal Board finds the methodology employed by the appellants in calculating the sales ratio analysis to be in error. The proper methodology for calculating assessment to sales

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ratios for ad valorem taxation purposes is by using a property's most recent sale price compared to its prior year's assessment that precedes the date of sale. The Board finds the record indicates the appellants did not use this formula in the analysis for most of the comparables. Thus, the Board finds the appellants' sales ratio analysis produces questionable results for ad valorem taxation purposes.

Notwithstanding the aforementioned case law enumerating the flaws of limited sales ratio studies, the Boards finds the appellants' assessment to sale ratio study submitted as rebuttal contained 97 new properties. In addition, the appellants also offered two additional assessment comparables. The Board finds these portions of the appellants' rebuttal submission constitutes new evidence and will not be will not be considered. Section 1910.66(b) of the Official Rules of the Property Tax Appeal Board states:

Rebuttal evidence shall **not consist of new evidence such as an appraisal or newly discovered comparable properties.** (Emphasis added) **A party to the appeal shall be precluded from submitting its own case in chief in guise of rebuttal evidence.** (Emphasis added) (Ill.Adm.Code 1910.66(b)).

In addition the Board finds although the appellants claimed a lack of uniformity regarding the subject's improvement assessment, the appellants did not raise the assessment to sale ratio uniformity argument in their initial submission to the Board. Neither the Property Tax Appeal Board nor the board of review was aware of the appellants' sales ratio uniformity claim prior to submission of rebuttal evidence. Section 16-180 of the Property Tax Code provides in part:

Each appeal shall be limited to the grounds listed on the petition filed with the Property Tax Appeal Board. All appeals shall be considered *de novo*. (35 ILCS 200/16-180).

In addition, section 1910.30(h) of the Official Rules of the Property Tax Appeal Board states in part:

Every petition for appeal shall state the facts upon which the contesting party bases his objection to the decision of the board of review, . . . (Ill.Adm.Code 1910.30(h)).

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The Board finds the record contains assessment information for 11 comparables that were similar to the subject in most respects. They have wide ranging improvement assessments from \$184,390 to \$459,010 or from \$49.17 to \$115.91 per square foot of living area. These similar comparables produce two distinct assessment ranges. The six comparables submitted by the appellant have improvement assessments ranging from \$49.17 to \$57.28 per square foot of living area while the comparables submitted by the board of review have improvement assessments ranging from \$75.38 to \$115.91 per square foot of living area. The subject property has an improvement assessment of \$312,210 or \$81.24 per square foot of living area. Regardless of the neighborhood code assigned by the township assessor, the Board finds the comparables submitted by the board of review are located closest in proximity to the subject. These comparables are similar to the subject in age, size, style, and amenities. They have improvement assessments ranging from \$278,230 to \$459,010 or from \$75.38 to \$115.91 per square foot of living area. The subject has an improvement assessment of \$312,210 or \$81.24 per square foot of living area, which falls within the range established by the board of review's comparables. After considering adjustments to these comparables for differences when compared to the subject, the Board finds the subject's improvement assessment is well supported.

With regard to the appellant's comparables, the Board recognizes the appellants' lack of uniformity premise in that the similar comparables of similar market value were assessed less than the subject property on a proportional basis. However, these properties are not located as close in proximity to the subject than the similar comparables submitted by the board of review and were given less weight. The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the parties disclosed that properties located in the same geographic area and assessment jurisdiction are not assessed at identical levels, all that the constitution requires is a practical uniformity, which appears to exist based on the evidence submitted. Therefore, the Board finds the appellants failed to demonstrate the subject property was inequitably assessed by clear and convincing evidence.

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The appellant's evidence also implies the subject property is overvalued. The Property Tax Appeal Board gave this argument no weight. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellant has not overcome this burden.

The Property Tax Appeal Board finds the best evidence of the subject's fair market value is its July 2004 sale price of \$1,435,000 or \$373.41 per square foot of living area including land. This sale occurred six months subsequent to subject's January 1, 2004, assessment date. The subject's assessment reflects an estimated market value of \$1,421,219 or \$369.82 per square foot of living area including land, which is less than its sale price. From a review of the record, the Board finds there is no evidence suggesting the subject sale was not an arm's-length transaction. The Illinois Supreme Court defined fair cash value as 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). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369 (1<sup>st</sup> Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc., 45 Ill.2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945).

The Board further finds the most similar comparable sales contained in this record in age, size, style, location, amenities and date of sale supports the appellants' purchase price of the subject property and its estimated market value as reflected by its assessment. These comparables are identified as the appellants' comparable sales 2 and 4 and comparables 1, 2, 3 and 5 submitted by the board of review. They sold for prices ranging from \$1,425,000 to \$1,850,000 or from \$377.09 to \$464.12 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$1,421,219 or \$369.82 per square foot of living area including land. More importantly, the appellants purchased the subject property in July 2004 for \$1,435,000 or \$373.41 per square foot of living area including land. After considering adjustments to these comparables for differences when compared to the subject, the Board finds the subject's 2004 sale price and its estimated market value as reflected by its assessment is well supported.



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The Board gave less weight to five suggested comparables sales submitted by the parties. These transactions occurred in 2000 or 2002 and are considered less indicative of the subject's fair market value as of the January 1, 2004, assessment date at issue in this appeal. Finally, the Board gave little weight to appreciation analysis submitted by the appellant. In order to determine comparability, the appellants adjusted five comparables for appreciation by 6% per year from their date of sale. They also performed adjustments for differences to the subject in living area, land area, and functionality/style. The Board finds the methodology and source of these adjustment amounts were not disclosed or contained within this record. Notwithstanding the lack of support for the adjustment process and amounts, the Board finds the resulting adjusted sale prices supports the appellants' purchase price of the subject property and supports its estimated market value as reflected by its assessment.

In conclusion, the Board finds the appellants failed to demonstrate a lack of uniformity in the subject's assessment by clear and convincing evidence or overvaluation by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is warranted.

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<b>APPELLANT:</b>	<b>Darrel Hartnell</b>
<b>DOCKET NUMBER:</b>	<b>04-00791.001-R-1</b>
<b>DATE DECIDED:</b>	<b>January 17, 2006</b>
<b>COUNTY:</b>	<b>Macon</b>
<b>RESULT:</b>	<b>No Change</b>

The subject property consists of a single-family dwelling located in Pleasant View Township, Macon County, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this claim, the appellant submitted an appraisal of the subject property. The appraisal estimated a fair market value for the subject of \$85,000 as of December 19, 2004, using two of the three traditional approaches to value. The appellant also argued the board of review improperly decreased the subject's Home Improvement Exemption from \$25,000 to \$14,139. Thus, the appellant argued the subject property is being assessed and taxed \$11,560 too high. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$25,300, which reflects an estimated market value of \$75,900.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$28,333 was disclosed. The subject's assessment reflects an estimated market value of \$85,000 using the statutory level of assessments of 33.33%. The board of review accepted the appraisal and final value conclusion offered by the appellant as the best evidence of the subject's fair market value. Therefore, the board of review requested the Property Tax Appeal Board confirm the subject's assessment of \$28,333.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellant argued the subject property is overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). The Board finds the appellant has not overcome this burden. The Board finds the best evidence of the subject's fair market value is the appraisal submitted by the appellant for

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\$85,000. The subject's assessment reflects an estimated market value of \$85,000, which is identical to the value conclusion contained in the appellant's appraisal. Therefore, the Board finds the preponderance of the evidence demonstrates the subject property was not overvalued and no reduction is warranted.

With respect to the appellant's argument regarding the Home Improvement Exemption, the Property Tax Appeal Board finds it has no jurisdiction over this matter. Section 16-70 of the Property Tax Code provides in pertinent part:

Determination of exemptions. The board of review shall hear and determine the application of any person who is assessed on property claimed to be exempt from taxation. However, the decision of the board shall not be final, **except as to homestead exemptions.** (35 ILCS 200/16-70).

The Board finds "Homestead property" is defined under section 15-175 of the Property Tax Code, which provides in part:

"Homestead property" under this Section includes residential property that is occupied by its owner or owners as his or their principal dwelling place. . . (35 ILCS 200/15-175).

Section 15-180 of the Property Tax Code, which provides in part:

Homestead improvements. . . . In counties with less than 300,000 inhabitants, in addition to the notice requirements under Section 12-30, a supervisor of assessments, county assessor, or township or multi-township assessor responsible for adding an assessable improvement to a residential property's assessment shall either notify a taxpayer whose assessment has been changed since the last preceding assessment that he or she may be eligible for the exemption provided under this Section or shall grant the exemption automatically. (35 ILCS 200/15-180).

In addition, Section 1910.10(f) of the Official Rules of the Property Tax Appeal Board provides:

The Property Tax Appeal Board is **without jurisdiction to determine** the tax rate, the amount of a tax bill, or **the**

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**exemption of real property from taxation.** (86 Ill.Adm.Code 1910.10(f)).

Finally, section 16-180 of the Property Tax Code provides in part:

Procedure for determination of correct assessment. The Property Tax Appeal Board shall establish by rules an informal procedure for determination of the correct assessment of a property which is the subject of an appeal. (35 ILCS 200/16-180).

In interpreting the aforementioned provisions, the Board finds the board of review has the final decision in determining the correct amount for Homestead exemptions, whether that exemption is a General Homestead Exemption as provided by section 15-175 of the Property Tax Code (35 ILCS 200/15-175) or Homestead Improvement Exemption as provided by section 15-180 of the Property Tax Code (35 ILCS/15-180). The Property Tax Appeal Board further finds it plays no role in determining the exemption of real property for ad valorem taxation purposes. Rather, the Property Tax Appeal Board's jurisdiction is to find the correct assessment of a property under appeal (35 ILCS 200/16-180) based upon the equity and weight of the evidence. (35 ILCS 200/16-185).

In conclusion, the Board finds the appellant has not demonstrated overvaluation by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is warranted.

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<b>APPELLANT:</b>	<b>Joseph A. Junius</b>
<b>DOCKET NUMBER:</b>	<b>04-00766.001-R-1</b>
<b>DATE DECIDED:</b>	<b>September 28, 2006</b>
<b>COUNTY:</b>	<b>Lake</b>
<b>RESULT:</b>	<b>No Change</b>

The subject property consists of a 5,287 square foot parcel of land containing an 11-year old, two-story, frame, single-family residence. This improvement contains 1,809 square feet of living area, a full, unfinished basement, air conditioning and two baths. The appellant argued that there was unequal treatment in the assessment process of the land as the basis of this appeal.

In support of this argument, the appellant submitted assessment data, photographs and descriptions of four properties suggested as comparable to the subject. The appellant also included a written narrative clarifying the evidence and his argument, maps of his subdivision and Lakeshore Drive properties, a plat of survey for the subject property, and a list of properties on Lakeshore Drive with land size, assessed value, land value per square foot, property index number and owner listed. The properties suggested as comparable are located within 200 feet of the subject property and contain from 4,600 to 7,012 square feet of land. Three of these properties are lakefront properties. All the properties are improved with a one and one-half or two-story, frame or masonry, single-family dwelling and range in land assessment from \$1.87 to \$2.60 per square foot.

The written narrative argues that the subject property, as well as all the properties located in Lakeview Estates, does not own the property on the lake. The lakefront is owned and controlled by the homeowners association. The subject property does not have any direct water rights and the appellant cannot build upon the lakefront or install a pier in the lake. The document further writes that three of the suggested comparable properties are on the lake and have ownership rights to the land along the lake and that their assessment, and thus market value, is lower than the subject property.

In rebuttal, the appellant submitted a letter reiterating that the properties on Lakeshore Drive have direct access to the lake and are valued less than the subject property. The appellant wrote that the Certificate of Error issued by the assessor prior to the hearing does not lower the assessed value of the land to its proper level.

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At hearing, the appellant, Joseph Junius, testified that his property has a higher assessed value than lakefront property and that his property is not lakefront property. He stated the property directly on the lake is common area and he does not own that property. He stated that the properties outside of his neighborhood, directly on the lake have a lower assessed value. He stated these properties are in the subdivision next to his and within 60 feet. He stated he is seeking the same assessed value as the direct lakefront properties.

In response to questioning, Mr. Junius stated the grid he created showing the values for all Lakeshore Drive properties was developed by using the assessor's data and that the "w" written on the document represent waterfront properties as opposed to those across the street.

The board of review submitted "Board of Review-Notes on Appeal" disclosing the subject's land assessment of \$15,642, or \$2.96 per square foot. The board of review also submitted a copy of a certificate of error reducing the land assessment, a grid of nine properties suggested as comparable and the property record card for the subject. Also included is a letter from the township assessor in regards to the subject property and suggested comparables. Four of the assessor's nine suggested comparables are located in the subject's subdivision and two of the nine comparables are located on Lakeshore Drive. All nine suggested comparables contain a one or two-story, frame, single-family dwelling. The land ranges in size from 4,083 to 7,012 square feet and the land assessments from \$1.87 to \$5.65 per square foot. The properties located in the subject's subdivision have assessments from \$2.61 to \$5.65 per square foot. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the Avon Township Deputy Assessor testified the assessor's office looks at sales in a neighborhood for the last three years and then adds 30% to any water influence property in determining an assessed land value for a property. She testified that when the assessor's office was valuing the subject property's subdivision, it included all the properties as part of the lake. However, she stated this was done in error because this subdivision is a unique subdivision with a different market from the others. She testified that a review of the market shows that these properties paid a premium for their location. An increase in the assessed value of the land was done for all these properties, however, as stated by the deputy assessor, the amount added on was incorrect and the Certificate of Error issued by the assessor's office was to correct this

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error. She testified that the land value placed on the subject property currently is the correct value.

The deputy assessor stated the properties on Lakeshore Drive are different in the age of the homes and characteristics, where the subject's subdivision was platted in the 1990s and is a distinctive subdivision. She testified that properties, whether on the lakefront or near the lake, that receive a benefit from the lake views are treated the same for land assessment purposes and are given a water influence value.

After considering the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

Appellants who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d 1, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Proof of assessment inequity should include assessment data and documentation establishing the physical, locational, and jurisdictional similarities of the suggested comparables to the subject property. *Property Tax Appeal Board Rule* 1910.65(b). Mathematical equality in the assessment process is not required. A practical uniformity, rather than an absolute one is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769 (1960). Having considered the evidence presented, the Board concludes that the appellant has not met this burden and that a reduction is not warranted.

The appellant submitted all the properties located on Lakeshore Drive and one property within the subject's subdivision and the board submitted nine properties with four within the subject's subdivision. Within the subject's subdivision, the parties presented a total of four land comparables with one property being submitted by both parties. The Board finds these properties comparable. These comparables are all water influenced properties that range in size from 4,783 to 7,012 square feet and have land assessments from \$2.61 to \$5.65 per square foot. In comparison, the subject's land assessment of \$2.96 falls within the range established by the comparables.

In addition, Board finds that the appellant has not submitted sufficient evidence to establish that the subject's subdivision does not differ from other properties along the lake. The board's witness testified that a market analysis was done

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when the properties were assessed and that the subject's subdivision has a different market value than other properties along the lake.

As a result of this analysis, the Board further finds that the appellant has failed to adequately demonstrate that the subject's dwelling was inequitably assessed by clear and convincing evidence and that a reduction is not warranted.



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<b>APPELLANT:</b>	<b><u>Valentina G. Kazhinsky</u></b>
<b>DOCKET NUMBER:</b>	<b><u>04-21653.001-R-1</u></b>
<b>DATE DECIDED:</b>	<b><u>October 6, 2006</u></b>
<b>COUNTY:</b>	<b><u>Cook</u></b>
<b>RESULT:</b>	<b><u>No Change</u></b>

The subject property is improved with a split-level single family dwelling of masonry exterior construction. The dwelling is approximately 47 years old and contains 1,344 square feet of living area. Features include one bathroom, central air conditioning, a basement and a two-car detached garage. The property is located in Lincolnwood, Niles Township, Cook County.

The appellant contends assessment inequity and further argued the subject's 2004 assessment should be calculated using the 7% assessment cap outlined in section 15-176 of the Property Tax Code entitled "Alternative general homestead exemption". The appellant calculated the assessment reduction request by multiplying the subject's 2003 improvement assessment of \$14,608 by a factor of 1.07 resulting in an improvement assessment of \$15,631. In support of this argument the appellant submitted a copy of a document from the Cook County Assessor's web site entitled "Expanded Homeowner Exemption - 7% Assessment Cap" and a copy of section 15-176 of the Property Tax Code (35 ILCS 200/15-176).

In support of the assessment inequity argument the appellant provided descriptions and assessment information on three comparables. The comparables were described as split-level dwellings with the same classification code as the subject property. These properties had features similar to the subject property with the exception that two of the dwellings had fireplaces. The dwellings ranged in size from 1,377 to 1,965 square feet and in age from 42 to 48 years old. These properties had improvement assessments that ranged from \$12,860 to \$17,460 or from \$8.89 to \$9.37 per square foot of living area. Based on this evidence the appellant requested the subject's total assessment be reduced to \$22,431.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$32,315 was disclosed. The subject property had an improvement assessment of \$25,515 or \$18.98 per square foot of living area. To demonstrate the subject property was being equitably assessed the board of review submitted descriptions and assessment data on

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four equity comparables. The comparables were improved with split-level dwellings with the same classification code as the subject. The comparable dwellings ranged in size from 1,290 to 1,371 square feet of living area and in age from 45 to 47 years old. The comparables had features that were similar to the subject with the exception that two did not have central air conditioning and two had no garage. These properties had the same neighborhood code as the subject with two being located within the same block and on the same street as the subject. These properties had total assessments that ranged from \$32,317 to \$33,574 and improvement assessments that ranged from \$26,000 to \$26,712 or from \$19.17 to \$20.71 per square foot of living area.

The appellant submitted a rebuttal statement challenging the similarity of the comparables provided by the board of review. The appellant also argued the board of review did not submit any argument or evidence challenging the applicability of the 7% assessment cap provided by section 15-176 of the Property Tax Code.

After reviewing the record and considering the evidence the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

The appellant argued in part that the assessment cap provided by section 15-176 of the Property Tax Code limits the subject's assessment increase from 2003 to 2004 to 7%. The Property Tax Appeal Board finds that it has no jurisdiction over this aspect of the appellant's argument. Section 15-176 of the Property Tax Code is entitled "Alternative general homestead exemption" and provides an expanded version of the current homestead exemption as relief to assessment increases. Section 1910.10(f) of the Property Tax Appeal Board's rules provides that:

The Property Tax Appeal Board is without jurisdiction to determine the tax rate, the amount of a tax bill, or the exemption of real property from taxation. (86 Ill.Adm.Code 1910.10(f)).

Additionally, section 16-70 of the Property Tax Code provides in part:

Determination of exemptions. The board of review shall hear and determine the application of any person who is assessed on property claimed to be exempt from taxation.

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**However, the decision of the board shall not be final, except as to homestead exemptions** (emphasis added). . . .  
35 ILCS 200/16-70.

The Property Tax Appeal Board finds that it has no jurisdiction over the applicability of section 15-176 of the Code and the calculation of the alternative homestead exemption. The Code provides the board of review's decision with respect to the workings of section 15-176 is final. For these reasons the Property Tax Appeal Board finds that it has no authority to considered this aspect of the appellant's argument.

The appellant also argued assessment inequity as an alternative basis of the appeal. The Board finds that no reduction in the subject's assessment is warranted based on the subject property being inequitably assessed.

Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data the Board finds a reduction is not warranted.

The record contains assessment information on seven comparables submitted by the parties. The Board finds the comparables submitted by the board of review are more similar to the subject in location, size and age than were the appellant's comparables. The board of review's comparables are improved with split-level dwellings with the same classification code as the subject that ranged in size from 1,290 to 1,371 square feet of living area and in age from 45 to 47 years old. The comparables had features that were similar to the subject with the exception that two did not have central air conditioning and two had no garage. The comparable properties had the same neighborhood code as the subject with two being located on the same street and within the same block as the subject. These properties had total assessments that ranged from \$32,317 to \$33,574 and improvement assessments that ranged from \$26,000 to \$26,712 or from \$19.17 to \$20.71 per square foot of living area. The subject property has a total assessment of \$32,315 and an improvement assessment of \$25,515 or \$18.98 per square foot of living area, below the range established by the most similar comparables in the record. The Board finds this data demonstrates the subject is being equitably assessed.

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The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). All that the constitution requires is a practical uniformity, which appears to exist on the basis of the evidence submitted by the parties.

In conclusion the Board finds that a reduction in the subject's assessment is not justified.

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<b>APPELLANT:</b>	<b><u>Jonathan Lerner</u></b>
<b>DOCKET NUMBER:</b>	<b><u>02-30008.001-R-1</u></b>
<b>DATE DECIDED:</b>	<b><u>February 27, 2006</u></b>
<b>COUNTY:</b>	<b><u>Cook</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

The subject property is an owner occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board (hereinafter "PTAB") the prior year under docket number 01-24247.001-R-1. In that appeal, the PTAB rendered a decision lowering the assessment of the subject property based on the evidence submitted by the parties.

In the 2002 property tax appeal, the evidence submissions by the parties reflect equity comparables submitted for consideration by PTAB as well as a request by the appellant that the prior year's reduction by PTAB be carried forward. Moreover, the appellant's rebuttal evidence included correspondence from the Cook County Assessor's office indicating that a Certificate of Error was granted for this subject property due to the fact that the PTAB's triennial reduction was not maintained through the 2002 property tax year. Therefore, on July 28, 2004, the assessor's office issued a certificate of error for the subject property for tax year 2002 reflecting a total assessment of \$58,363. The PTAB notes that this total assessment is the same assessment accorded the subject property in the PTAB decision dated December 11, 2003 and rendered for the 2001 property tax year.

Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

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After reviewing the record and considering the evidence, the PTAB finds that it has jurisdiction over the parties and the subject matter of this appeal.

The PTAB further finds that the prior year's decision should be carried forward to the subsequent year subject only to any equalization factor applied to that year's assessments. This finding is pursuant to Section 16-185 of the Property Tax Code (35 ILCS 200/16-185). The record contains no evidence indicating the subject property sold in an arm's length transaction subsequent to the PTAB's decision or that the assessment year in question is in a different general assessment period.

Furthermore, the evidence clearly indicates that on July 28, 2004 the Cook County Assessor's office accorded a Certificate of Error for this subject property for the 2002 assessment year.

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<b>APPELLANT:</b>	<b><u>Daniel Malinowski</u></b>
<b>DOCKET NUMBER:</b>	<b><u>04-00384.001-R-1</u></b>
<b>DATE DECIDED:</b>	<b><u>August 25, 2006</u></b>
<b>COUNTY:</b>	<b><u>Lake</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

The subject property consists of a 33-year-old, one-story, single-family condominium dwelling. Containing 990 square feet of living area, the subject improvement features one bath, air conditioning, and a garage. The subject is considered part of the Inverrary Condominium Subdivision and is located on Inverrary Lane in Vernon Township in the Village of Deerfield, Illinois.

The appellant appeared before the Property Tax Appeal Board and argued that the property's assessment is excessive based upon the subject's market value.

In support of this over valuation argument, the appellant submitted a real estate sales contract, closing statements (HUD-1 settlement statements) for both the purchase and the sale of the subject, an Illinois Real Estate Transfer Declaration (PTAX 203) and an ad copy reflecting the subject's advertisement for sale from the real estate section of the Chicago Tribune. The appellant also submitted a brief in support of his requested reduction. The evidence shows that the subject was purchased by the appellant in October 2004 in an arm's length transaction, between unrelated parties and was advertised for sale, for a price of \$120,000. The subject was sold one month later again for the price of \$120,000 in a transaction between related parties. The buyer of the subject was the appellant's son and this transaction is not arm's length. Based upon the initial purchase, the appellant requested a total assessment of one-third of the sales price of \$120,000, which equates to a \$40,000 assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$45,781, was presented. In support of its current assessment, the board submitted property record cards for the subject and a neighboring property, which the board characterizes as a "D" unit property in the subdivision. The board indicates that all "D" units are the same size and do not have basements since they are located over garages. Also included are copies of floor plans from the builder of these units. The board submits that the Inverrary Condominium Subdivision has 111 "D" units and that in the year 2004 there were 15 sales and of that 12 are considered "good" sales. These sales range from \$149,000 to \$174,000. Lastly, the evidence submitted by the

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board claims that the subject was not advertised for sale during either the appellant's purchase or subsequent sale. Based upon this information, the board requested confirmation of the subject's assessment.

After considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Adm.Code 1910.65(c)). Having considered the evidence and testimony presented, the Board finds that the appellant has met this burden and a reduction is warranted.

The Board finds that the appellant has met his burden by a preponderance of the evidence. The best indicator of a property's market value is its sales price in an arm's length transaction. Here, the appellant adequately supported that the subject's market value for the assessment year 2004 is \$120,000. He supplements the record with not only the HUD-1 settlement statement when he purchased the property in October 2004, but also includes the PTAX 203 Form, along with the sales contract for the subject, and the advertisement from the Chicago Tribune.

The board's evidence is non-responsive to the appellant's market value argument. The board cites to a number of sales that may be reflective of the other units' values, but not the subject. Also, the board erroneously points out that the subject sale was not arm's length in an attempt to discredit the appellant's evidence, where clearly an arm's length transaction occurred.

Therefore, the Board finds that the subject's market value is \$120,000 and the Illinois Department of Revenue's three-year median level of assessments for Lake County of 33.11% of the sales price shall apply.



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<b>APPELLANT:</b>	<b><u>Marie Martino</u></b>
<b>DOCKET NUMBER:</b>	<b><u>02-21187.001-R-1</u></b>
<b>DATE DECIDED:</b>	<b><u>September 21, 2006</u></b>
<b>COUNTY:</b>	<b><u>Cook</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

The subject property consists of a 6,200 square foot parcel of land containing a 72-year old, two-story, frame and masonry, single-family residence. This improvement contains 2,356 square feet of living area, two baths, a full, unfinished basement, and a two car detached garage. The parties jointly agreed to consolidate this appeal with 14 other for hearing purposes. All the residential appeals raise the same issue with varying suggested comparables. This issue is the fair market value of the subject not accurately reflected in its assessed value.

In support of the market value argument, the appellant, via counsel, submitted sales data and descriptions of three properties suggested as comparable to the subject. Colored photographs and assessment data for the subject and these properties were submitted. The data in its entirety reflects that the properties are located within two blocks of the subject and are improved with a two-story, masonry, single-family dwelling with two and one-half baths, a full basement with one of them finished, one or two fireplaces, and a multi-car detached garage. The improvements range in age from 72 to 77 years and in size from 2,355 to 2,778 square feet of living area. These properties sold from January 1999 to August 2001 for prices ranging from \$440,000 to \$483,000 or from \$173.87 to \$186.84 per square foot of living area. In addition, the appellant submitted a grid listing a market value for the suggested comparables' improvements based on extracting the land value from the market value using the land's assessed value. Also submitted was a listing of 40 properties sold in the subject's neighborhood with the same classification as the subject. This list includes the property index number, the sale date and the purchase price. The three described suggested comparables are included in this list. Based upon this analysis, the appellant requested a reduction in the subject's improvement assessment.

The appellant's counsel indicated that he gathered a list of all the properties that sold in the subject's neighborhood and included all the sales of properties that were in the same classification as the subject property. The two limits placed on what comparables were chosen were improvement size and proximity to the subject. Counsel stated that he reviewed all the sales from 1999 through 2001

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to determine an average sale price per square foot. He then deducted what the assessor had determined was the value of the land, based on the assessment, from the sale price to establish an improvement price per square foot. He stated that this approach is the same approach that has been used by the board of review when he has represented townhouse or condominium appeals. Counsel asserted that he went back three years for sales because the board of review goes back three years when using sales information to determine townhouse and condominium assessments.

In response to questioning, counsel stated that, when the appellant submitted the assessor's listing of sales in the subject's neighborhood as evidence, he did not know if the documents submitted were all the sales of the classification in question for the subject's neighborhood. He reiterated that the comparables submitted as evidence are all the sales in the neighborhood for a particular classification with the exception of those properties that have large differences in location or square footage with the subject property.

In addressing the board's testimony, the appellant's attorney contended that all the homes within a particular classification can be over-assessed and a uniformity analysis would not show this. Only a market analysis would show that all the properties are assessed higher than the current market values.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's assessment was \$47,674, or \$20.24 per square foot of living area. The board also submitted copies of the property characteristic printouts for the subject as well as three suggested comparables with all the properties located within the subject's neighborhood. The board's properties contain a two-story, frame and masonry, single-family dwelling with two baths. These properties contain a full, unfinished or partial, unfinished basement, one or two fireplaces, a multi-car garage, and, for two properties, air conditioning. The improvements range: in age from 68 to 76 years; in size from 2,340 to 2,443 square feet of living area; and in improvement assessment from \$16.70 to \$17.48 per square foot of living area. Sales information was not provided for these properties. In addition, the board submitted a printout listing the property index number, sale date and purchase price for 20 properties within the subject's neighborhood as well as the documents used a the board's appeal. As a result of its analysis, the board requested confirmation of the subject's assessment.

The board's representative testified that the board contends the uniformity rule is more representative of the assessments in a residential appeal than a market analysis. She stated the Property Tax Appeal Board has ruled that uniformity

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supersedes market value unless market value is the only way to determine value. Based on a uniformity analysis, she argued that the board's evidence shows the subject property is uniformly assessed. She stated that market data can be useful, but a trained appraiser should do an analysis of this data. She argued the appellant's evidence is raw data that has not been adjusted by an appraiser.

In response to questioning, the board's representative did not have any knowledge as to how the assessor uses market data in determining assessments for a neighborhood. She could not address any questions in regards to the assessor's methodology in assessing properties. She stated that she did not know the conditions of the sales for the suggested comparables submitted by the appellant. She testified that the board reviews the last three years of sales in a neighborhood when looking at market data.

After considering the evidence and hearing the testimony, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Property Tax Appeal Board Rule* 1910.65(c). Having considered the evidence presented, the Board concludes that the appellant has met this burden and that a reduction is warranted.

Only the appellant presented sales data on a total of three suggested comparables. The Board finds these properties similar to the subject. These comparables contain a two-story, masonry, single-family dwelling located within two blocks of the subject. The improvements range in age from 72 to 77 years and in size from 2,355 to 2,778 square feet of living area. These properties sold from January 1999 to August 2001 for prices ranging from \$440,000 to \$483,000 or from \$173.87 to \$186.84 per square foot of living area. In comparison, the subject's assessment computes to a market value of \$206.69 per square foot of living area and falls above the range established by the comparables.

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The PTAB finds the board's argument that uniformity is the more appropriate analysis to be used in this case unpersuasive. The *Property Tax Appeal Board Rule 1910.65 (a)* states, in part:

The Property Tax Appeal Board generally considers appeals with respect to the correct valuation of property for assessment purposes based upon the following contentions: . . . (2) the market value of the subject property is not accurately reflected in its assessment. . . (c) Proof of market valuation of the subject property may consist of the following: 1) an appraisal of the subject property as of the assessment date at issue; 2) a recent sale of the subject property; 3) documentation evidencing the cost of construction of the subject property . . . 4) documentation of not fewer than three recent sales of suggested comparable properties together with documentation of the similarity, proximity and lack of distinguishing characteristics of the sales comparables to the subject property.

The appellant submitted the sufficient documentation, recent sales of suggested comparable properties, to challenge the correctness of the assessment. Once this burden is met, the board of review must provide sufficient evidence to support its assessment. *Property Tax Appeal Board Rule 1910.63 (c)*. In this instance, the board did not provide sufficient evidence. The board's representative had no knowledge as to the assessor's use of market data in determining assessment and, moreover, could not address any methodology used by the assessor. The board's representative stated uniformity was the best analysis for determining assessments; however, she did not rebut the appellant's argument that all the properties were uniformly over-assessed based on the market data.

On the basis of the analysis of all the comparables' sales, the Property Tax Appeal Board finds that the subject had a fair market value of \$440,200 as of January 1, 2002. Since the market value of the subject has been established, the Department of Revenue's 2002 three-year median level of assessments for Cook County Class 2 property of 9.79% will apply and a reduction is warranted.

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**APPELLANT:** James and Nikki Payson

**DOCKET NUMBER:** 02-28967.001-R-1

**DATE DECIDED:** January 31, 2006

**COUNTY:** Cook

**RESULT:** Reduction Warranted

The subject property consists of a 64 year old, single-family dwelling of frame construction located in Orland Township, Cook County. Amenities include a fireplace and a detached two-car garage.

The appellants appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process and that the subject's market value is not accurately reflected in its assessment as the basis of the appeal. The appellants contend, while subject improvement is one dwelling, its assessment reflects an improvement assessment for two dwellings; one containing 1,753 square feet of living area and a second dwelling containing 635 square feet of living area. In support of the appellants' arguments they presented a bill of sale and a settlement statement dated August 30, 2002 reflecting the subject's sale price of \$120,000. A limited appraisal report for the subject property dated August 7, 2002 was included along with a plat of survey for the subject dated August 20, 2002. The appellants testified that they purchased the subject property from Mr. Payson's family. He further testified that he resided in the subject dwelling in his youth and currently resides in the subject dwelling with his wife. He testified that the subject property has never, to his knowledge, contained two dwellings. He opined that perhaps the garage, which is sited at the rear of the parcel, was mistaken for a second dwelling. The appellants also testified that although he has submitted appropriate documents to the assessor's office, the county's documentation continues to reflect the error.

The appellant's limited summary appraisal for the subject was prepared by a State of Illinois certified appraiser utilizing the sales comparison approach to value. Three comparables located in the subject's general area were employed. The properties are one-story dwellings ranging in size from 1,270 to 1,740 square feet of living area and in age from 39 to 44 years old. The comparables sold between March 2002 and July 2002 for prices ranging from \$176,000 to \$189,000, or from \$89.02 to \$149.53 per square foot of living area. After analysis, the appraiser determined an opinion of market value for the subject of \$180,000 as of August 7, 2002.

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In support the inequity argument, the appellants offered spreadsheets detailing ten suggested comparable properties. The appellants testified that these ten comparables are located in the same general area as the subject. These properties consist of one-story style single-family dwellings of frame, masonry or frame and masonry construction from four to one-hundred-nine years old. All of the comparable dwellings contain basements, and have garages; and six have central air-conditioning and six have fireplaces. The comparables range in size from 2,276 to 2,926 square feet of living area and have improvement assessments ranging from \$5.87 to \$9.39 per square foot of living area. A copy of the subject's 2002 board of review final decision was also included. Based on their testimony and evidence, the appellants requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final improvement assessment of \$26,880, or \$15.33 per square foot of living area based on 1,753 square feet of living area, was disclosed. In support of the subject's assessment, the board of review offered property characteristic sheets and a spreadsheet detailing two suggested comparable properties located in the same coded assessment neighborhood as the subject. The comparables consist of one-story style single-family dwellings of masonry construction 25 or 31 years old. Both of the comparables contain basements, garages and fireplaces; one also has central air-conditioning. These properties contain 1,817 and 1,835 square feet of living area and have improvement assessments of \$9.42 and \$9.77 per square foot of living area. The board of review's witness was unable to explain why the subject's improvement assessment was based on two dwellings containing a total of 2,388 square feet of living area. Based on the forgoing testimony and evidence, the board of review requested confirmation of the subject property's assessment.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The first issue before the Board is the correct square footage attributable to the subject improvement and the correct number of dwellings located on the subject parcel. After reviewing the plat of survey presented by the appellants it is clear that the subject parcel contains only one dwelling. Thus, the Board finds that obviously there are errors in the subject's property characteristic printouts and public records kept by the assessor and the subject parcel contains one dwelling. After further review of the plat of survey, the Board finds the subject dwelling contains approximately 2,163 square feet of living area.

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When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. Section 1910.65 *The Official Rules of the Property Tax Appeal Board* (86 Ill.AdM.Code 1910.65(c)). Having considered the evidence and testimony presented, the Board concludes that the appellants have satisfied this burden.

The Board places no weight on the appellants' sale documents indicating the subject's sale price of \$120,000 in August 2002. The Board finds that this was not an arm's length transaction as it was between family members. The Board places the most weight on the appellants' appraisal. The appraiser utilized three sales of properties in close proximity to the subject and close in subject's sale date to the subject in his sales comparison analysis. From this information, the appraiser determined an opinion of market value for the subject of \$180,000 as of August 7, 2002. Therefore, the Board finds the subject property had a market value of \$180,000 as of January 1, 2002. The Board further finds that the 2002 Illinois Department of Revenue's three-year median level of assessments of 9.79% for Class 2 property shall apply and a reduction is appropriate.

The appellants' also argued unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds that while the appellants have also overcome this burden no further reduction based on equity is appropriate.

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<b>APPELLANT:</b>	<b>Richard C. &amp; Elizabeth Quaintance</b>
<b>DOCKET NUMBER:</b>	<b>04-02127.001-R-1</b>
<b>DATE DECIDED:</b>	<b>October 20, 2006</b>
<b>COUNTY:</b>	<b>DuPage</b>
<b>RESULT:</b>	<b>No Change</b>

The subject property consists of one and one-half-story style frame dwelling built in 2002. The Avondale Model town home contains 2,211 square feet of living area and has features that include central air-conditioning, one fireplace, a 374 square foot attached garage and a partial, unfinished basement. The appellants purchased the subject in May 2002 for \$323,403.

The appellants appeared before the Property Tax Appeal Board claiming overvaluation and unequal treatment in the assessment process as the bases of the appeal. In support of the overvaluation argument, the appellants submitted photographs, subdivision plats and a grid analysis documenting sales of three comparable Avondale town homes located in the subject's subdivision. The comparables contain 2,211 square feet of living area and have features that include central air-conditioning, one fireplace, attached garages that contain 374 or 387 square feet of building area and partial basements, one of which is finished. The comparables sold between May 2002 and November 2002 for prices ranging from \$307,895 and \$410,102 or from \$139.26 to \$185.48 per square foot of living area including land. The comparable at the high end of this range was reported to have a large deck and finished basement, amenities that the subject lacks.

In support of the inequity argument, the appellants submitted assessment information on the same three comparables used to support the overvaluation argument. These properties had improvement assessments ranging from \$109,250 to \$109,260 or \$49.42 per square foot of living area. The subject has an improvement assessment of \$109,260 or \$49.42 per square foot of living area.

The appellants submitted additional documentation in support of their contentions. This documentation included sales prices of other Avondale town homes, as well as Berkshire model homes. The appellants claimed the various additional features of some homes were not given proper consideration by the board of review. The appellants further claim their assessment reflects a higher percentage of market value than other homes in the subdivision. The appellants



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also claim some homes in the subdivision have sloping yards, such that their decks are larger and higher above the ground. Some lots are two feet deeper than others, with a resulting increase in lot size of approximated 100 square feet. The appellants additionally claim some town homes have 7-foot high basements, while others have 9-foot high basements. They claim the taller basements are more likely to be finished eventually and are thus more valuable. The appellants submitted no credible market evidence as to what effect these factors have on the subject's market value. Finally, the appellants testified the mass appraisal system used by the board of review does not adequately reflect differences in the various town homes in the subject's subdivision, "is not working and should be abandoned".

At the hearing, the appellants testified the board of review erred in assigning the same lot value to every lot in the subdivision. They claimed some homes in the subdivision back up to an upscale subdivision and that this justifies higher assessments. They further testified that, since no Avondale model town homes had sold since their original 2002 and 2003 purchase prices as new, the subject's 2004 assessment should reflect its May 2002 purchase price of \$323,403 with no increases such as would result from multipliers.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$123,030 was disclosed. The subject has an estimated market value of \$369,237 or \$167.00 per square foot of living area including land, as reflected by its assessment and DuPage County's 2004 three-year median level of assessments of 33.32%.

In support of the subject's estimated market value, the board of review submitted property characteristic sheets and a grid analysis of three comparable properties. The comparables consist of one and one-half-story style frame dwellings built in 2002 and 2003. The homes contain 2,211 square feet of living area and have features that include central air-conditioning, one fireplace, 397 square foot attached garages and full basements. These properties are all Avondale model town homes like the subject. The comparables sold from March 2002 to February 2003 for prices ranging from \$337,907 to \$349,904 or from \$152.83 to \$156.26 per square foot of living area including land.

At the hearing, the board of review called the township assessor to testify regarding the methodology used to value all properties in the subject's subdivision. The assessor testified all Avondale town homes were assessed using the median sale price based on sales of such models. The Hearing Officer ordered the assessor to supply documentation regarding this median sale price,

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to which the assessor responded within several days of the hearing. The assessor's response details the median sale for 2002 was \$340,051, which is reflected by parcel 05-05-307-033. The only changes from this median for subsequent years involved application of a township multiplier of 1.034 and a State of Illinois multiplier of 1.0396. Regarding the appellants' assertion that the value of finished basements had been ignored, the assessor testified that unless building permits for remodeling were taken out, the assessor would have no way of knowing about basement finishes. Regarding the appellants' claim that lot values in the subject's subdivision should reflect proximity to upscale subdivisions, the assessor testified no consideration had been given to this factor because no sales had occurred since original construction of homes in the subdivision.

In support of the subject's improvement assessment, the board of review submitted assessment information on the same three comparables used to support the subject's estimated market value. These properties have improvement assessments ranging from \$109,250 to \$109,260 or \$49.41 or \$49.42 per square foot of living area.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted. The appellants argued overvaluation as a basis of the appeal. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2<sup>nd</sup> 1256 (2<sup>nd</sup> Dist. 2000). After analyzing the market evidence submitted, the Board finds the appellants have failed to overcome this burden.

The Board finds the record contains sales information on six Avondale model town homes that are very similar to the subject in most respects. The comparables sold for prices ranging from \$139.26 to \$185.48 per square foot of living area including land. The subject has an estimated market value based on its 2004 assessment of \$167.00 per square foot of living area including land, which falls within this range. The Board notes the record indicates no re-sales have occurred of town homes in the subject's subdivision since their original purchases upon construction. The Board finds the board of review provided evidence documenting the median sales price of an Avondale model town home was used to assess all such models in the subject's subdivision, demonstrating uniformity of methodology. The Board further finds testimony by the township

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assessor indicates the only increases applied to the subject and all other properties in the subdivision resulted from township and county multipliers that reflect significant market demand. The Board finds the appellants' contention that the subject's 2002 sales price of \$323,403 should be reflected in its 2004 assessment with no adjustment for market factors is unfounded. The Board finds the appellants submitted no credible market evidence that the subject's 2004 estimated market value is not reflected in its 2004 assessment. Therefore, the Board finds the evidence in the record supports the subject's estimated market value as reflected by its assessment and no reduction is warranted.

The appellant's also argued unequal treatment in the assessment process as a basis of the appeal. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellants have not overcome this burden.

The Board finds the record includes six Avondale model town homes that were similar to the subject in most respects. These comparables had improvement assessments of \$49.41 or \$49.42 per square feet of living area. These comparables adequately support the subject's improvement assessment of \$49.42 per square feet of living area and no reduction is warranted.

When an appeal is based on assessment inequity, the appellant has the burden to show the subject property is inequitably assessed by clear and convincing evidence. Proof of an assessment inequity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible evidence exists. The Illinois Supreme Court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) The court in Apex Motor Fuel further stated:

the rule of uniformity ... prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation

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purposes is valued at either a grossly less value or a grossly higher value.

Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A practical uniformity, rather than an absolute one, is the test." Apex Motor Fuel, 20 Ill.2d at 401.

In conclusion, the Board finds the appellants have failed to prove either overvaluation by a preponderance of the evidence, or unequal treatment in the assessment process by clear and convincing evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is warranted.

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<b>APPELLANT:</b>	<b><u>Sheridan Square Condominium Association</u></b>
<b>DOCKET NUMBER:</b>	<b><u>03-01445.001-R-3 through 03-01445.064-R-3</u></b>
<b>DATE DECIDED:</b>	<b><u>May 19, 2006</u></b>
<b>COUNTY:</b>	<b><u>Lake</u></b>
<b>RESULT:</b>	<b><u>No Change</u></b>

The subject property consists of a condominium building located in Highland Park, Illinois, containing 64 parcels. The subject building, which was constructed in 1998, is comprised of 23 condominium units and parking spaces. No descriptions of the individual units were submitted.

As the Hearing Officer was swearing the witnesses to the appeal to provide testimony, the appellant's counsel raised his hand indicating he was going to provide testimony as a witness. Questioning from the Hearing Officer revealed the appellant's counsel prepared the evidence in this appeal and he is not an expert in the field of real estate valuation.

Prior to the presentation of the appellant's case in chief, the board of review raised some preliminary matters. The board of review indicated the appellant requested an overall assessment reduction for all 64 parcels in total, but did not request a specific assessment amount for each individual parcel. In response, the appellant's attorney argued this objection should have been raised at the time the appeal was filed. In addition, counsel indicated he would provide the assessment request on each individual parcel during closing arguments. The board of review argued the Board's appeal forms are structured to request a specific assessment amount for land and improvements in order for the board of review to adequately address the argument raised and defend its assessments. The board of review reiterated it is the assessment placed on individual units that must be the subject of an appeal.

The board of review also raised the issue that it is improper for the appellant's counsel to both represent clients in any legal proceeding and also act as a witness on a contested matter. In addition, the board of review presumed the appellant's attorney was under a contingency fee arrangement based on the outcome of the appeal. As a result, the Property Tax Appeal Board allowed the attorney to be subjected to *voir dire* examination. Under *voir dire*, the attorney testified his fee is based upon a contingency arrangement; he was retained by the condominium association; and he did not know whether the condominium board approved his representation to appeal the subject parcels as provided by

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the Condominium Property Act. The appellant's attorney testified he is not a licensed appraiser; he has no training in appraising; and he is not an expert on appraisals. The attorney further explained he has been involved in the assessment valuation practice since 1974 appearing before township assessors in the collar counties and Cook County as well as boards of review in Cook and the collar counties. He has also appeared before the Property Tax Appeal Board and the Circuit Court of Cook County. However, counsel agreed this capacity was strictly for representation.

Based on the *voir dire* examination, the board of review objected to the appellant's attorney from providing testimony in connection with this appeal. The Board hereby overrules the board of review's objection. The Property Tax Appeal Board finds the objection goes to the weight and credibility that will be given to the testimony and evidence offered by counsel.

The appellant filed an appeal petition before the Property Tax Appeal Board. On the appeal petition, the appellant's counsel indicated the basis of the appeal was the level of assessment, by adding his own basis to appeal on section 2e of the appeal form. In his opening statement, the appellant's counsel indicated he reviewed a sales ratio study that was provided to him from an unknown source. The appellant did not submit this sales ratio study. After reviewing the study, the appellant's counsel argued there is a common thread in terms of why the subject parcels' assessments are incorrect. The appellant's attorney argued there were no condominium unit sales from 2002 within the Sheridan Square Condominium building. After a further review of the sales ratio study, counsel contends the basis of over assessment is not necessarily the sales ratio study, but how the township assessor incorrectly applied a factor to the 2002 equalized assessed values to arrive at the 2003 final assessments.

In support of the over assessment of the subject parcels, counsel indicated his argument is predicated on a sales ratio study, which was prepared by the township assessor and submitted by the board of review to the Property Tax Appeal Board. The board of review objected to this argument. The board of review argued counsel is making a new argument than what was originally submitted to the Property Tax Appeal Board. The board of review argued the appellant submitted a sales ratio study (Exhibit B). Now, the appellant is amending the complaint by attempting to refer to the township assessor's sales ratio study that was submitted by the board of review. In response, the appellant's counsel indicated he did not know he was limited, in that he could not refer to any other evidence in the record. The Property Tax Appeal Board ruled that the appellant has the burden of moving forward to show the subject's

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assessment may be incorrect based on documentary it submitted. (86 Ill.Adm.Code 1910.63(b)). The Board did not allow the appellant's counsel to use an adverse party's evidence for its case-in-chief to support the over assessment claim because it was not submitted or prepared by the appellant. The Property Tax Appeal Board ruled the appellant's counsel could cross-examine the board of review's witness regarding this evidence.

Next, there was some discussion regarding the factual basis of the appellant's argument. The hearing officer questioned counsel regarding the methodology he used in order to make a level of assessment argument, in that the fair market value of the subject property should be established in order to apply the correct level of assessment to calculate the final assessment. Counsel responded by indicating he did not believe the level of assessment argument is going to be predicated on that (market value) basis. He argued that is not what level of assessment goes to, not when arguing about a sales ratio. He argued the sales ratio study that was prepared and utilized by the township assessor, which is part of the record, was incorrectly calculated resulting in an incorrect neighborhood correction factor. Counsel reiterated the adjustment factor that was applied to the subject parcels' 2002 equalized assessments to arrive at their final 2003 assessments is severely flawed. Counsel argued that if the sales ratio study is in the record and it is not contested, the appellant should be allowed utilize this evidence as part of the case-in-chief. The Property Tax Appeal Board ruled the appellant could not use the board of review 's evidence as the appellant's case-in-chief. This ruling is pursuant to section 1910.67(j) of the Official Rules of the Property Tax Appeal Board, which provides in pertinent part:

At the hearing, the contesting party shall first introduce his case into evidence, followed by the evidence of other parties to the appeal, in the order directed by the Property Tax Appeal Board or Hearing Officer. All parties are entitled to a rebuttal after all evidence of all parties had been introduced. (86 Ill.Adm.Code 1910.65(d)).

In response, the appellant's attorney agreed the brief he submitted with the appeal petition is based on the level of assessment as described by the hearing officer. However, the attorney next argued the appeal is now based on information that he could not have had at the local board of review hearing because he did not have the power of subpoena. He also noted the sales ratio study prepared by the township assessor and submitted by the board of review was not submitted at the local board of review hearing. Counsel referenced

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case law that provides only matters that can be used as evidence in a Property Tax Appeal Board hearing are those that were presented at the board of review. Counsel cited Cook County Board of Review v. Property Tax Appeal Board, 339 Ill.App3d 529 (3<sup>rd</sup> Dist. 2003), holding a Property Tax Appeal Board *de novo* hearing must be limited to the record created before the board of review. However, the appellant's attorney agreed new legislation has been enacted that limited the court's ruling. (35 ILCS 200/16-180). However, counsel maintained the argument that the sales ratio study prepared by the township assessor was not provided to the taxpayer at the local board of review hearing.

In presenting his argument, counsel gave a limited description of the subject property. He argued there were no sales of individual condominium units from the Sheridan Square Condominium building in the year 2002. He reiterated the basis for relief sought by the taxpayers is predicated on the sales ratio study and application thereto to the subject parcels' assessments. The appellant's attorney testified he will establish through cross-examination what the change to the 2002 equalized assessed value upon which the 2003 assessments are based and what change to the 2002 equalized assessed value which is the basis for the 2003 assessment request. This concluded the presentation of the appellant's case in chief. The appellant's attorney called no independent expert witnesses to corroborate his assertions and to support his allegations.

The appellant's counsel did not discuss the evidence he prepared and submitted on behalf of the appellant. This evidence comprised four condominium units contained in Sheridan Square Condominium building. (Exhibit A) They sold between May and June of 2003 for prices ranging from \$290,000 to \$525,000. No descriptions for these units were provided for analysis. The appellant's attorney indicated these condominium units have a percentage of ownership ranging from 3.10397% to 4.05189%. Counsel also indicated these units have 2003 assessments ranging from \$121,928 to \$174,307, which reflect estimated market values ranging from \$367,142 to \$524,863 using Lake County's 2003 three-year median level of assessments of 33.21%. The appellant's counsel also prepared a sales ratio analysis for 76 condominium units that sold in 2003. (Exhibit B) From a review of this document, the appellant's attorney divided these properties' total assessment for 2003 by their 2003 sale prices to determine their level of assessment. He calculated the average level of assessment for these properties to be 26.637%.

In his brief, counsel calculated the fair market value of the condominium building as a whole for 2003 to be \$12,191,000 predicated on the four aforementioned 2003 condominium sales. These sales totaled \$1,815,000 and



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are reported to represent 14.88791% ownership of the entire condominium building. Applying the 26.637% level of assessment as calculated in exhibit B, the appellant's attorney calculated the correct assessment for the subject building to be \$3,247,343. The appellant's attorney did not request an individual assessment for each of the 64 parcels in this appeal based on their percentage of ownership or their physical characteristics.

Under cross-examination, appellant's counsel testified he consulted the Multiple Listing Service and township assessor records to verify there were no sales of condominium units in the subject building from 2002. The appellant's attorney agreed he calculated the value for the total condominium building to be \$12,191,100 using the four 2003 condominium sales, which total \$1,815,000. The witness also indicated the 2003 sales represent 14.88791% ownership of the entire building. The appellant's attorney testified the percentage of ownership was based on records from assessing authorities as to what the percentage of the common elements of the entire building in each of the sales. The attorney did not know the location of the sales within the condominium building. Furthermore, he did not know their sizes or physical characteristics. Nevertheless, the attorney argued he knows the method the percentage of common elements are laid out, which takes into account various square footages of the units, usually. He also testified the percentage of ownership takes into account location because those percentages are set by the builder, which is how their initial valuations are determined. Counsel also testified, in his opinion, that the percentage of ownership of the common area also represents a percentage of ownership relationship between the fair market value of individual units and the fair market value of all the units summed together. Counsel testified the percentage of ownership is filed by the developer and is public record. This document was not submitted by the appellant. After questioning by the hearing officer, the attorney conceded the record was void of any documentation detailing the percentage of ownership for 60 of the 64 parcels under appeal.

With regard to the attorney's sales ratio study (Exhibit B), he testified the list was all the condominium units that sold in Moraine Township from 2003. However, he also agreed if a sale was not listed through the Multiple Listing Service, it may not been included in his study. The attorney also agreed he used only 2003 sales in his analysis. Counsel also agreed it was probably erroneous to use 2003 total assessments in his sales ratio analysis. Hypothetically, if the Board found a credible method to establish the fair market value for the entire condominium building to establish assessments, the appellant's attorney testified the Board could assign individual assessments to each parcel from

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public records, which he could supply. Counsel again agreed there is no documentation in the record detailing the percentage of ownership of each individual parcel or unit nor their physical characteristics or amenities for analysis. The attorney also agreed the condominium units within the building are not identical. The attorney also testified that some of the parcel numbers listed in this appeal are parking spaces connected to individual condominium units.

Counsel for the appellant next testified that the differences in amenities of the condominium units are not relevant because this appeal is not based on comparability. He reiterated the appeal is based upon a sales ratio study and how the sales ratio studies are utilized. With respect to equalization factors, counsel testified he could file a complaint with the board of review after application of an equalization factor. The representative also testified that he is not arguing about the township assessor's equalization factor. However, counsel argued it is the manner the equalization factor was utilized in this appeal and how the equalization factor was calculated is at issue. Counsel also agreed that the sales ratio study is merely a tool used to calculate equalization factors. Counsel was also asked if the Property Tax Appeal Board has jurisdiction to make a determination on whether an equalization factor calculated by the township assessor's was correct. The process of publishing an equalization factor was also discussed.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject parcels individual assessments were disclosed. In support of the subject's assessment, the board of review called the Moraine Township Assessor as a witness. The assessor testified that the 2003 individual assessments for parcels within Sheridan Square Condominium building were calculated using sales of condominium units within that building. Sales for three years prior to the assessment date were analyzed and compared to the most recent assessment to derive a ratio. In this case, the 2002 assessment in comparison to the 2003 sale price was used. Simply put, a parcel's 2002 assessment was utilized plus application of a market equalization factor that was established through the use of the three-year sales ratio study. The assessor testified the sales ratio study was developed through the use of a county database using real estate transfer declarations. The Multiple Listing Service was not consulted because it does not include a complete listing of all sales.

With respect to the 14 page sales ratio study submitted, the township assessor testified that to the best of his knowledge, the study contains all condominium unit sales that occurred within Moraine Township for the three years preceding

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the subject's January 1, 2003 assessment date. He testified that none of the sales identified by the appellant's attorney are contained within his study because they occurred subsequent to the subject's January 1, 2003 assessment date. For the subject building (neighborhood #1823141), the assessor calculated a sales ratio of .83%, resulting in an equalization factor for Sheridan Square Condominium units of 1.17%. This factor was applied to all condominium units for the 2003 assessment year.

Under cross-examination, the township assessor testified he did not use reproduction costs to value the entire subject building, but valued each condominium unit separately using market transactions. The board of review's witness testified he prepared, with the assistance of a computer system, the sales ratio study for the subject building and an overall level of assessments for condominium units in Moraine Township. The township assessor agreed the median sales ratio level depicted on the document submitted to the Board is .83%. He also agreed, as previously established, a factor of 1.17% was applied to all condominium assessments in Sheridan Square for 2003. This factor was established using all sales that occurred within the subject building from 2000 to 2002. The township assessor disagreed the factor was based upon a number derived from the median level. The township assessor further agreed the median level of assessment of .83% for condominium units in the subject building maybe slightly inaccurate. He explained the estimated market value of parking spaces associated with individual condominium units were not included in the sales ratio analysis. He agreed, although the parking spaces are a small portion of the sale prices, they should have been accounted for in the sales ratio study. In his analysis, he ignored the ratio derived from the assessed value of the parking spaces estimated market value compared to the sale price of the condominium unit. He explained the last six properties listed in the study, which had sales ratio ranging from .0053% to .0082%, are from the subject's neighborhood code (condominium building) and are parking spaces.

The appellant's counsel argued one property (parcel 16-23-416-020) has a sales ratio of .9098 including its parking spaces rather than .8932 as calculated by the township assessor excluding the parking spaces. In this context, counsel calculated parcels 16-23-416-032 and 16-23-416-033 to have sales ratios of .7760 and .8155 including associated parking spaces rather than .7650 and .8050 as calculated by the township assessor excluding the parking spaces.

Next, the township assessor explained that a 1.12% factor was applied to all other condominium units in Moraine Township where there was an insufficient number of sales over the prior three-year period in each particular condominium

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building or complex. He did not use the 1.12% factor in the subject building because of the median sales ratio from the four sales contained on the list was 1.17%. He agreed there were no 2002 sales on that list for the subject building and there were some 2002 sales used to develop the 1.12% factor. The appellant's attorney next went through a litany of multiple calculations throughout the fourteen page sales ratio analysis, which are summarized as follows:

Neighborhood 1810103: six of the eight sales or 75% occurred in 2002.  
Neighborhood 1810104: five of the 14 sales or 36% occurred in 2002.  
Neighborhood 1811101: all 21 sales occurred in 2002.  
Neighborhood 1822106: 11 of the 30 sales or 37% occurred in 2002.  
Neighborhood 1823108: three of the five sales or 60% occurred in 2002.  
Neighborhood 1823109: two of the six sales or 33% occurred in 2002.  
Neighborhood 1823115: 12 of the 30 sales or 40% occurred in 2002.  
Neighborhood 1823119: three of the nine sales or 33% occurred in 2002.  
Neighborhood 1823123: eight of the 17 sales or 47% occurred in 2002.  
Neighborhood 1823134: five of the 14 sales or 36% occurred in 2002.  
Neighborhood 1823138: three of the four sales or 75% occurred in 2002.  
Neighborhood 1823139: four of the 14 sales occurred in 2002.  
Neighborhood 1827147: seven of the 18 sales or 39% occurred in 2002.  
Neighborhood 1834156: seven of the 24 sales or 29% occurred in 2002.  
Neighborhood 1836020: 10 of the 25 sales or 40% occurred in 2002.

Counsel calculated that of the 69 neighborhood codes identified in the assessor's sales ratio analysis, fifteen or 22% had a significant numbers of 2002 sale dates. Counsel further argued there are 28 neighborhood codes that had 2002 sales, which represents 41% of all the neighborhood codes contained in the sales ratio analysis. The township assessor was asked if a 2002 sale would be more or less appropriate in determining value or a factor than a 2000 sale. The assessor indicated that in the methodology used for sales ratio calculations, a 2002 sale would not be more significant than sales occurring in 2000 or 2001. The appellant's counsel also pointed out that one sale offered by the board of review sold in July 2001 for \$362,500 and resold in May 2003 for \$352,500, or \$10,000 less than its original sale price. It was not known if the 2001 or 2003 sale prices were arm's-length transactions or the condition of the property at the time of sale.

In summary, the township assessor testified he applied a 1.17% neighborhood factor to all condominium units in Sheridan Square for the 2003 assessment year. A 1.12% equalization factor applied to all other condominium

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developments in Moraine Township that did not have an adequate number of sales from 2000, 2001 or 2002 to calculate an alternative factor. Subsequently, the board of review also applied a .9568% equalization for all non-farm parcels in Moraine Township.

Questioning from the hearing officer revealed 2001 was the beginning of the quadrennial assessment cycle for Moraine Township; the assessment of individual condominium units are based on market sales; assessments are not based on the percentage of ownership of each unit, but based on their individual characteristics and amenities; and the 2002 and 2003 assessments were based on the 2001 quadrennial reassessment plus application of neighborhood, township, chief county assessment officer, or board of review equalization factors.

In closing and to request a specific assessment for each parcel involved in this appeal, the appellant's counsel argued the township assessor incorrectly applied a 1.17% correction factor predicated on sales that occurred in 2000 and 2001 from the subject building. The appellant's attorney reiterated no sales occurred in 2002 within the subject building to support the 1.17% correction factor. The attorney argued the assessor should have applied a 1.12% correction factor for the 2003 assessment year because better information was contained in the sales ratio study, specifically a substantial number of 2002 sales, which should have been give more weight and credibility in the study. In effect, counsel argued a sale that occurred in 2000 is not as probative of the subject's value for 2003 as are sales that occurred in 2002. Therefore, counsel requested the Property Tax Appeal Board use the subject parcels' 2002 assessments, which are not known, apply a 1.12% neighborhood correction factor and then apply the board of review equalization factor of .9568% to arrive the final 2003 assessment for the subject parcels.

In closing, the board of review argued the appellant initially argued the subject building's combined assessment in total was not reflective of its fair market value. In addition the appellant's counsel prepared a limited sales ratio analysis to apply a level of assessment of 26.637%, resulting in a total building assessment of \$3,247,343. The board of review argued the appellant's attorney is not a competent valuation expert to offer an opinion of the subject's fair market value and resulting assessment. The board of review also argued the appellant's attorney's sales ratio study is incomplete and is only for one year. The board of review argued sales ratio studies are to be performed on the three-year basis as detailed in Section 1-55 of the Property Tax Code, which provides:

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33 1/3%. One-third of the fair cash value of property, as determined by the Departments sales ratio studies for the three most recent years preceding the assessment year, adjusted to take into account any changes in assessment levels implemented since the data for the studies were collected. (35 ILCS 200/1-55).

The board of review further argued the appellant's counsel, from a comparability standpoint, did not provide any descriptions of the parcels under appeal nor request a specific assessment for each individual parcel as required by the Official Rules of the Property Tax Appeal Board. The board of review also argued the appellant provided no evidence that would demonstrate the subject property was inequitably assessed by clear and convincing evidence. The board of review argued the township assessor applied neighborhood factors by assessment neighborhoods based on the market, using sales of individual condominium units. The board of review argued there is no evidence that demonstrates all of Moraine Township increases in a value at the same rate or that all the condominium complexes should have the same adjustment factor.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds no reductions in the subject parcels' assessments are warranted.

When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2<sup>nd</sup> 1256 (2<sup>nd</sup> Dist. 2000). Additionally, the Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the evidence in this record, the Board finds the appellant has not overcome either of these burdens.

The Board also finds the appellant's attorney testified he prepared the evidence in this appeal, which included a limited sales ratio study and estimated a market value for the subject property as a whole based on four sales and their percentage of ownership. The Property Tax Appeal Board gives this evidence

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no weight. The Board finds it highly problematic the fact that the attorney appeared both as an advocate and witness for the taxpayer(s). The Property Tax Appeal Board finds the appellant's counsel lacks real estate appraisal credentials and has no educational background and qualifications for purposes real estate valuation. The appellant's attorney acknowledged during *voir dire* examination that he does not hold any appraisal designations or qualifications, does not have an educational background in real estate appraisal theory and has never attended any appraisal theory classes. The Board finds the lack of appraisal credentials, background or education severely diminishes the credibility and probative weight that can be given to evidence prepared and submitted by counsel.

The Board also accorded diminished weight to counsel's evidence and analysis based on his contingency fee arrangement. The appellant's counsel testified that his fee was contingent upon the outcome of the hearing and on the amount of reduction granted in the assessment appeal. The Board finds the existence of the contingency fee arrangement could impair the objectivity of the attorney, who was responsible for preparing, submitting and testifying regarding the evidence, and may lead to biased testimony. Because the appellant's attorney's fee was contingent on the appellant receiving a favorable decision from the Board, the Board finds the weight and credibility given the evidence is greatly diminished.

In addition, the Property Tax Appeal Board finds the appellant's counsel appeared to disregard the evidence he originally submitted to the Board at the hearing. The appellant's counsel instead attacked the reliability and credibility of the sales ratio analysis and resulting neighborhood factor applied to the subject parcels' assessments by the township assessor and submitted by the board of review.

The Property Tax Appeal Board finds counsel for the appellant submitted no evidence prepared by an independent expert in the field of real estate appraisal or real estate assessment that would call into question the accuracy and correctness of the assessments of the parcels under appeal. The Property Tax Appeal Board further finds counsel for the appellant called no independent fact witness or experts in the field of real estate appraisal or real estate assessment that would call into question the accuracy and correctness of the assessments of the parcels under appeal. The Property Tax Appeal Board finds the appellant's counsel presented nothing by the way of unbiased objective evidence or testimony to corroborate or validate his allegations that the assessments of the subject parcels were incorrect. In summary, the Board finds based in this

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record the appellant's counsel failed to provide any objective data to challenge the correctness of the assessments of the subject parcels under appeal.

The Property Tax Appeal Board finds section 9-75 of the Property Tax Code provides that the township assessor may in any year, revise and correct an assessment as appears to be just. (35 ILCS 200/9-75). Section 9-75 of the Property Tax Code provides:

The chief county assessment officer of any county with less than 3,000,000 inhabitants, or the township or multi-township assessor of any township in that county, may in any year revise and correct an assessment as appears to be just. Notice of the revision shall be given in the manner provided in Sections 12-10 and 12-30 to the taxpayer whose assessment has been changed. (35 ILCS 200/9-75).

The Board finds section 9-75 of the Property Tax Code (35 ILCS 200/9-75) clearly grants power to the chief county assessment officer and the township assessor to revise and correct individual assessment as appears to be just. In addition, Section 9-205 of the Property Tax Code grants the township assessor the authority to equalize assessments by stating:

When deemed necessary to equalize assessments between or within townships or between classes of property, or when deemed necessary to raise or lower assessments within a county **or any part thereof to a level prescribed by law**, changes in individual assessments **may be made by a township assessor** or chief county assessment officer, under Section 9-75, by application of a percentage increase or decrease to each assessment. (35 ILCS 200/9-205).

The Board finds the township assessor properly utilized his authority to revise and correct the subject parcels assessments. The Board further finds the Property Tax Code requires boards of review to review and approve any assessment changes initiated by the assessor. Section 9-80 of the Property Tax Code provides in part:

All changes and alterations in the assessment of property shall be subject to revision by the board of review in the same manner that the original assessments are reviewed. (35 ILCS 200/9-80).



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The Board finds the framework of the Property Tax Code illustrates the broad authority of assessors and boards of review to review, change, and equalize individual assessments. It appears this framework was followed in establishing the assessments of the parcels under appeal.

The Board further finds this record contains limited sales information for eight condominium units from the subject building that sold between 2000 and 2003 for prices ranging from \$290,000 to \$575,000. The condominium units have assessments, excluding parking spaces, reflecting estimated market values ranging from \$291,048 to \$766,965. Fifteen of the subject condominium units fall within the range of these sales while two condominiums are higher than the range established by the sales. The record also contains testimony from the township assessor, who is a qualified in the field of real estate valuation, that the assessments of the condominium units were based on market data. Based on the raw sales data and the testimony from the township assessor, the Board finds the subject parcels' assessments in this consolidated appeal are supported and no reduction is warranted.

In conclusion, the Board finds the appellant has not demonstrated a lack of uniformity in the subject's improvement assessment by clear and convincing evidence or overvaluation by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is warranted.

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<b>APPELLANT:</b>	<b>Richard and Kim Siriann</b>
<b>DOCKET NUMBER:</b>	<b>02-28934.001-R-1</b>
<b>DATE DECIDED:</b>	<b>January 18, 2006</b>
<b>COUNTY:</b>	<b>Cook</b>
<b>RESULT:</b>	<b>Reduction Warranted</b>

The subject property consists of a 24-year-old, two-story style single-family dwelling of masonry construction containing 4,269 square feet of living area and located in Orland Township, Cook County. Amenities include a partial unfinished basement, a fireplace and a detached four-car garage.

The appellants appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process as the basis of the appeal. The appellants' also argued that the subject's 2002 assessment increased by a much greater percentage than the other properties in the subject's area. In support of their arguments, the appellants offered four suggested comparable properties located within two blocks of the subject. These properties consist of two-story style single-family dwellings of frame or frame and masonry construction between 11 and 15 years old. All of the comparable dwellings contain central air-conditioning, fireplaces and have multi-car attached garages. The comparables range in size from 4,007 to 4,370 square feet of living area and have improvement assessments ranging from \$8.83 to \$10.37 per square foot of living area. A copy of the subject's 2002 board of review final decision was also included.

The appellants testified that when they purchased the subject in 1997 the \$275,000 sale price was reflective of the subject's unfinished condition. The appellant explained that a homebuilder who declared bankruptcy owned the subject. They indicated neither the interior nor the exterior was completed and that the subject had to be brought up to the local building code standards; further testimony disclosed that this was, for the most part, completed by 2002. Additionally, the appellants indicated the subject property was plagued by drainage problems. The appellant testified that while the drainage problem has been remedied, the land is in a rough graded condition. The appellants testified the subject improvement is sited on a land locked parcel, which has an easement through a street sited parcel for access and that it is a coarse gravel drive. The appellants indicated in 2002 the interior was not completed and major work had yet to be done. In fact as of the hearing date and because they are doing the work themselves they have a long way to go. The appellants'

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testimony indicated that major work, such as central air-conditioning, interior floor and wall finishes, and landscaping is not completed.

The appellants' testified that they are familiar with all the comparables they presented and these properties have fully habitable completed improvements with interior amenities substantially superior to the subject. Additionally, these comparables have concrete driveways and fully landscaped yards. Based on the testimony and evidence, the appellants requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final improvement assessment of \$35,729, or \$8.37 per square foot of living area, was disclosed. In support of the subject's assessment, the board of review offered property characteristic sheets and a spreadsheet detailing three suggested comparable properties located in the same coded assessment neighborhood as the subject. The comparables consist of two-story style single-family dwellings of frame or frame and masonry construction 11 or 13 years old. All of the comparables contain unfinished basements, central air-conditioning, fireplaces and multi-car attached garages. These properties range in size from 3,600 to 4,370 square feet of living area and have improvement assessments ranging from \$8.83 to \$9.53 per square foot of living area. The appellants also presented two of these comparables. The board's witness did not refute the appellants' claim that the comparables in the record are superior to the subject. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The appellants' argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellants have overcome this burden.

The Board finds that the parties submitted five properties as comparable to the subject. These properties have improvement assessments ranging from \$8.83 to \$10.37 per square foot of living area. The subject's per square foot improvement assessment of \$8.37 falls slightly below the range established by

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these properties. However, the Board finds that the testimony, photographs and evidence indicated the comparables are fully habitable completed improvements that have substantially superior amenities when compared to the subject. This does not appear to be considered in the subject's current assessment. Moreover, the board of review did not refute the appellants' claim that the comparables are substantially superior when compared to the subject. Therefore, after considering adjustments and the differences in both parties' suggested comparables when compared to the subject property, the Board finds the subject's per square foot improvement assessment is not supported by the properties contained in the record.

As a result of this analysis, the Property Tax Appeal Board finds the appellants adequately demonstrated that the subject dwelling was inequitably assessed by clear and convincing evidence and a reduction is warranted.

As a final point, the Board finds the appellants' argument that the subject's assessment increased by a greater percentage than other properties unpersuasive. The fact that the subject's assessment may have increased by a greater percentage than other properties in the neighborhood does not support the contention of unequal treatment. The cornerstone of uniformity in assessment is the fair market value of the property. Kankakee County Board of Review v. Property Tax Appeal Board, 544 N.E.2d at 771. That is properties with similar market values should have similar assessments. Unequal treatment in the assessment process is demonstrated when properties of similar market values are assessed at substantially different levels. The mere contention that assessments among neighboring properties changed from one year to the next at different rates does not demonstrate that the properties are assessed at substantially different levels of fair market value.

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<b>APPELLANT:</b>	<b>Jeanette Sutton</b>
<b>DOCKET NUMBER:</b>	<b>03-00310.001-R-1</b>
<b>DATE DECIDED:</b>	<b>May 19, 2006</b>
<b>COUNTY:</b>	<b>Lake</b>
<b>RESULT:</b>	<b>No Change</b>

The subject property consists of a 19-year-old, two-story style single-family dwelling of frame and masonry construction sited on a 90,881 square foot parcel located in Ela Township, Lake County. The subject dwelling features three full baths, two half baths, air-conditioning, three fireplaces, a full-finished basement and a three-car detached garage.

The appellant's husband appeared before the Property Tax Appeal Board and testified he and his wife are the taxpayers for the subject property. He argued both that the subject's fair market value is not accurately reflected in its assessment and unequal treatment in the assessment process as the bases of the appeal. The appellant also suggested the subject dwelling contains 4,365 square feet of living area, while the board of review's documents suggest the subject contains 4,667 square feet of living area. In support of the arguments, the appellant offered a spreadsheet detailing three suggested comparable properties located in close proximity to the subject. These properties consist of one and one-half story or two-story style single-family dwellings of frame, masonry or frame and masonry construction ranging from 19 to 21 years old. All of the comparable dwellings contain full basements, air-conditioning, multiple fireplaces and multi-car garages. The comparables range in size from 3,653 to 5,241 square feet of living area and have improvement assessments ranging from \$180,290 to \$251,346, or from \$47.96 to \$51.27 per square foot of living area. The comparables have parcel sizes ranging from 39,798 to 181,143 square feet of land area and land assessments ranging from \$43,719 to \$56,128, or from \$.31 to \$1.10 per square foot of land area. The appellant's comparables sold between May 1997 and August 2000 for prices ranging from \$580,000 to \$900,000, or from approximately \$159 to \$172 per square foot of building area including land.

The appellant's husband testified that the three comparable properties were purchased between 1997 and 2000, or between 13 months prior to and 26 months after the subject's 1998 sale. He asserted that while the subject's assessment has increased at a rate of 5% per year since its date of purchase, the comparables' assessments have only increased an average of 1.9% per year

## **2006 SYNOPSIS – RESIDENTIAL CHAPTER**

since the dates of their respective sales. The appellant asserted that the sale price at the time of sale represents the market value of a property and that the escalation of assessments year to year should be an evenhanded overall percentage. Thus, the appellant argued real estate within the same neighborhood appreciates at the same percentage rate per year and that a consistent annual rate of appreciation is the only fair method to determine a fair market value of a property.

He also argued that the excess land associated with the subject is without value. He suggested the subject's market value is substantially less than his comparables due to its excess land and its less desirable site. He contends that his comparables are situated on considerably more desirable sites. Based on the foregoing evidence and testimony, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$280,410, was disclosed. Of this amount \$71,135 is allocated to the land assessment and \$209,275 is allocated to the improvement assessment. The subject's final total assessment reflects a fair market value of \$844,354, or approximately \$180 per square foot of building area including land, when the Illinois Department of Revenue's 2003 three-year median level of assessments of 33.21% for Lake County is applied. In support of the subject's improvement assessment, the board of review offered a spreadsheet detailing three suggested comparable properties located within the same subdivision as the subject, two of which are on the same street as the subject. The comparables consist of two-story style single-family dwellings of frame, masonry or frame and masonry construction between 15 and 19 years old. All of the comparables contain full basements, multiple fireplaces, air-conditioning and multi-car garages. These properties have improvements ranging in size from 3,656 to 4,337 square feet of living area and improvement assessments ranging from \$176,535 to \$213,270, or from \$48.29 to \$53.54 per square foot of living area. The comparables have land areas ranging from 38,782 to 53,954 square feet with land assessments ranging from \$37,308 to \$54,617. The board's evidence disclosed that the assessments of these comparable properties reflect fair market value's ranging from \$641,593 to \$806,592, or from approximately \$175 to \$202 per square foot of building area including land. The board's witness indicated that of the subject's total 90,881 square foot parcel 60,000 square feet is considered primary and assessed based on \$3.55 per square foot fair market value. The remaining 30,881 square feet are considered secondary and assessed based on \$.02 per square foot market value. The board also provided land assessment data for the appellant's

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comparables. The appellant's comparable number one has a total land square footage of 39,798, which is considered primary and assessed based on \$3.30 per square foot market value. The appellant's remaining two comparables have land assessments based on \$3.49 and \$3.50 per square foot market value for the primary land and \$.02 per square foot for the secondary land. Although the board's witness assumed the difference between the allocation of primary and secondary land was due to the lake abutting the subject and his three comparables, the evidence did not confirm or refute his assumption. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

In rebuttal, the appellant submitted a brief reiterating the original arguments and a copy of an appraisal for the subject dated July 10, 2003. The appraisal report was prepared by a State of Illinois certified residential real estate appraiser for financial purposes. Using accepted appraisal methodology for residential properties, the appraiser concluded a value of \$840,000 for the subject as of July 2003. A schematic included with the appraisal indicated that the appraiser concluded the subject contains a total of 4,365 square feet of living area. The board of review objected to the inclusion of the appraisal as rebuttal evidence claiming it was filed untimely. The Property Tax Appeal Board sustains the objection finds that its rules provided that rebuttal evidence must be submitted within 30 days after the Board forwards the evidence to an opposing party and that "[r]ebuttal evidence shall not consist of new evidence such as an appraisal. . . . ." 86 Ill.Adm.Code 1910.66. The Board finds that the rebuttal evidence was both untimely and not rebuttal evidence as defined in its rules.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The appellant argued both that the subject's market value was not accurately reflected in its assessment and unequal treatment in the assessment process.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. Section 1910.65 The Official Rules of the Property Tax Appeal Board (86 Ill.Adm.Code §1910.65(c)). Further, the Illinois Supreme

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Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has failed to overcome either burden.

The appellant argued that the subject's market value is not accurately reflected in its assessment. Section 1-50 of the Property Tax Code defines fair market value or fair cash value as "the 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 Board finds the appellant's sales comparables are generally similar to the subject and particularly similar to the subject in location, age, size and amenities. The record did not indicate that any of these sales were less than arm's length in nature. Further, these sales appear to indicate that the subject's neighborhood experienced a substantial increase market value from 1997 through 2000. The subject's assessment reflects a market value of \$844,354, which the Board finds to be appropriate to the general increase in market values reflected in the assessments of the appellant's sales comparables.

The Board finds the appellant's argument that the sale price at the time of sale represents the market value of a property and that the escalation of assessments year to year should be an evenhanded overall percentage unpersuasive. Further, the Board finds the appellant's argument that the subject's assessment increased by a greater percentage than the comparables unpersuasive. The fact that the subject's assessment may have increased by a greater percentage than other properties in the neighborhood does not support the contention of unequal treatment. The cornerstone of uniformity in assessment is the fair market value of the property. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d at 21, 544 N.E.2d at 771. That is properties with similar market values should have similar assessments. Unequal treatment in the assessment process is demonstrated when properties of similar market values are assessed at substantially different levels. The mere contention that assessments among neighboring properties changed from one year to the next at different rates does not demonstrate that the properties are assessed at substantially different levels of fair market value.



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The appellant claimed that the excess land associated with the subject is without value and the subject's market value is substantially less than the surrounding properties due to its excess land and a less desirable site. The Board finds that the record does not contain any substantiation of these claims.

Next, the Board finds that the parties submitted six properties as equity comparables. The comparables are all located in the same neighborhood as the subject. Further, the improvements are generally similar in size, style, age and amenities when compared to the subject. The comparables have improvement assessments ranging from \$176,535 to \$251,346, or from \$48.29 to \$56.27 per square foot of living area. The subject's improvement assessment is \$290,275, or \$44.84 per square foot of living area, which places it below the range established by comparables. The comparables have total assessments ranging from \$56.27 to \$67.19 per square foot of living area including land. The subject's per square foot improvement assessment of \$60.18, including land, falls within the range established by these properties. Further, the Board finds the subject's per square foot total assessment is lower than four of the six properties offered for comparison. After considering adjustments and the differences in both parties' suggested comparables when compared to the subject property, the Board finds the subject's assessment is supported by the properties contained in the record.

Therefore, the Board finds that the appellant failed to adequately demonstrate that the subject dwelling was inequitably assessed by clear and convincing evidence or proving the subject is overvalued by a preponderance of the evidence and no reduction is warranted.

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Section 16-190(a) of the Property Tax Code  
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<b>APPELLANT:</b>	<u>Syed Ahmed</u>
<b>DOCKET NUMBER:</b>	<u>01-26510.001-C-1</u>
<b>DATE DECIDED:</b>	<u>December 06, 2006</u>
<b>COUNTY:</b>	<u>Cook</u>
<b>RESULT:</b>	<u>Reduction Warranted</u>

The subject property consists of a 10,563 square foot parcel of land containing a 25-year old, three-story, masonry, apartment building. This improvement contains 11,205 square feet of living area and 12 units. The appellant, via counsel, argued that there was unequal treatment in the assessment process of the improvement as the basis of this appeal.

In support of the equity argument, the appellant submitted assessment data and descriptions of four properties suggested as comparable to the subject. A black and white photograph of the subject and a memo submitted by the appellant's attorney were also presented. The data in its entirety reflects that the properties are located within the subject's neighborhood and are improved with a three-story, masonry, apartment building with between ten and 12 units. The improvements range: in age from 28 to 29 years; in size from 8,730 to 9,990 square feet of living area; and in improvement assessments from \$10.35 to \$12.22 per square foot of living area or from \$8,689 to \$11,071 per apartment unit. Based upon this analysis, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's improvement assessment was \$154,721, or \$13.81 per square foot and the total assessment was \$177,029. The board argued that the subject property's assessment is accurately reflective of its market value. In support of this market value the board submitted comparable sale information for five properties suggested as comparable to the subject. These comparables are all located within the subject's neighborhood and are improved with two or three-story brick apartment buildings with 12 units. These buildings ranged: in size from 9,600 to 10,134 square feet of building area and in age from 25 to 36 year. The comparables sold from August 2000 to August 2001 for prices ranging from \$575,000 to \$900,000 or from \$69.55 to \$88.81 per square foot of building area. The PTAB finds that the comparable listing sheets include the statement that information reflected thereon is not guaranteed and additional information should be obtained from the broker.

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At the hearing, the parties stipulated that the subject property sold in August 2001 for \$850,000. The appellant's attorney had no personal knowledge as to whether this sale was an arms length transaction and argued that the appeal was filed based on equity and not market value.

The board of review's representative argued at the hearing that the present appeal should be dismissed because the evidence presented before PTAB was not submitted previously at the board of review. The representative cited Merisant Co. v. Kankakee County Bd. Of Review, 352 Ill. App. 3d 622, 815 N.E.2d 1179 (2004) as the bases for his position. In addition, he argued that the appellant failed to present market value data according to the Property Tax Appeal Board Rules and, therefore, the case should be dismissed. These motions were denied at hearing.

In closing, the board argued that uniformity starts with market value and that the board presented market value evidence to support the assessment of the subject property. The representative also argued that no actual or market rent for the subject property was presented by the appellant to establish an improper assessment. As a result of its analysis, the board requested confirmation of the subject's assessment.

After considering the testimony and reviewing the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

Appellants who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d 1, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Proof of assessment inequity should include assessment data and documentation establishing the physical, locational, and jurisdictional similarities of the suggested comparables to the subject property. *Property Tax Appeal Board Rule* 1910.65(b). Mathematical equality in the assessment process is not required. A practical uniformity, rather than an absolute one is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769 (1960). Having considered the evidence presented, the PTAB concludes that the appellant has met this burden and that a reduction is warranted.

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The appellant presented assessment data and descriptions on a total of four equity comparables. The PTAB finds these properties similar to the subject. The comparables contain a three-story, masonry, apartment building with between 10 and 12 units. The improvements range: in age from 28 to 29 years; in size from 8,730 to 9,990 square feet of living area; and in improvement assessments from \$10.35 to \$12.22 per square foot of living area or from \$8,689 to \$11,071 per apartment unit. In comparison, the subject's improvement assessment of \$13.81 per square foot of living area or \$12,893 per apartment unit falls above the range established by these comparables. The board of review failed to submit any equity comparables. The PTAB accorded diminished weight to the board of review's properties due to an absence of assessment data as well as uncorroborated data reflected therein.

The PTAB finds the board of review's argument that the board of review's evidence should be the sole evidence used by the PTAB to establish the subject property's assessed value unpersuasive. The Property Tax Appeal Board rules allow for appeals contesting the valuation of a property based on either that the market value of the property is not accurately reflected in the assessment or that the property is not accurately assessed when compared to the assessments of similar properties. *Property Tax Appeal Board Rule 1910.65(a)*. The appellant chose to appeal this assessment based on comparable assessments and not on the market value of the subject.

In choosing to appeal the assessment based on equity, the appellant was required to submit comparable properties for review by the PTAB. The Official Rules of Property Tax Appeal Board state:

Proof of unequal treatment in the assessment process should consist of documentation of the assessment for the assessment year in question of the subject property and it is recommended that not less than three comparable properties be submitted. Documentation must be submitted showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property.

*Property Tax Appeal Board Rule 1910.65(b)*. The appellant provided this evidence. The board of review submitted market value evidence, however, this was not sufficient to show that the assessment was equitable when compared to other similar properties.

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Moreover, the case cited by the board's representative, Merisant Co. v. Kankakee County Bd. Of Review, can be distinguished from the present appeal. The Merisant case addresses the PTAB's jurisdiction of an appeal when the appellant failed to attend the board of review level hearing. 352 Ill. App. 3d 622. In the present appeal, the board's "Board of Review-Notes on Appeal" clearly indicate that the appellant did attend the board level hearing.

As a result of this analysis, the PTAB further finds that the appellant has adequately demonstrated that the subject's dwelling was inequitably assessed by clear and convincing evidence and that a reduction is warranted.

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<b>APPELLANT:</b>	<b><u>Bensenville Equity Associates L.P.</u></b>
<b>DOCKET NUMBER:</b>	<b><u>04-01542.001-C-2</u></b>
<b>DATE DECIDED:</b>	<b><u>May 19, 2006</u></b>
<b>COUNTY:</b>	<b><u>DuPage</u></b>
<b>RESULT:</b>	<b><u>No Change</u></b>

The subject property consists of two, three story masonry apartment buildings that contain a total of 53 rental units. The subject parcel is also improved with a garage containing 16 covered parking spaces. The apartment complex has a laundry room facility. The appellant's appeal petition indicates the apartment buildings are 45+ years of age while the garage is 15+ years of age. The board of review's evidence indicates the apartment buildings have an effective age of 1976. The subject property is located in Addison Township, Bensenville, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming overvaluation based on the income capitalization approach to value. In support of this claim, the appellant called its witness, who formulated the income approach to value. The witness testified he is the regional property manager of a management company, of which the subject's apartment complex is one property in their portfolio. He oversees day-to-day operations of the subject property since 1997. The witness also testified he has a bachelor's degree in real estate and certification from an association for property managers. The witness also holds a real estate brokers license in Illinois and Indiana.

The witness testified the subject's actual rental income from December 2003 was \$41,785. However, he deducted \$120 to account for three apartment's incorrect rental rate as detailed on the subject's December 2003 rent roll. He also deducted \$960 for garage space rentals because it is accounted for under other income. Therefore, the witness concluded the subject's adjusted gross rental income for December 2003 to be \$40,705. Based on this monthly-adjusted income, the witness calculated the subject's gross annual income to be \$488,460. The witness next deducted or offset \$12,730 for collection loss; \$3,875 for rental concessions; \$11,685 for an employee apartment; and \$29,607 for vacancy loss resulting in a net rental income of \$430,923. Adding other income of \$15,275 that included garage rental income, the witness concluded the subject's total operating income to be \$446,198. He next deducted expenses of \$175,565 and capital expenditures of \$68,868 resulting in a net operating income of \$201,765. Real estate taxes were

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not deducted. Applying an overall capitalization rate of 11.01% to the subject's net operating income, using a national survey from the 2<sup>nd</sup> half of 2003 for Class C apartment buildings of 8.98% and a tax load factor of 2.03%, the witness concluded the subject property has a fair market value under the income approach of \$1,832,561. The subject's income and operating statements from 2001, 2002 and 2003 were also submitted. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$610,854, which reflects a fair market value of approximately of \$1,832,561.

Under cross-examination, the witness testified the subject's potential gross income of \$488,460 was taken from the subject's December 2003 actual rent roll or the money that was actually collected. He agreed the potential gross income included vacant apartments. He testified the subject's actual expenses, excluding real estate taxes, are itemized in the operating statements and totals \$175,565. These expenses include but are not limited to items such as maintenance, payroll and utilities. Next there was some discussion regarding the total size of the subject buildings. The witness testified the size of the subject buildings is 45,500 gross square feet based on a third party report, which was not contained in this record. The subject's property record card, which was submitted by the board of review, indicates the subject property contains 48,744 square feet of gross building area. The witness also testified typical expenses for the subject's type of property ranges from 40% to 47% of the total operating income. The subject's expenses are just over 39% of its total operating income. In summary, the witness agreed the evidence he prepared is the subject's actual income and expenses with application of a capitalization rate to determine fair market value.

Under questioning from the hearing officer, the witness agreed he did not stabilize the subject's income and expenses for a three-year period. The witness further testified the capital expenditures deducted are for replacing items such as concrete, heating and cooling systems, building alterations, drapes, computers, roof repairs, appliances carpeting, and tile replacement. The witness did not use the reserves for replacements method to account for the capital expenditures over fixed period of time, but used the actual amount from 2003. The witness was also questioned regarding his qualifications as a valuation expert, specifically in the field of appraising. The witness reiterated he holds a bachelor's degree in real estate, which encompassed class work in appraisal theory such the income and sales comparison approaches to value.



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The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$754,700 was disclosed. The subject's assessment reflects an estimated market value of \$2,265,006 or \$43,736 per rental unit including land using DuPage County's 2004 three-year median level of assessments of 33.32%.

In support of the subject's assessment, the board of review called its witness, the Deputy Township Assessor for Addison Township. The witness has a Certified Illinois Assessment Officer designation with the State of Illinois and 650 hours of continuing education in the field of real estate valuation. The witness has been employed with the Addison Township Assessor's Office since 1979. From 1983 to present, the witness' duties include assessing commercial and industrial or income producing properties in Addison Township. The witness prepared two approaches to value on behalf of the board of review to support the subject's assessed valuation.

During his testimony, the witness clarified he did not prepare an income approach to value, but reconstructed the income approach prepared by the appellant's witness. The witness testified he utilized the subject's prior three years operating statements that was submitted to the assessor's office by the appellant. These documents were also contained in the appellant's evidence. In his methodology, the witness stabilized the subject's income and expenses over a three-year period from 2001 to 2003. The subject's potential gross income was stabilized at \$493,620. Vacancy and collection was 10% or \$49,362. Adding other stabilized income of \$10,825, the witness determined the subject's effective gross income to be \$455,083. He next deducted stabilized expenses of \$187,576, which included the capital expenditures as reported by the appellant, resulting in a net operating income of \$267,507. Capitalizing the subject's net operating income by a rate of 11.10%, the witness concluded a value for the subject property under the income approach to be \$2,400,000, rounded.

The witness testified he did not intend for this income approach to be the final value conclusion for the subject, which is why he included the capital expenditures as reported by the appellant. He explained capital improvements are not allowable expenses in appraisal theory, but should be accounted for in the reserve for replacements, rather than the actual expenses for that particular year. He also explained he used the same capitalization rate identified by the appellant's witness, but rounded upward.

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Next, the witness discussed the market approach to value, specifically, the four comparable sales located within Addison Township. They consist of apartment complexes containing from 1 to 3 buildings. The deputy assessor testified the comparables are located from six blocks to three miles from the subject. The masonry buildings were constructed between 1966 and 1972 and contain from 24 to 96 rental units. They sold from December 2002 to July 2004 for prices ranging from \$1,725,000 to \$7,578,000 or from \$67,241 to \$78,938 per rental unit including land. The witness argued the subject's estimated market value \$2,265,006 or \$43,736 per rental unit falls below the range established by these comparable sales. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under cross-examination, the witness agreed the market analysis does not show comparable sales gross or net size or their apartment mix, that being one or two bedroom units, or their individual unit sizes. The witness agreed the comparables are income producing properties. The witness also testified he reviewed these properties financial statements prior and subsequent to their sales dates.

During direct and cross-examination, the appellant's counsel twice objected to the market analysis prepared by the witness as hearsay. He argued this evidence does not comply with section 1910.65(c)(4) of the Official Rules of the Property Tax Appeal Board. Specifically, counsel argued the summary is not evidentiary documentation of comparable sales without independent verification or corroborating documentation. The Property Tax Appeal Board overrules the objection. Then Board finds that the witness, as an expert in the field of real estate assessment and appraisal, can rely on such evidence in formulating his opinion of value. The Board finds the objection goes more to the weight to be given the evidence rather than its admissibility. The Board further noted the appellant had ample time and opportunity to submit rebuttal in the form of written or documentary evidence to explain, repel, counteract, or disprove facts regarding the market analysis submitted by the board of review as provided by section 1910.66(a) of the Official Rules of the Property Tax Appeal Board. (86 Ill. Adm. Code 1910.66(a)).

However, the Property Tax Appeal Board ordered the board of review to submit within 15 days of the hearing the real estate transfer declarations and property

## 2006 SYNOPSIS – COMMERCIAL CHAPTER

record of the comparable properties pursuant to section 1910.67(h)(D)) of the Official Rules of the Property Tax Appeal Board on order to better judge the weight and credibility of the sales. The DuPage County Board of review timely complied with the Board's order.

This documentation indicates comparable sales 2 and 3 submitted by the board of review were not advertised for sale on the open market. The property record cards revealed the two, three, or four story comparables are situated on lots ranging in size from 40,056 to 209,014 square feet. Additionally, they range in size from 16,192 to 73,269 square feet of gross building area. Two comparables have English basements.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and subject matter of this appeal. The Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellant argued the subject property's assessment was not reflective of its fair market value. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellant has not overcome this burden.

The Board finds the appellant attempted to establish a fair market value for the subject property using the income approach to value. The appellant calculated a fair market value for the subject property to be \$1,832,561 or \$34,577 per rental unit. The Board gives this value conclusion little weight. The Board finds the appellant's witness used the subject's actual income for December 2003, with a slight adjustment, to extrapolate the property's annual potential gross income. In this same context, the appellant's witness also utilized the subject's actual expenses as reported for 2003 to arrive at its net operating income. The Board finds the appellant's witness failed to demonstrate the subject's actual income and expenses are reflective of the market through the use of rental comparables in the income analysis. Although actual rental income may be a relevant factor in determining the value of a property from an investor's standpoint, it is the capacity for earning income, rather than income actually derived, which reflects "fair cash value" for taxation purposes. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428, 431 (1970). Since the appellant failed to demonstrate the subject's potential annual income was reflective of the market or its capacity to earn income,

## **2006 SYNOPSIS – COMMERCIAL CHAPTER**

the Board accords the appellant's estimate of fair market value little weight. Furthermore, the appellant offered no credible market data to support the expenses utilized in the income analysis. Finally, the Board finds it highly problematic that the appellant's witness deducted the large amount for capital expenditures as an allowable expense. The Board finds the replacement of long term items such as concrete, heating and cooling systems, building alterations, roof repairs, carpeting and tile replacement should have been accounted for in the reserves for replacements over a fixed period of time under the income approach. Therefore, the appellant's market value estimate for the subject property using the income analysis was given little weight.

For these same reasons as enumerated above, the Board gave little weight to the income analysis offered by the board of review. Notwithstanding the lack of comparable market rental and expense data offered by either party, the Board finds the methodology used by the board of review's witness to be a better indicator of value for the subject in the sense that stabilized the subject's actual income and expenses over the three year period in arriving at his final value conclusion.

Additionally, 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 (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. In Willow Hill Grain, Inc. V. Property Tax Appeal Board, 187 Ill.App.3d 9 (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. The board of review submitted sales data on four comparables that had varying degrees of similarity and dissimilarity when compared to the subject. However, the Board finds two of these sales did not have all the elements of an arm's-length transaction since they were not exposed to the open market as revealed on their real estate transfer declarations. Therefore these sales were given less evidentiary weight.

The Board further finds the two remaining comparable sales to be probative and credible evidence as to the subject's fair market value. They sold for prices of \$1,725,000 and \$7,578,000 or \$71,875 and \$78,938 per rental unit including land. The subject's assessment reflects an estimated market value of \$2,265,006 or \$43,736 per rental unit including land. After considering any necessary adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is

## **2006 SYNOPSIS – COMMERCIAL CHAPTER**

supported by the two comparable market sales contained in this record. Furthermore, the market transactions contained in this record further dispels the final value conclusion under the income approach that was calculated by the appellant. As a result of this analysis, the Board finds the appellant failed to demonstrate that the subject property was overvalued by a preponderance of the evidence and no reduction is warranted.

In conclusion, the Board finds the appellant failed to establish overvaluation by a preponderance of the evidence. Therefore, the Board finds the subject's assessment as established by the board of review is correct and no reduction is warranted.

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<b>APPELLANT:</b>	<u>Donald Boudreau, Jr.</u>
<b>DOCKET NUMBER:</b>	<u>04-00909.001-C-1 through 04-00909.003-C-1</u>
<b>DATE DECIDED:</b>	<u>February 27, 2006</u>
<b>COUNTY:</b>	<u>Macon</u>
<b>RESULT:</b>	<u>No Change</u>

The subject property consists of 6.53-acre parcel in rural Blue Mound improved with a 48-space mobile home park. Features include concrete ribbon supports for the mobile homes and a concrete block storage building.

The appellant appeared before the Property Tax Appeal Board with his attorney claiming overvaluation and unequal treatment in the assessment process as the bases of the appeal. In support of the overvaluation argument, the appellant submitted an appraisal of the subject property with an effective date of January 22, 2004. The appraiser, who was not present at the hearing to answer questions as to how the report was prepared, utilized two of the traditional approaches to value in determining a final value estimate for the subject of \$490,000.

The appraiser described the subject property as comprising 5.18 acres of main land and 1.35 acres of excess land. He examined five land sales that range in size from 10,500 to 843,262 square feet of land area. These properties sold between March 2000 and January 2004 for prices ranging from \$11,000 to \$230,000 or from \$0.15 to \$1.05 per square foot of land area. The appraiser adjusted the sales for size, shape and location and concluded a value for the subject's main land of \$0.20 per square foot of land area and for the excess land of \$0.30 per square foot. Through this analysis, the appraiser estimated the total value of the subject land at \$62,500.

In the sales comparison approach, the appraiser examined sales of five mobile home parks located in central Illinois. The comparables range in size from 12.25 to 45.63 acres and contain from 106 to 371 mobile home rental sites. The comparables sold between January 1998 and August 2001 for prices ranging from \$1,100,000 to \$3,000,000 or from \$8,086 to \$16,743 per site. The appraiser adjusted the comparables for differences when compared to the subject such as location, age, condition and size. The appraiser noted he had personally appraised three of the comparables. After his analysis, the appraiser determined a value for the subject of \$10,000 per site, to which he added \$17,500 for the value of the excess land, in concluding a final value by the sales comparison approach of \$507,500.

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In the income approach, the appraiser examined five mobile home parks in the Decatur area to gather market rental information. These properties had monthly rent ranging from \$235 to \$282 per site. Some parks offer senior discounts and various amenities and occupancy at these parks varied from 61% to 90%. The appraiser concluded the smaller parks had monthly per site rents of approximately \$180 to \$185. He noted the subject's rents are \$143 and \$148 per month and were low in comparison to the Decatur market. To support this point, the appraiser reported the subject's monthly rent total of \$6,357 compared to \$9,140 indicated by market rents. Potential gross income for the subject of \$109,680 was reduced by \$10,968 for vacancy and collection loss of 10%, resulting in effective gross income of \$98,712. From this figure, the appraiser subtracted estimated expenses for insurance, management, advertising, utilities, repairs, miscellaneous and reserves for replacement totaling \$44,625, leaving net operating income for the subject of \$54,087. He developed a capitalization rate of 8.71%, to which he added an effective tax rate of 2.79%, resulting in an overall capitalization rate of 11.50%. The appraiser then applied this rate to the subject's net income to derive a value for the subject by the income approach of \$487,500.

The appellant also submitted a narrative letter explaining that his purchase of the subject property in March 2004 for \$485,000 included \$385,000 for the mobile home park business and \$100,000 for the real estate. The appellant claimed he was unfamiliar with the Real Estate Transfer Declaration prepared at the time of purchase and thus failed to correctly complete the form to subtract the business value. The appellant's attorney, who also represents the title company engaged for the sale, noticed the error and contacted the appellant. The appellant contends this erroneously recorded purchase price resulted in a dramatic increase in the subject's property taxes. The appellant's attorney has since prepared a corrected transfer declaration to reflect only \$100,000 for the real estate and requested on behalf of his client that this value be the basis upon which property tax are calculated.

In support of the inequity argument, the appellant submitted a list of all mobile home parks in Macon County. The parks contain from 7 to 491 mobile home sites and have assessments per site ranging from \$311 to \$2,822, with an average of \$1,114 per site. The appellant claimed the subject's assessment is \$1,942 per rental site. Based on this evidence, the appellant requested a reduction in the subject's assessment.

During the hearing, the appellant testified the appraisal he submitted was prepared at the request of the bank that financed his purchase of the subject property. As

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such, the primary focus of the appraisal was to justify the purchase price for loan purposes to the bank's satisfaction and not necessarily to demonstrate overvaluation or assessment inequity. As such, the appellant pointed out that the rents of the comparables used in the appraisal were higher than he actually received from the subject property, and also, that all of the comparable sales in the appraisal sold for much more than the subject property. Therefore, the appellant requested not much weight be placed on the sales comparison and income approaches in the appraisal he submitted. Finally, the appellant's attorney opined that the board of review's comparable sale involving a contract for deed arrangement is not reliable, as it may not reflect market value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$101,813 was disclosed. The subject has an estimated market value of \$305,470 as reflected by its assessment and the statutory assessment level of 33.33%

In support of the subject's estimated market value, the board of review submitted a narrative letter and grid analysis of thirteen mobile home parks in Macon County, in addition to the subject. The grid listed park names, townships, number of mobile home sites and assessments and estimated market values for parks that contain from 8 to 491 sites. On a per site basis, the parks have estimated market values ranging from \$3,552 to \$10,758 and assessments ranging from \$1,184 to \$3,586 per site. The board of review's letter points out that four smaller parks in rural locations like the subject, containing from 10 to 65 mobile home sites, and the subject with its 50 sites, were all valued at \$6,000 per site and assessed at \$2,000 per site. The board of review contends larger parks are not comparable because of their locations in the greater Decatur area and are subject to different market forces.

In further support of the subject's estimated market value, the board of review submitted Real Estate Transfer Declaration and contract to purchase documents detailing sales of two of the mobile home parks described in the above grid. One comparable sold in January 1998 for \$60,000, while the second property's contract for purchase price was \$125,000. The park that sold for \$60,000 is located in rural Maroa and contains 10 mobile home sites. This sale formed the basis of the board of review's decision to value smaller mobile home park at \$6,000 per site during the general reassessment year of 2004. Finally, the board of review submitted a list of 31 mobile home park sales that occurred in several Midwestern states. The list provided only very limited information on these properties and no sale dates were provided. The parks contain from 12 to 286 units and sold for prices ranging



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from \$175,000 to \$4,225,000. Based on this evidence the board of review requested confirmation of the subject's total assessment.

During the hearing, the board of review's representative testified the subject's sale precipitated a review of all mobile home park assessments in the county. The representative testified the appellant's own appraisal concluded a value for the subject of \$490,000, while its assessment reflects a market value of only \$305,470.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted. The appellant argued overvaluation as a basis of the appeal. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2<sup>nd</sup> 1256 (2<sup>nd</sup> Dist. 2000). After analyzing the market evidence submitted, the Board finds the appellant has failed to overcome this burden.

The appellant submitted an appraisal of the subject property that concluded a market value for the subject of \$490,000. The board of review submitted an analysis of thirteen mobile home parks that included estimated market values and assessments for these properties. The board of review also submitted information on one mobile home park sale and a contract for purchase and also submitted a list of mobile home sales that occurred in Midwestern states. The Board finds the appellant testified the comparables sales used by his appraiser involved much larger properties than the subject and that their sales prices not be relied on in valuing the subject. He also claimed the income data in his appraisal not be relied on because the subject's income is significantly less than that realized by comparable parks. The Board finds it puzzling that the appellant would submit an appraisal he contends does not suggest a realistic and accurate value for the subject property. The Board finds the board of review's evidence and testimony disclosed that four smaller mobile home parks in Macon County, and the subject, are valued uniformly at \$6,000 per site and assessed at \$2,000 per site. The Board gave less weight to the comparable sales submitted by the board of review because one sale occurred six years prior to the subject's January 1, 2004 assessment date and the other involved a contract for purchase that may not have accurately reflected that property's market value. The Board also gave less weight to the list of mobile home park sales in the Midwest submitted by the board of review because they lacked sufficient information to indicate a reliable value for the subject.

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The Board finds the subject's estimated market value of \$305,470 or \$6,000 per rental site is valued in a manner consistent with four other smaller mobile home parks in the county. This estimated market value is substantially less than the \$490,000 final value conclusion found in the appellant's appraisal. Therefore, the Board finds the evidence in the record supports the subject's assessment.

The appellant also argued unequal treatment in the assessment process as a basis of the appeal. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not overcome this burden.

The Board finds the appellant submitted a list of mobile home parks in Macon County with an average assessment of \$1,114 per rental site. The appellant contends the subject's per site assessment of \$1,942 per site is therefore inequitable. The Board finds the board of review submitted a list of mobile home parks in the county with assessments on a per site basis that vary, based on the parks' sizes, locations, and features. The evidence and testimony disclosed that the board of review uniformly assessed four other smaller mobile home parks at \$2,000 per site, just like the subject. Thus, the Board finds the subject is uniformly assessed and no reduction is warranted.

In conclusion, the Board finds the appellant failed to prove overvaluation by a preponderance of the evidence, or a consistent pattern of assessment inequity by clear and convincing evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is warranted.

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<b>APPELLANT:</b>	<b><u>Brunswick Corporation</u></b>
<b>DOCKET NUMBER:</b>	<b><u>02-00948.001-C-3 and 03-00840.001-C-3</u></b>
<b>DATE DECIDED:</b>	<b><u>January 17, 2006</u></b>
<b>COUNTY:</b>	<b><u>Lake</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

The subject property consists of a three-story, owner occupied office building containing 130,401 square feet of gross building area. The building is situated on a 556,696 square foot site. The building was constructed in 1993 of reinforced concrete and steel construction. The building contains a basement that is improved with 22 parking spaces, a mechanical room, and 18,240 square feet of office space. Other features include two passenger elevators, a freight elevator, heating and cooling systems, sprinkler fire protection system, a three-story steel and glass atrium with a fountain, a control center, and a cafeteria with a full service kitchen. Site improvements include 100,000 square feet of asphalt parking, landscaping, and signage. The subject has a land to building ratio of 4.27:1. The subject building contains 108,447 square feet of net building area, which includes the basement office space.

The appellant appeared before the Property Tax Appeal Board through counsel arguing that the fair market value of the subject property is not accurately reflected in its assessed valuation. In support of this claim, the appellant submitted an appraisal.

The appellant's counsel called his first witness. The witness has been the director of facilities and security for Brunswick Corporation since 1995. The witness testified Brunswick built the subject in 1993 for its world headquarters. He indicated the construction of the building was specific for Brunswick's needs down to the color of the walls. He opined the building would not be suitable for multi-tenant use. He testified there is a central staircase with conference rooms located off the atrium. The witness concluded unless these areas could be used as common space, it would be problematic for a potential multi-tenant use. He also noted the many problems that could arise to convert the subject to a multi-tenant use such the stairways, ceiling heights, carpeting, electrical metering, and heating and cooling systems. In summary the witness indicated it would take an extensive amount of work to convert the subject building into a multi-tenant use. The witness also testified the building had rehabilitation work performed in 1997 and 2000 for approximately \$1,250,000. Some of these costs included furniture. The

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rehabilitation entailed changing ceiling tiles, moving electrical connections, removing some interior partitioning, and changing heating and cooling systems as well as the sprinkler fire protection system.

Under cross-examination, the witness testified that he has no experience in appraising, valuing, or assessing property. He also testified he has no knowledge of Brunswick's intention to convert the subject into a multi-tenant building. He also testified regular maintenance is normally performed, but maintenance has slacked off because of bad (economic) years.

The appellant's appraiser was called as the appellant's next witness. The witness is a state licensed appraiser with a Member of the Appraisal Institute (MAI) designation and is also a Member of the Society of Real Estate Appraisers (SRA). The witness has testified before the Property Tax Appeal Board in hundreds of cases and similar tribunals throughout the United States. The board of review stipulated to the appraiser's qualifications as an expert witness to provide testimony. Using the three traditional approaches to value, the appraiser estimated a fair market value for the subject property of \$10,500,000 as of January 1, 2002 and January 1 2003. The appraisal was marked as Appellant's Exhibit 1.

The appraiser first provided testimony regarding the appraisal technique. The appraiser testified he has no personal relationship with any Brunswick employees, does not own stock in the corporation and the compensation of the report was not contingent on his final value conclusion or the outcome of the assessment appeal. The witness described the subject property as a larger single-tenant office building that competes in the Chicago Metropolitan area, particularly the north, northwest, and western suburbs, rather than just the Lake Forest market. The appraiser further described the subject's location in an office park with close access to interstate highways and Illinois Route 60. The appraiser reiterated the subject's single-tenant design and features, which he determined competes in a different market than multi-tenant office buildings. The appraiser discussed the physical differences between single-tenant and multi-tenant buildings in terms of electrical metering, individual thermostats to control multiple heating and cooling systems, interior partitioning, and security. He indicated multi-tenant buildings sell at lower capitalization rates than single-tenant buildings because of the lower risk associated with the income stream. A detailed analysis of the physical, economic, and convertibility characteristics of single-tenant versus multi-tenant building were contained on pages 30 through 32 of the appraisal report. Based on his analysis, the witness determined the subject's highest and best use is its present use as a single-tenant office building. He also concluded the subject has an effective age of

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9 years with an economic life of 60 years resulting in an remaining economic life of 51 years.

The appraiser testified the subject is a Class A building according to a Office Guide because it is a multi-story office building that is less than ten years old and is larger than 80,000 square feet in size, as detailed on page 13 of the appraisal. The subject will be 11 years old in 2004 and will be a Class B building according to the Office Guide.

Under the cost approach, the appraiser identified six suggested land sales to estimate the subject's land value. The land comparables are located in Lake Forest, Lincolnshire, Bannockburn, and Deer Park, Illinois. The comparables were selected based on their characteristics when compared to the subject by date of sale, location, size, zoning, shape, utilities, topography, flood plain, and access. They range in size from 151,123 to 2,808,163 square feet of land area and sold from January 1998 to June 2002 for prices ranging from \$850,000 to \$17,371,116 or from \$5.26 to \$10.49 per square foot of land area. One comparable was an assemblage of twelve parcels involved in six transactions. One sale was two non-contiguous parcels. After considering adjustments to the comparables for differences to the subject, the appraiser estimated the subject's land value to be \$10.00 per square foot of land area or \$5,570,000, rounded.

The replacement cost new of the improvements was estimated to be \$115.00 per square foot of building area or \$14,996,115 considering actual costs of construction projects and various industry sources such as the Means Cost Manual. Replacement cost for site improvements was estimated to be \$945,000, resulting in a replacement cost new for the subject's improvements of \$15,940,000 or \$122.23 per square foot of building area excluding land.

The appraiser next explained larger office buildings designed like the subject incorporate characteristics that are above the average level of quality, but these characteristics are not realized in the resale market compared to the cost of their installation. In order to quantify obsolescence, depreciation from all forms was extracted from the six sales and one sale offering contained within the sales comparison approach to value of the appraisal. The witness calculated an annual rate of depreciation to be 8%. Multiplying 8% by the subject's actual and effective age of 9 years resulted in depreciation of 72% or \$11,476,000. Deducting the depreciation amount from the replacement cost new resulted in a depreciated

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improvement value of \$4,463,200. Adding the estimated land value of \$5,570,000, the witness concluded a value under the cost approach of \$10,030,000, rounded.

The witness explained that depreciation for larger single-tenant office buildings tends to curve or have a linear relationship, meaning they depreciate faster in the early years because it is difficult to recoup the original investment. The witness opined there was sufficient market data using the extraction method from analyzing market sales rather than trying to give a personal opinion as to what the depreciation amount would be without any basis. He testified larger single-tenant office buildings do not depreciate in a straight-line manner.

The appraiser next discussed the sales comparison approach to value. He emphasized most weight was given to this approach. The appraiser researched fee simple arm's-length transactions of single-tenant office buildings in the north and west metropolitan area. He typically excluded sales of build-to-suit properties because they reflect the cost of construction for that particular occupant and not necessarily what the building would sell for on the open market. He also typically excludes sale-leasebacks. However, the witness noted he used two sales of leaseback properties. He explained only small portions of these buildings were leased at the time of sale, but essentially the majority of the buildings were not leased. In performing the comparative analysis, no individual percentage or dollar adjustments were applied to the unit of comparison. The witness determined homogeneity of market data does not exist so as to make definitive adjustments for individual characteristics. In deriving unit prices, consideration was given to the differences between the subject and comparables. Elements considered in judging the overall similarity and making adjustments were date of sale, location, size, age, condition, land to building ratio, parking facilities, design, single-tenant versus multi-tenant use, and access.

The comparables selected by the appraiser consist of six suggested sales and one sale offering. The comparables total ten buildings and have actual or chronological weighted ages ranging from 1 to 19 years. Comparable 6 was reportedly renovated in 1995. The buildings are combinations of concrete, brick, steel, frame, and glass construction. Story heights for three properties varied from part two and three-story; part one, three, and four-story; and part three and four-story buildings. One comparable is a three-story building and three comparables are four-story buildings. The comparables are located in the Chicago Metropolitan communities of Westmont, Lombard, Oakbrook, Lake Forest, Elgin, Deerfield, and Arlington Heights. They range in size from 102,775 to 481,028 square feet of building area and are situated on sites containing from 278,784 to 3,484,800 square feet of land

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area. Land to building ratios ranged from 1.32:1 to 5.02:1. Four properties had a least one elevator and four buildings have basements. One property has a two-story and a five-story parking garage and another property has a six-story parking garage. In all, surface, garage, and basement parking were adequate for each property. All the comparables were reported to be single-tenant buildings; however, two comparables were to be converted to a multi-tenant use after their sales. Seven comparables were reported to be in average condition, while the condition of three comparables was not disclosed. Six comparables sold for prices ranging from \$5,572,800 to \$46,650,000 or from \$20.26 to \$96.98 per square foot of building area including land. The transactions occurred between May 1999 and December 2002. One comparable was listed for sale at \$7,200,000 or \$60.57 per square foot of building area including land.

Comparable 1 was leased back to the seller for a one-year term after its sale. The seller for comparable 2 also leased backed 120,000 square feet of the 481,028 total square feet of the three buildings for a five-year term. The third building of comparable 2, which contains 38,695 square feet, had a lease in place at the time of sale for a 10-year term with a five-year additional option. This leased commenced in 1996.

Comparable 3 was a complicated transaction. This property was originally built and occupied by a certain company. The company was moving from the facility and the property was offered for sale on the open market in April 1999. After being marketed for nine months, another company purchased the property for \$19,150,000. The other company was in negotiations with the original owner as a tenant in another office building located in Bannockburn. The appraiser indicated the other company purchased this property from the original owner in order to accelerate a lease agreement in Bannockburn from the original owner. The other company also purchased an additional land parcel containing 19 acres for \$5,500,000.

A third company decided they wanted to acquire this property. The third company subsequently purchased the property from the other company for \$25,000,000 in March 2000. Within this transaction, the third company also acquired the additional or excess land from the other company. The appraiser opined the other company paid a \$5,000,000 premium because they are an adjoining user and have a 50/50 venture with a pharmaceutical company also located in the office park. The Real Estate Transfer Declaration (exhibit 2) revealed the \$25,000,000 sale was not advertised in the open market. Additionally, the document indicates net consideration in the sale by the seller to the other company was \$19,150,000.

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Consideration in the sale by the other company to the third company (the grantee in the deed) was \$5,850,000. The document revealed a total transfer price of \$25,000,000 for three parcels. In, addition, the original owner and the third company are both identified as the sellers.

Comparable 4 was vacant at the time of sale and was purchased for conversion into a multi-tenant use. Comparable 5 was purchased for \$9,000,000. However, the appraiser adjusted its sale price to account for excess land, resulting in an adjusted sale price of \$5,572,800. The appraiser testified he placed little weight on this sale due to its location. The witness also noted comparable 5 was originally listed for sale for approximately \$24,000,000 and had several price reductions before its \$9,000,000 sale in 2002. Comparable 6 was vacant at the time of its sale and is located in Cook County. Comparable 7 was the sale offering. However, the appraiser testified this property subsequently sold in December 2003 for \$27,671,066 or \$52.58 per square foot of building area including land.

The appraiser performed qualitative (+, -, or =) adjustments to the comparables for differences to the subject in date of sale, location, age, story height, land to building ratio, building size, and single or multi-tenant use. In addition, comparable 6 was adjusted upward to \$89.79 per square foot of building area including land because it is located in Cook County, which has a considerably higher effective tax rate. The appraiser testified the difference in the tax rates was capitalized at a rate of 10% for the adjustment amount. Based on the aforementioned characteristics, five of the six comparables were determined to be overall inferior to the subject, requiring positive adjustments to their sale prices or offering price, which ranged from \$20.26 to \$89.79 per square foot of building area including land. Comparable 2 was determined to be overall equal to the subject at \$96.98 per square foot of building area after considering its superior location, which is offset by its larger size. Based on these adjustments, the appraiser concluded the subject property has a market value including land of \$95.00 per net square foot of building area or \$10,300,000, rounded.

The appraiser next discussed the income approach to value. Under this approach, the appraiser identified seven suggested rental comparables. These properties had eight to fifteen year long-term leases in place that commenced from June 1998 to November 2001 and terminated from December 2005 to May 2013. The rental comparables are located in Hoffman Estates, Buffalo Grove, Schaumburg, Deerfield, and Vernon Hills, Illinois. Two comparables are multi-tenant office buildings and five comparables are single-tenant office buildings. The buildings range in size from 75,444 to 686,208 square feet of building area; contain from



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48,993 to 402,359 square feet of net rentable building area; and range in age from 1 to 23 years. Site sizes ranged from 60,355 to 3,484,800 square feet of land area with land to building ratios ranging from .60:1 to 2.43:1. The properties had effective gross leases ranging from \$21.19 to \$26.13 per square foot of net rentable building area. After considering adjustments to the rental comparables, the appraiser concluded a gross rental rate for the subject property of \$24.00 per square foot of net rentable building area, with the provision of \$25.00 per square foot build out expense for the tenant. As a result, the appraiser concluded the subject property has a potential gross annual income of \$2,602,728.

Vacancy was projected to be 20% or \$520,545 based on historical vacancy rates for the north suburban office sub-market for Class A office buildings. The vacancy rates were quoted to be 22.4% in 1998; 17.7% in 1999; 13.7% in 2000; and 21.9% in 2001. A comprehensive vacancy analysis was detailed on pages 12 to 16 of the appraisal report. Deducting for vacancy resulted in an effective gross income of \$2,080,000, rounded. Expenses were estimated to be \$755,000 for cleaning, repairs and maintenance, utilities, security, administrative and management costs, leasing, and insurance, resulting in a stabilized net income of \$1,325,000. The estimated expense amounts were based on the 2002 edition of the Building Owners and Managers Association (BOMA) and the appraiser's familiarity with operating expenses of comparable office buildings.

The appraiser considered four sources or methods to determine a proper capitalization rate to be applied to the subject's stabilized net income. The appraiser used the sales within the market approach of the appraisal to extract capitalization rates ranging from 10.3% to 18.8%. Using the band of investment method, the appraiser concluded a capitalization rate of 10.2%. The Korpacz Real Estate Investor Survey for downtown Chicago lists overall capitalization rates for office buildings ranging from 9% to 13%. Overall capitalization rates from multi-tenant sales based on their actual income ranged from 9.2% to 10.6%. The appraiser determined the proper capitalization rate should be within the rate range established by the sale properties. The appraiser also considered the band of investments method at 10.2% and the other industry sources cited. Therefore, the appraiser concluded a capitalization rate of 10% was appropriate for the subject property. The appraiser next loaded the capitalization rate to account for property taxes by an effective tax rate of 2.1%, resulting in an overall capitalization rate of 12.1%. Capitalizing the subject's net operating income of \$1,325,000 by a rate of 12.1%, the appraiser concluded the subject property has a fair market value under the income approach of \$10,950,000, rounded.

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In reconciling the valuation methods, the appraiser placed most weight and emphasis on the sales comparison approach to value. The appraiser indicated the cost and income approaches should not be relied upon as the main indicator of value. As a result, the appraiser concluded the subject property has a fair market value of \$10,500,000 as of January 1, 2002 and 2003.

Under cross-examination, the appraiser testified the market depreciation analysis within the cost approach should use properties comparable to the subject. He also agreed the more comparable a property to the property being appraised, the more accurate are the (depreciation) results. He agreed most of the sales are located outside of Lake County and five of the six sales are larger in size than the subject. Comparable 2 is comprised of five buildings that sold in two separate transactions. The appraiser also testified two of the buildings contained within comparable 2 were built in 1970 and were 29 years old at the time of sale. The appraiser listed this property as having a total weighted or chronological age of 14 years. He also agreed sale 5 did not have any frontage on a major thoroughfare and is no longer being utilized as an office building, but as a church. The appraiser disagreed that sale 5 was a bankruptcy sale or sold under duress. He explained the property was listed for sale on the open market for three years and sold with a broker under a typical organized sale. He testified the court supervised the transaction.

The appraiser also agreed the subject property has an economic life of 60 years, an actual age of nine years, and a remaining economic life of 51 years. The witness calculated depreciation in the amount of 72% or \$11,476,800, which is higher than the final value conclusion under the cost approach. The witness also agreed the highest and best use of the subject is single-tenant office building. He also agreed to the concept that it is more viable to convert a multi-tenant building into a single-tenant use rather than a single-tenant building into a multi-tenant use. He concurred that based on the subject's highest and best use, the best comparable properties would be single-tenant or owner occupied buildings. The appraiser also agreed most properties in the subject's office park are owner occupied.

With regard to the comparable sales, the appraiser agreed six comparables are not located in Lake County like the subject; comparables 1 and 2 contain four and five buildings, respectively; comparables 1, 2, and 4 were to be converted to multi-tenant uses subsequent to their sales; and twelve of the fourteen buildings contained within the seven comparables are not Class A buildings according to the Studley Office Guide, like the subject. The appraiser was also questioned regarding the age of buildings one, two and five of comparable 2. The appraiser agreed buildings one and two are 15 and 8 years old, respectively, and building

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five was built in 1991 as a warehouse, but was converted into an office building in 1996. The board of review contends building five was built in 1970.

With regard to comparable sale 3, the witness testified in general the transaction was arm's-length, although the buyer and seller were negotiating for the buyer to lease another office building in Bannockburn from the seller. The witness also concurred sale 4 was vacant when it was sold. He agreed that since comparable five was converted into a church subsequent to its sale, its subsequent actual use is not consistent and the subject's highest and best use. He noted the church has some office area but did not know the amount.

With respect to the income approach, the appraiser agreed in general the reliability of this approach is based on the quality and quantity of the data used to estimate the anticipated net annual income. He also agreed, as indicated on page 69 of the appraisal, new Class A properties are generally leased on a net basis, but his income analysis uses gross leases. The appraiser agreed lease comparable 1 is located in Cook County, but the difference in real estate taxes was adjusted into a gross lease in order to properly reflect the subject's potential income as a single-tenant or owner-occupied building. This lease is also contained within a multi-tenant building. Lease 2 is located in Lake County for \$17.53 per square foot, net. Lease 3 is located in Cook County and is multi-tenant building. Lease 4 is located in Lake County for \$18.98 per square foot, net. Lease 5 is located Lake County with a net rent of \$17.25 per square foot. Lease 6, which the appraiser considered overall similar to the subject, is 18 years old and much larger in size than the subject. Lease 7 is located in Cook County, was leased in several different stages, and is considerably larger in size than the subject. In the adjustment process, the expenses and taxes for each comparable were discussed. The appraiser agreed there is no data in the appraisal to support the expense and tax amounts. He explained this information was gleaned from actual leases.

The appraiser reiterated all the leases were adjusted to a gross basis in order to properly reflect the subject's potential income as a single-tenant or owner-occupied building. The witness further explained the appraisal was performed for assessment purposes, which requires using gross leases in order to use an effective tax rate in the capitalization process. The appraiser also testified he considered adjustments to the leased comparables for their multi-tenant use and larger size, but the adjustments were not expressed in the report on a percentage basis. The appraiser also agreed three of the lease comparables are single-tenant buildings located in Lake County. However, he indicated these properties would need downward adjustments because they are new buildings. He also noted the

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economic changes in 1998 and 1999, when the leases were commenced, compared to the 2002 effective date of value, which were detailed in the appraisal. Thus, these properties would require a further downward adjustment.

Under redirect examination, the appraiser testified he placed moderate weight on the income approach, with most emphasis on the sales comparison approach because there were adequate fee simple arm's-length transactions of single-tenant office buildings. In the income approach, the witness testified lease comparables 2, 4, and 5 are located in Lake County while lease comparables 1 and 3 are multi-tenant buildings. Five the lease comparables are newer than the subject, while two are older than the subject. The witness further explained it is paramount to use a capitalized effective tax rate, as prescribed by the International Association of Assessment Officials (I.A.A.O.) so there is no presumption as to the correctness of a particular property's assessed valuation. Therefore, comparable leases must be analyzed and adjusted to a gross basis. The witness also argued it is normal appraisal practice to go outside the subject's immediate market area to find comparable rentals or sales as long as they are properly adjusted to the subject.

With regard to the comparable sales, the witness testified for fee simple valuation, there is no difference between a vacant versus an occupied single-tenant office building as long as they are maintained in similar condition. The age differences and comparability of a Studley Class A and Class B office building were also discussed. The appraiser further indicated other comparable sales from Lake County were determined not as similar to the subject because they were built-to-suit, new buildings, or sale-leaseback transactions. With the exception of two comparables with short leases or where only a small percentage of the building was leased-back, the balance of the transactions were fee simple transactions involving owner occupied buildings with no income stream. He also indicated comparable sales 1, 2, and 4 were converted for multi-tenant use from a single tenant use. The appraiser considered their subsequent use in the appraisal, but found this factor insignificant because it did not affect the sale price because the seller is indifferent as to its future use.

The board of review offered its "Board of Review Notes on Appeal" wherein the subject's final assessments of \$4,638,281 for 2002 and \$4,808,506 for 2003 were disclosed. These assessments reflect estimated market values of \$13,979,147 for 2002 and \$14,479,091 for 2003 using Lake County's 2002 and 2003 three-year median level of assessments of 33.18% and 33.21%, respectively.

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In support of its assessment of the subject, the board of review offered an appraisal (Exhibit 1) performed by the Assistant Chief County Assessment Officer. The witness is a state certified real estate appraiser, accredited senior appraiser (ASA) of the American Society of Appraisers, and is a general associate for the Member of the Appraisal Institute (MAI) designation of the Appraisal Institute. The appraiser was present at the hearing and offered testimony in support of the appraisal methodology and final value conclusion. Using the three traditional approaches to value, the appraiser estimated a fair market value for the subject property of \$14,100,000 as of January 1, 2002 and 2003. The appraisal offered by the board of review supports a reduction in the subject's estimated market value as reflected by its assessment for the 2003 assessment year.

The appraiser first provided testimony regarding the appraisal methodology. The appraiser testified he has no interest in the property and there is no fee contingent on the final value estimate. The witness testified he inspected the subject property on August 20, 2003. He testified he performed a fee simple appraisal of the subject property. The witness described the property as a Class A, single-tenant, owner-occupied building in an excellent location near a major interstate highway. Pages 24 and 25 of the appraisal determined the subject's highest and best use as vacant to be office property and its highest and best use as improved to be its continued use as a single-tenant office building. At the hearing, appraiser testified the subject is a reasonably sized single-tenant building that would likely be converted to either, in his opinion, a continued single-tenant use, or in the event of a sale or lease, it could certainly be leased to possibly one or two tenants. Given the property's location, the appraiser opined in no way could the highest and best use for the subject be anything but single-tenant use or multi-tenant use with few tenants.

Under the cost approach, the appraiser identified four suggested land sales to estimate the subject's land value. The comparables are located in Lake Forest, Lincolnshire, Bannockburn, and Vernon Hills, Illinois. The comparables were selected based on their characteristics when compared to the subject by date of sale, location, size, zoning, utilities, and infrastructure. They range in size from 151,123 to 249,908 square feet of land area and sold from June 2000 to June 2002 for prices ranging from \$850,000 to \$2,194,183 or from \$5.62 to \$10.49 per square foot of land area. After considering adjustments to the comparables for differences to the subject, the appraiser estimated the subject's land value to be \$8.40 per square foot of land or \$4,680,000, rounded.

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The replacement cost new of the improvements was estimated to be \$115.00 per square foot of building area or \$15,035,235 utilizing the Marshall Valuation Service. Site improvements for parking, lighting, and landscaping were estimated to be \$1,050,000. In addition, the witness added indirect costs of the building of \$804,262 and an entrepreneurial profit of \$844,475, resulting in a replacement cost new of \$17,733,972. Incurable physical depreciation was estimated to be 25% or \$4,433,496 based on the age/life or straight-line method of depreciation. The witness concluded the subject has an effective age of 10 years with an economic life of 40 years resulting in a remaining economic life of 30 years. Functional obsolescence was estimated to be 20% or \$3,546,794, resulting in accrued depreciation of 45% or \$7,980,287. Thus, the subject building was estimated to have a depreciated replacement cost new of \$9,753,684, rounded. Adding the estimated land value of \$4,680,000 resulted in a final value conclusion under the cost approach of \$14,430,000, rounded.

In commenting on the market depreciation extraction method, the witness testified it is incumbent to use sales that are similar in characteristics, highest and best use, and accurately estimate the depreciated replacement cost new of the improvements. The witness testified market-extracted depreciation is an accepted method, but depends on the degree of similarity of the comparables utilized. He did not refute the data or depreciation amount resulting from the market extraction contained within the appraiser's cost approach.

The appraiser next discussed the income approach to value. He testified under this approach the critical foundation for the highest and best use conclusion, that being its continued use as a single-tenant owner occupied office building, regardless of its sale or lease. In this context, the appraiser testified the foundation of the sales comparison approach is using comparable sales of properties leased to third parties. The witness attempted to explain that if a property is likely to be leased as not leased, and the rent is considered market, or if the capitalization rate is lower, then if adjusted in the sale price, that provides foundation for the sales comparison approach using leased fee sales and adjusted fee simple sales, which provides foundation for the highest and best use. (Page 156 of transcript.)

Under the income approach, the appraiser identified five suggested rental comparables located in southern Lake County. Two of these comparables were also utilized in the appraiser's sales comparison approach. Four comparables are single-tenant properties and one property is leased to two tenants. The rental comparables are located in Lake Forest, Vernon Hills, or Buffalo Grove, Illinois. One comparable is a one-story building and another comparable was reported to be

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a multi-story building. Three comparables are of masonry or masonry and glass construction. Story heights, types of construction, or amenities were not disclosed for most of the suggested comparables. They were built from 1998 to 2001 and range in size from 64,978 to 258,995 square feet of net rentable building area. Lease dates commenced from June 1988 to September 2000 with 10 to 15 year lease terms. Rental rates ranged from \$14.83 to \$18.00 per square foot of net building area on a net or triple net basis. Three comparables had no reported tenant improvement allowances and two comparables had improvement allowances of \$29.78 and \$31.10 per square foot. Two comparables were reported to have 2.5% annual escalation rental rates while one comparable has a \$.11 per square foot escalation rental rate. After considering adjustments to the comparables, the appraiser estimated the subject property has an estimated market rent of \$17.50 per square foot of net rentable building area.

The appraiser next deducted \$2.50 per square foot for tenant improvements resulting in an estimated market rent for the subject of \$15.00 per square foot on a triple net basis for a 10-year term. Therefore, the appraiser estimated the subject's potential annual income to be \$1,626,705. Vacancy and collection loss was estimated to be 7% or \$113,869, resulting in an effective gross income of \$1,512,836. Expenses were estimated to be 5% or \$75,642 for management, and \$.20 per square foot or \$26,080 for reserves for replacements, resulting in a net operating income of \$1,411,114 or \$13.01 per square foot.

The appraiser consulted the Korpacz Real Estate Investor Survey indicating overall market capitalization rates ranging from 8% to 12%, with a 9.71% average. Due to the subject's age and characteristics, the appraiser concluded a capitalization rate of 10%. Capitalizing the subject's estimated net operating income of \$1,411,114 by the rate of 10%, the appraiser concluded the subject property has a fair market value under the income approach of \$14,110,000, rounded.

In summary, the appraiser indicated he used triple net rents because in the market tenants pay expenses whereas owners do not have to pay net rents. Thus, the capitalization rate is not lowered. He concluded the rental rates cited reflect the market. He further explained that if triple net leases are adjusted appropriately, they do not need to be converted to gross leases with estimates of operating expenses and real estate taxes. The appraiser also referenced a market study for Class A office buildings in the Chicago suburbs indicating an overall vacancy of 15% as of the 4<sup>th</sup> quarter of 2001. The north suburban area, where the subject is located, indicated a market vacancy rate of 17.5% as of the 4<sup>th</sup> quarter of 2001. However, the appraiser opined most of the office space in the subject's office park

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experienced little vacancy as of January 2002. Thus, Ross concluded the 7% vacancy rate was appropriate. The appraiser cited no market rental comparables to support the suggested vacancy rate. The appraiser also explained that basically he capitalized rent at \$13.01 per square foot after deducting for expenses and tenant allowances given Lake County net rental rates in both appraisers' reports. Therefore, capitalizing the \$13.01 rate would account for any type of tax load factor.

The appraiser next discussed the sales comparison approach to value. The suggested comparable sales consist of one to six-story commercial office buildings that were reportedly built between 1991 and 2001 of masonry, steel, and glass construction. The comparables are located in the Illinois communities of Lake Forest, Addison, Mettawa, and Libertyville. Four comparables are located in Lake County with one comparable located in DuPage County. They range in size from 64,978 to 224,828 square feet of net building area and have land-to-building ratios ranging from 2.00:1 to 6.37:1. One comparable was reported to be in average condition, three comparables are in good condition, and one comparable was in excellent condition. All the properties have dining and fitness rooms. No other descriptions such as basements or foundation type, fire sprinkler protections systems, elevators, or parking facilities were disclosed. The comparables sold for prices ranging from \$10,150,000 to \$35,850,000 or from \$111.20 to \$229.57 per square foot of building area including land. The transactions occurred between March 2001 and September 2001.

Comparable 1 was also used as a lease comparable in the income approach. This property sold for \$192.66 per square foot with two long-term leases in place. Comparable 2 is located in Dupage County, which Ross considered a similar assessment situation. Comparable 3 sold for \$229.57 per square foot and required significant downward adjustments for its new age and long-term leases in place at the time of sale. Based on these market lease rates, he opined the leased-fee sales were appropriate to compare to the subject. The other appraiser also used Comparable 4. (comparable sale 3). However, he utilized the March 2000 sale of \$25,000,000. He testified he verified the arm's-length nature of the transaction through a retired tax manager for the company. He opined the transaction in 1999 was not arm's-length. He agreed both transactions were somewhat complicated. Again, the Real Estate Transfer Declaration (appellant's exhibit 2) revealed the \$25,000,000 sale was not advertised on the open market. In addition, the two parties are both identified as the sellers. Comparable 5 sold for \$156.21 per square foot with a long-term lease in place. He noted this property has an inferior location and was slightly older than the subject. The appraiser testified he did not discount



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the comparables because of their existing leases. He concluded if leased property is part of a sale, it is considered the norm for the Lake County market.

The appraiser considered adjustments to the comparables for differences when compared to the subject in terms of location, size, land-to-building ratio, parking, age, condition, construction, mechanical systems, and economic characteristics. Overall, four comparables received downward adjustments from 10% to 45%, while one comparable has as overall 5% upward adjustment. The adjustments resulted in adjusted sale prices ranging from \$115.60 to \$159.65 per square foot of net building area including land. Based on these adjusted sales, the appraiser concluded the subject property has a market value of \$130.00 per square foot of net building area or \$14,100,000, rounded.

In reconciling the three valuation methods, the appraiser testified he considered all three approaches to value. He testified he placed most weight on the sales comparison approach to value with support from the cost and income approaches. The witness testified one important criterion for the sales comparison approach was the availability of leases of single-tenant properties in Lake County. He testified using comparable sales that are leased at their highest and best use as single-tenant office buildings supports this premise. In the appraisal report itself, he indicated the cost approach was considered important because the land value component is a sizeable portion of the overall market value; the income approach was given secondary consideration; and the sales comparison approach "also" received primary emphasis. As a result, the appraiser concluded the subject property had a fair market value of \$14,110,000 as of January 1, 2002.

Under cross-examination, the appraiser was questioned about his testimony regarding his final reconciliation, which conflicts with the language contained within the appraisal report. The witness disagreed that secondary emphasis was placed on the income approach from the standpoint of supporting the highest and best use concept of single-tenant properties being leased. However, he then agreed page 51 of the appraisal indicates that secondary consideration was placed on the income approach. The appraiser was then questioned if primary emphasis was placed on both the cost and sales comparison approaches. The witness testified both approaches are important, but testified he "supposed" both approaches received primary emphasis.

The witness testified he is not a member of the Appraisal Institute; he is a Lake County government employee; and he is familiar with USPAP guidelines for providing for an independent unbiased appraisal report. The witness agreed Lake

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County is a taxing district that pays his salary and the Libertyville Township Assessor was the client for the appraisal. No fee was charged for the appraisal.

With respect to the cost approach, he agreed the primary weakness was accurately estimating accrued depreciation. The witness testified based on his training, the market-extracted depreciation is not the favored approach. Nevertheless, the witness agreed, depending on the degree of similarity, the calculation of replacement cost new, and the estimated land values, that if similar comparable sales are available, the market extraction method of depreciation is very reliable. The appraiser was also questioned why he chose to use the age/life or straight line method of depreciation rather than the market extraction method using the properties contained within the sales comparison approach. The witness agreed the straight-line method assumes the depreciation rate would be the same over a measured period of time and is subjective. He also agreed that commercial properties depreciate faster at the beginning of their useful life. The witness also testified the subject's location in Lake Forest is considered the best office park location in Lake County.

Regarding the income approach, the appraiser utilized net rents. The witness agreed that over the past 10 to 15 years, rents have changed from gross leases, where expenses are fixed for a period of time, to net leases, where tenants pay rent plus operating expenses and real estate taxes. The witness agreed from a potential buyer's perspective, a tenant-occupied property with an income stream; a buyer would want to know the net rental rate, operating costs and real estate taxes. The appraiser was also questioned about the appropriateness of using gross leases to value the subject under the income approach with adjustments for expenses and taxes. The witness responded that buildings that sell under a gross lease could be adjusted to a net level. He agreed there is a premium placed on properties that sell with net or triple net leases in place, but those properties sell at a lower capitalization rates based on the creditworthiness of a potential tenant. In summary, all factors being equal, leased-fee properties command higher values than fee simple transactions. He also agreed similar fee simple transactions would be more appropriate to value the subject, if such sales existed in the Lake Forest market. He agreed DuPage County has some areas that are equal to the Lake Forest and Lake County market. He did not consider Cook County a similar market because of real estate taxes and assessment levels, but these factors do not preclude properties in Cook County to be used as comparables.

The witness also agreed properties in the subject's office park are predominantly owner occupied. The witness used a 7% vacancy and collection rate, although the

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vacancy and collection detailed in the appraisal (page 11), was 17.5%. He agreed there is no data in the report to support 7% for vacancy and collection. He adjusted the rate downward due to the property's location and his professional experience.

With regard to the sales comparison approach, the witness agreed comparable 1 was a new multi-tenant building at the time of sale with two long-term leases in place. He agreed this property is superior to the subject in land to building ratio, mechanical systems, and construction based on his professional experience and exterior inspection. He did not inspect the interior of comparable 1. The witness was unsure if this property was exposed to the open market prior to sale. Comparable 2 was a tenant purchase, which was not disclosed in the appraisal. No adjustment was made for the tenant purchase. The witness agreed a tenant purchase might tend to set a higher value than a fee simple transaction. Although, this sale was not exposed to the open market, he considered the transaction to be arm's-length. Sale 3 was a built to suit single-tenant property with a long-term lease in place (lease-back) specific to the occupant's needs. This property was not exposed to the open market prior to its sale.

With regard to comparable 4 (the other parties' comparable sale 3), he listed the sale for \$25,000,000 or \$111.20 per square foot of building area including land. However, the Real Estate Transfer Declaration lists different parties as sellers and buyers. The witness testified the buyer identified in the appraisal addenda was a "typo". Although the appraiser did not perform an interior inspection of this comparable, he testified he made a 10% upward adjustment for construction/mechanical when compared to the subject. In total, this comparable had an overall upward adjustment resulting in a unit value of \$116.76 per square foot of building area including land.

The witness did not ask or know if the buyer paid a premium to acquire comparable 4, which adjoins another property owned by the buyer. Although this building is considerably larger in size than the subject, the witness considered this property similar to the subject in location and age. The appraiser did not know if the property was built-to-suit. He also agreed this sale, as well as all the comparable sales, were not exposed to the open market. The witness testified that he considered this sale to be an arm's-length transaction. When questioned about arm's-length transaction, the witness testified that a property exposed to the market could potentially have its value attributed to the market between a willing buyer and a willing seller "could be" key elements of an arm's-length sale.

The witness testified that the buyer occupies and/or owns at least two buildings in the subject's office park. However, the testimony and evidence revealed that a

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separate company to some degree, occupies comparable 4. In essence, both parties are both involved in a joint venture. The witness also testified he did not perform an interior inspection of any of the comparable sales, but performed a cursory inspection (inside the lobby) of comparables 1 and 2.

The witness did not know if comparable 5 was built and designed as a multi-tenant building. He was aware of certain tenants, but did not know all of the other tenants. The witness agreed this property was a build-to-suit leased-fee transaction. He testified he made a 10% upward adjustment for construction/mechanical when compared to the subject. There was also much debate regarding whether the adjustment was accurate given this comparable's newer age. In addition, there was much debate regarding the constancy and correctness of the adjustments for comparables 1, 2, 3 and 4 for age/condition as well as construction/mechanical.

In summary, the witness agreed all the sales in the market approach were either build-to-suit, leased-fee, or tenant-purchased transactions. None of the sales were fee-simple transactions. Finally, none of the suggested comparable sales were exposed to the open market prior to their sales.

Under redirect examination, the appraiser testified he placed most weight on the sales comparison approach to value. He also testified the income approach supports the fact that single-tenant office buildings are leased and was given secondary emphasis. The witness also testified there is no depreciation method that is more or less proper based on USPAP guidelines. The witness further testified he selected comparables sales within Lake County, although they were leased fee transactions. However, he argued the rental comparables indicate single-tenant office buildings were leased; therefore he chose not to ignore these transactions. He also corrected his earlier testimony indicating comparable 2 was a leased-fee transaction, when in fact this sale was a fee simple transaction for \$20,000,000 or \$177.38 per square foot of building area including land. The witness further argued it was appropriate to use leased fee single-tenant transactions. He agreed there might be a premium paid for these types of properties, but they are leased at market levels of \$17 or \$18 per square foot of building area on a triple net basis.

In rebuttal, the appellant presented the testimony of a state licensed appraiser with a Member of the Appraisal Institute (MAI) designation and is also a member of the American Society of Real Estate Counsels with a C.R.E. designation. The witness reviewed the appraisal prepared by the other party. With respect to the income

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approach, the witness indicated all of the rental comparables are basically brand new buildings, whereas the subject is a moderately good quality building that is somewhat older in age. The witness agreed that a rental rate of \$17.50 per square foot is in line with newer buildings, but did not adjust the comparables for their newer age. He testified that the \$2.50 per square foot allowance for tenant improvements could easily be \$30 to \$50 per square foot. He noted of significance was the 7% vacancy and collection loss rate. He noted that in the appellant's reports a vacancy and collection loss of 17.5% was reported in the survey. In addition, the appraiser used a 20% vacancy and collection rate based on a market survey. Thus, he opined the 7% vacancy and collection rate is not supported.

The witness also testified that the appraiser failed to consider that an owner pays for the cost of vacant space during vacancy. Therefore, the witness reconstructed the income approach using the same data, but used a 17.5% vacancy rate and imputed \$4 per square foot for the 18,978 square feet of common area, heating and cooling systems, and minor maintenance of the vacant space, resulting in net operating income of \$1,164,398. Unlike the other appraiser, the witness also accounted for taxes through the use of load factor of .36% applied to the capitalization rate of 10% used by both appraisers to account for real estate taxes for the common area. Applying the 10.36% capitalization rate to the reconstructed net operating income, the witness calculated the subject's market value under the income approach to be \$11,240,000, rounded. The board of review objected to the witness' income approach as new evidence under Section 1910.66 of the Official Rules of the Property Tax Appeal Board. The Board finds the witness merely reconstructed the other appraiser's income approach to value, adjusting the analysis for some perceived inconsistencies or errors. Thus, the Board hereby overrules the board of review's objection.

With respect to location, the witness testified he disagreed with the other appraiser's opinion the subject's location in Lake Forest is considered the best office park location in Lake County. He opined locations closer in proximity to O'Hare International Airport and the East West Tollway, specifically Oakbrook, Illinois, are the most premiere office building locations in the Chicago Metropolitan area, excluding the Chicago Loop. Consideration for this opinion was based on transportation systems, hotels, and shopping outlets. The witness also indicated the subject's office park was developed in the late 1970's with only three buildings constructed in the first decade because it is not located in the most convenient location.

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With regard to the comparable sales used in the report, the witness testified he investigated the terms of the sales and interviewed some of the parties involved with the transactions in order to determine if they were fee simple transactions with no undue influence. The witness testified comparable 1 was not built in 1999, but is a brand new building constructed for a multi-tenant use. Additionally, this property was a leased fee transaction. The witness concluded these factors require a significant downward adjustment, not a minor adjustment as concluded. Comparable 2 was also a leased-fee transaction purchased by the tenant and was not exposed to the market. The witness also indicated comparable 2 has the flexibility to be a multi-tenant building with excess land that had an addition built after its sale. Sale 3 is a brand new, six-story building. From his research, the witness determined the sale was a 1031 exchange that was built-to-suit with a long-term lease in place. The witness also indicated sale 5 was a lease-fee transaction of a new building with three tenants in place that was not exposed to the open market.

In summary, the witness testified comparable sales 1, 2, 3 and 5 used by the other appraiser were not fee simple transactions, but were combinations in many cases of leased fee, sale-leasebacks, tenant purchase, build to suit, and 1031 exchange transactions. The witness opined the other appraiser failed to make the adequate downward adjustments for these factors, notwithstanding their newer age. The witness testified he would have used fee owner-occupied, or single-tenant fee simple transactions to value the subject, even if they were in a different metropolitan county, such as near O'Hare International Airport or the East West Tollway.

Under cross-examination, the witness testified he has analyzed properties based on his professional experience and judgment, but usually there is some basis or support to back up his conclusions and adjustments. He also testified his research in connection to the appeal was conducted within a month of the hearing date. He also testified he has some familiarity with the subject and many of the comparables used by both appraisers based on his experience in Lake County. He agreed he had time to prepare rebuttal documentation, but did not do so. The witness also agreed his reconstructed income approach concludes a higher value than the other appraiser's final value conclusion.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds a reduction in the assessment of the subject property is warranted.

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The appellant argued the subject property is overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellant has overcome this burden. In support of the overvaluation claim, the appellant submitted an appraisal and testimony from the appraiser estimating the subject property has a fair market value of \$10,500,000 as of January 1, 2002 and January 1, 2003. The board of review submitted an appraisal and testimony from an appraiser estimating the subject property has a fair market value of \$14,100,000 as of January 1, 2002 and January 1, 2003.

The Board finds the best evidence of the subject's fair market value is the appraisal submitted by the appellant. The Board finds the appellant's appraiser provided competent, professional, and logical testimony in support of his appraisal methodology, data used in the three approaches to value, the adjustment process, and final value conclusion. In contrast, the Board finds the board of review's appraisal lacked some pertinent details and makes large assumptions without market support. After hearing the testimony and observing the demeanor of the two appraisers, the Board finds the appellant's appraisal to be more credible and a better indicator of the subject's fair market value.

With respect to the appraisers' cost approach, the Board finds one analysis to be superior to that of the other. The Board finds the first discussed appraisal's depreciated replacement cost new estimate is superior in comparison. With respect to the subject's improvements, the Board finds both appraisers calculated somewhat similar replacement costs new of \$15,940,000 and \$15,035,235, excluding direct and indirect costs. The Board finds the primary difference in the cost approaches is the amount of accrued depreciation. One approach concluded 72% depreciation from all causes using the market extraction method derived from his comparable sales whereas the other used the age/life or straight-line method of depreciation and determined physical depreciation to be 25%. The inferior appraisal also concluded the subject suffers from functional obsolescence of 20% for a total of 45% of accrued depreciation. The Board finds the first appraiser supported his depreciation calculation using market-extrapolated data whereas the depreciation amounts calculated in the other appraisal are purely subjective in nature, such as the functional obsolescence amount. Furthermore, the witness readily testified that commercial properties like the subject do not depreciate in a straight-line manner, but depreciate faster at the beginning of its life. Therefore, the Board finds the age/life or straight-line method of depreciation used and

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calculated to be more subjective and overall inferior. Based on this analysis, the Board gave the first appraiser's cost approach more weight.

Both appraisers also developed income approaches as another method to estimate the subject's fair market value. The second appraiser estimated a value of \$14,110,000 and the first appraiser estimated a value of \$10,950,000. Although there were some flaws pointed out by the parties regarding both appraisers' income approaches, the Property Tax Appeal Board finds the first income approach to be a better indicator of the subject's value than the value calculated by the second witness. First, the Board finds the second witness used a vacancy and collection loss rate of 7%, based on his local experience of the subject's office park. The Board finds there is no support in this record for this vacancy and collection loss rate. In fact, the data in both appraisals from accepted industry sources ranged from 15% to 22.4%. Therefore, the Board finds the first appraiser's use of a 20% vacancy and collection loss rate is better supported.

The Board further finds the methodology employed by the first appraiser using gross leases for the subject and accounting for real estate taxes in the capitalization rate to be a superior method to estimate the subject's market value for taxation purposes because the subject property is an owner-occupied or single-tenant office building. In contrast, the second appraiser used net or triple net leases to value the subject as a possible multi-tenant building with two tenants. The Board finds this methodology not as persuasive in this appeal due to the subject's owner-occupied use. The Board finds it more appropriate to analyze the subject on a gross lease basis since it is an owner occupied building. The Board finds it appropriate to account for real estate taxes in the capitalization rate, as did the first appraiser and the review appraiser, who properly calculated partial tax load factor to account for owner-paid taxes during vacancy. Finally, the Board finds the second appraiser did not adequately adjust the comparables to the subject for their multi-tenant use and their net leases in comparison to the subject.

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. Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (2<sup>nd</sup> Dist. 1979) and Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5<sup>th</sup> Dist. 1989). In addition, the Illinois Supreme Court defined fair cash value as 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).



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With regard to the sales comparison approach, the Board finds the value conclusion detailed by the first appraiser is a better indicator of the subject's fair market value. The Board finds the first appraiser attempted to find, analyze and adjust the best fee simple arm's-length transactions in estimating the subject's fair market value. As a result the Board finds the first appraiser's final value conclusion of \$10,500,000 is well supported.

In contrast, the Board finds the second appraiser utilized sales of properties that were not fee simple transactions, and were composed of buildings that were mostly newer in age and larger in size than the subject. More importantly, these transactions were combinations, in many cases, of leased-fee, sale-leasebacks, tenant purchase, build-to-suit, and/or 1031 exchange transactions, which are not representative of the subject's owner-occupied value. Most importantly, the Board finds the sales used by the second appraiser do not meet one of the fundamental elements of an arm's-length transaction. The evidence and testimony clearly shows none of the suggested comparable sales used by the second appraiser were exposed to the open market, a fundamental and necessary element for an arm's-length transaction.

In conclusion, the Property Tax Appeal Board finds the best evidence of the subject's fair market value presented in this appeal is the appraisal submitted by the appellant estimating a market value of \$10,500,000 as of January 1, 2002 and January 1, 2003. Therefore, the Board finds the subject's assessment as established by the board of review to be incorrect. Since fair market value has been established, the 2002 and 2003 three-year median level of assessments for Lake County of 33.18% and 33.21% shall apply.

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<b>APPELLANT:</b>	<b><u>First National Bank of Illinois</u></b>
<b>DOCKET NUMBER:</b>	<b><u>01-28515.001-C-2</u></b>
<b>DATE DECIDED:</b>	<b><u>September 21, 2006</u></b>
<b>COUNTY:</b>	<b><u>Cook</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

The subject property consists 39,172 square foot parcel improved with a two-story concrete constructed branch bank facility with a drive-through canopy constructed in 1970. The improvement contains 16,474 square feet of above ground building area. The subject is located in Thornton, Cook County.

The appellant, through counsel, contends the subject's market value is not reflected in its assessment. In support of this argument, the appellant submitted an appraisal for the subject property prepared by a State of Illinois certified appraiser with a Member of the Appraisal Institute (MAI) designation. The report indicated that the subject was appraised as a fee simple estate for *ad valorem* tax purposes and the subject's highest and best use, as improved, is its current use.

To estimate a total market value for the subject as of January 1, 1999, the appraiser employed the three traditional approaches to value.

The first approach to value employed by the appraiser was the cost approach. To estimate a land value for the subject, the appraiser reviewed four sold land comparables in the subject's general area. The properties sold between November 1998 and January 1999 for prices ranging from \$120,000 and \$200,000 or from \$1.94 to \$5.77 per square foot of land area. The appraiser adjusted the sales for market conditions, size, location, and physical characteristics. Based on an analysis of these land sales, the appraiser estimated \$5.50 per square foot of land area, or \$220,000, rounded, as indicative of the subject's land value as of January 1, 1999. Next, the appraiser utilized *Marshall Valuation Computerized Cost Service* to estimate a replacement cost new for the subject improvement of \$2,560,643. The appraiser deducted total depreciation of \$1,126,683, added a cost for depreciated site improvements of \$50,000 and the estimated land value to determine an indicated value of \$1,400,000, rounded, for the subject via the cost approach, as of January 1, 1999.

The income approach to value was the next approach employed by the appraiser. As sources to determine an income estimate for the subject, the appraiser relied on

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three rental comparables located in the subject's general area. From this information, the appraiser estimated the subject would command \$11.00 per square foot for the subject's first floor, \$8.00 per square foot for the subject's second floor and \$4.00 per square foot for the subject's basement. These calculations determined \$174,183 as the subject's potential gross income (PGI.) Vacancy of \$17,418, and expenses totaling \$15,654 were then deducted, resulting in a net operating income (NOI) of \$141,111 for the subject. The appraiser developed of an overall capitalization rate of 10.5%. After capitalization of the NOI, the appraiser indicated a value for the subject through the income approach of \$1,340,000, rounded, as of January 1, 1999.

In the sales comparison approach, the appraiser examined the sales of six commercial buildings in the subject's general area. The buildings range in size from 5,000 to 30,420 square feet and land areas ranging from 14,055 to 96,739 square feet. The comparables sold between October 1996 and August 1999 for prices ranging from \$33.34 to \$106.06 per square foot of above grade building area including land, unadjusted. Adjustments were made to the comparables for market conditions, location, size, clear ceiling heights and other pertinent differences. The appraiser analyzed this information and determined \$85.00 per square foot of building area including land as an estimated value for the subject, or \$1,400,000, rounded, as of January 1, 1999.

In the reconciliation of the three approaches to value, the appraiser placed primary weight on the sales comparison approach. The appraiser's final estimate of value for the subject as of January 1, 1999 was \$1,400,000.

The appellant also presented evidence that the subject property was the subject matter of an appeal before the Property Tax Appeal Board the prior year under docket number 00-26986.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property based on an agreement submitted by the parties. Based on the foregoing appraisal and the 2000 Property Tax Appeal Board decision reducing the subject's assessment, the appellant requested a reduction of the subject's 2001 assessed valuation reflective of the Property Tax Appeal Board prior year's decision.

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property. On April 23, 2004 the Cook County Board of Review was notified of the appeal and given until May 23, 2004 to submit evidence or request an extension. The board of review timely requested an extension of time to submit evidence. On May 25, 2004, the

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Property Tax Appeal Board granted an extension until July 24, 2004. The board of review did not timely submit its evidence and was notified of its being found in default by letter dated July 25, 2006.

On July 28, 2004, School District No. 215 filed a request to intervene along with a resolution authorizing intervention before the Property Tax Appeal Board. Counsel for the intervenor requested an extension of time to file evidence on September 20, 2004. On October 28, 2004, January 15, 2005 and April 15, 2005 the Property Tax Appeal Board granted extensions of time to file evidence. The final extension expired on July 15, 2005. The intervenor did not timely submit evidence and was notified of being in default by letter dated July 25, 2006.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is the subject's fair market value.

Next, when overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. Section 1910.65 *The Official Rules of the Property Tax Appeal Board* (86 Ill.Adm.Code §1910.65(c)). Having considered the evidence and testimony presented, the Board concludes that the appellant has satisfied this burden and a reduction is warranted.

The Board finds that the best evidence in the record of the subject's fair market value as of January 1, 2001 is the appraisal submitted by the appellant estimating the subject's market value at \$1,400,000 as of January 1, 1999. The Board finds that the intervening party and the board of review failed to refute the appellant's contention the appellant's appraisal is representative of the subject's fair market value as of January 1, 2001. Therefore, the Property Tax Appeal Board finds that the subject's fair market value as of January 1, 2001 is \$1,400,000.

The Board further finds that the prior year's decision should be carried forward to the subsequent year. The record contains evidence that the assessment proposed by the appellant is supported by the appellant's appraisal. For these reasons the

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Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted to reflect the Board's prior year's finding.

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<b>APPELLANT:</b>	<u>Great Oak, LLC</u>
<b>DOCKET NUMBER:</b>	<u>02-01244.001-C-3 through 02-01244.017-C-3 &amp;</u> <u>03-00880.001-C-3 through 03-00880.017-C-3</u>
<b>DATE DECIDED:</b>	<u>September 18, 2006</u>
<b>COUNTY:</b>	<u>Kankakee</u>
<b>RESULT:</b>	<u>Reduction Warranted</u>

The subject property consists of 17 contiguous parcels containing a total of approximately 48.45 acres. The parcels are improved with a one and part two-story shopping center with four strip mall buildings and three freestanding buildings. The subject is comprised with primarily one-story buildings. The shopping center contains a gross leasable area of 379,783 square feet. The original shopping center was constructed in the late 1950's and early 1960's with additional buildings being erected in 1992 and the mid 1990s. There is also approximately 800,000 square feet of asphalt paving used for parking and driveways. The property is commonly known as the Meadowview Shopping Center and is located in Bourbonnais and Kankakee Townships, Kankakee, Illinois. The 2002 and 2003 appeals were consolidated for hearing purposes.

The appellant appeared before the Property Tax Appeal Board through counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted a narrative appraisal of the subject property estimating the property had a market value of \$7,900,000 as of the January 1, 2002. The appellant argued the subject property suffered environmental contamination due to dry cleaning solution leaking into the soil, which impacts the market value of the property not only from a cost to cure basis but also from a stigma attached to the property. The appellant requested this environmental contamination be considered in estimating the market value of the subject property. The appellant also argued the subject property suffers from significant obsolescence from all sources and that the retail area where the subject is located is stagnant if not declining. The board of review contends the environmental contamination to be insignificant and the subject property is fairly and accurately assessed reflecting a market value in excess of \$12,000,000.

The first witness called on behalf of the appellant was the real estate broker. The witness is a real estate broker specializing in retail leasing. He has worked for a firm for the past nine years. His job entails leasing of properties by taking listings on properties for owners and going to the market to find tenants for the properties.

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The witness has been associated with the leasing and management of the subject property for the previous seven or eight years.

The witness identified Appellant's Exhibit No. 1 as an aerial photograph of the subject property. Using the exhibit the witness described the buildings and tenants at the shopping center. The witness testified that in the period around 2003 the shopping center had an occupancy rate of 57% meaning the property was 43% vacant.

The witness testified that he was familiar with the state of the leasing market in Kankakee in 2002 and 2003. He explained that he has been working in this market since his company took over the property and this is the only property he has in Kankakee. The witness then explained the marketing process during 2002 and 2003. To attract potential tenants they put signage in the windows of any vacancies and they have a street-sign advertising space for lease. They also work with another firm, who creates materials to promote the shopping center and shopping in Meadowview. The witness also explained that his company does brochures on the property that include photos, a location map, basic demographic information, and a site plan of the shopping center showing the vacancies. This brochure is then placed on the company's web site. The witness further explained that his company has a database of 9,000 retailers. His company markets the property directly to tenants, meaning any retailer the company knows of through its experience and contacts in the industry. The property is also marketed throughout the brokerage community in Chicago. He testified that his company has approximately 350 retail brokers/commercial brokers throughout northern Illinois who are contacted when they have possible tenant representation situations. The witness further explained that he attends the annual International Conference of Shopping Center convention where 40,000 retailers, brokers and developers are in attendance. They also attend the two Midwest conventions in Chicago where they set up a booth and table and market Meadowview. The witness further testified there is an on-site maintenance man available to show the property to a prospective tenant from Monday through Friday from 9:00 AM to 5:00 PM. As a final point the witness explained that his company canvasses surrounding shopping centers by dropping off brochures and explain that space is available at the center if someone is interested leasing space.

The witness testified that the leasing market in Kankakee from 2002 through 2003 was rather weak. He testified that during and following that period leasing has not been very strong, specifically in Kankakee. He explained that there is so much retail along Route 50 in Bradley and Bourbonnais that it has created a negative

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impact on the market in the subject's area. The witness explained that along Route 50 in Bradley and Bourbonnais there was a regional mall built along with a tremendous amount of other retail stores. As a result most of the national retailers have chosen to go to this area rather than the Meadowview Shopping Center.

The witness testified that marketing efforts for the subject have been successful because they are not losing more tenancy in the center and are maintaining the occupancy level in a difficult shopping center in a tough leasing environment. He explained they have lost tenants but have been able to replace them to keep the occupancy at the same level. They have not had an occasion to turn down any tenants and would not turn down any viable prospective tenant.

The witness explained the layout of the property has a very negative impact on leasing. He explained that a problem with the layout is that much of the retail space does not face the street and some of the retail space is blocked from view from the street by other buildings. The witness stated the rear of the back of buildings front Brookmont Boulevard while the front of the retail buildings face inside the site. He also explained that Kennedy Drive is the major shopping street and you would try to locate so that the retail faced the street and not be blocked by other buildings. He explained that the layout creates a huge difficulty in leasing the space in the back of the shopping center.

The witness also testified that the condition of the buildings also affects the leasing. He explained the subject is an old shopping center and to create deals they have had to do a lot of infrastructure work to make the deal work. The witness acknowledged that there are pad sites improved with a McDonalds and a Blockbuster that create some traffic into the shopping center, which helps. With respect to the office building in the shopping center the witness testified it is neutral with respect to retail leasing, especially now that it is vacant. The witness testified when the office space was occupied it had a little bit more of a positive impact because of the number of employees that would be present on a daily basis and spend a few dollars at the center. The witness testified the office space has been vacant for three or four years.

The witness testified that they have not been able to create interest in the shopping center from national or regional tenants. He explained that these national and regional tenants are more prone to go to Route 50 near the regional trade area. These types of prospective tenants view the subject as more of an community oriented site and not a regional trade site. He stated these national tenants view



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Kankakee, Bradley and Bourbonnais as a combined retail market and would locate one store in this marketplace.

Under cross-examination the witness testified that they have contacted national, regional and local retailers through the use of brokers, brochures, mail and e-mail. Although he indicated that hundreds have been contacted he did not have a list of those solicited. He testified that patrons of the shopping center are members of the local community that surround the trade area. He conceded that the subject is located right in the heart of the community, which he emphasizes to retailers.

The witness further testified that the marketing firm creates events to foster excitement in the shopping center, which helps business for the tenants in the center. He reiterated that he has marketed the property to local, regional and national retailers but retailers of significant size prefer to be located near the regional mall near the intersection of Route 50 and Interstate 57. He also testified that they have not marketed the vacant land at the site.

He stated that the 57% percent occupancy in 2002 and 2003 is due to a combination of factors including layout or configuration of the property without street-side exposure. He also testified that leases at the site are usually on a per square foot basis. He indicated that percentage leases are not used often in the industry any longer and are usually used in a regional mall situation. The witness testified that environmental contamination has not impacted the ability to lease the property and has not impact on the dollar per square foot rent they are able to achieve. The witness also testified that the former Handy Andy store was removed from the property in 2004.

Under re-direct the witness explained that vacancy at the site has changed over time with the loss of a tenant that rented office space. He also indicated that they marketed the property to big box retailers because they create a lot of traffic, which also helps the smaller retailers to survive. His focus has been to bring tenants into the existing retail area and to lease the space that is currently available. The environmental contamination has not impacted the leasing ability at all.

Under re-cross examination the witness testified that the rent at the property varies from \$4.00 to \$12.00 per square foot. He also indicated that taxes and utilities are passed through on a prorated basis. Tenants are responsible for taxes, insurance and common area maintenance. The witness also explained that the various rental rates at the property vary based on size, location and build-out to attract a tenant.

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The next witness called on behalf of the appellant was the real estate appraiser. The parties stipulated to his qualifications as an expert in the field of real estate appraisal. The appraiser prepared a narrative appraisal of the subject property identified as Appellant's Exhibit No. 2, estimating the property had a market value of \$7,900,000 as of January 1, 2002. The purpose of the appraisal was to estimate the market value of the unencumbered fee-simple estate interest of the property.

The witness testified he made a physical inspection of the subject property. He described the property as being located on a major commercial street and indicated that the areas surrounding the property are primarily improved with single-family residential homes.

He described the site as containing a total of 2,110,000 square feet with approximately 138,000 square feet of excess land. He explained that excess land could be theoretically sold without harming the operation of the primary property. He also testified excess land also means in certain cases it is more land than what the typical ratio would be for other similar properties in the market area.

The appraiser described the improvements as consisting of a strip shopping center with 379,000 square feet constructed over a period of time resulting in a weighted average age of 36 years. He testified the property is divided into four major buildings. Using a plot plan contained in his appraisal the appraiser identified the location of the Handy Andy and Eagle Foods buildings. To the west and north of these buildings are the strip units where the smaller tenants are located. He also identified the location of an office building (No. 50) and the theater (No. 55) on the plot plan. He explained that in this situation you have a shopping center with different additions being made at different times with the result that a major part of the center is located behind the main buildings. He testified that typically in a modern center the retail space has almost complete visibility from the major arterial street that fronts the property, unlike the subject property. In this situation there are a couple of major buildings located to the rear of the site with no visibility from Kennedy Drive, an arterial street that is adjacent to the property. Additionally, you see the rear of the buildings that are adjacent to Brookmont Boulevard. The witness explained that in a new center as much visibility from the major arterial street is wanted.

The appellant's appraiser testified there is also a problem with ground and soil contamination at the subject property. The appraiser testified he relied on a study done by a corporation, which is an environmental engineering company, that has the laboratory reports identifying the soil and ground contamination on the

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property. He testified that the contamination came from a dry cleaning operation that was once on the property; a photo processing tenant that was there at one time; underground store tanks; as well as various tire, battery and auto centers that have been there over the years. These operations leaked contaminants that were identified by the corporation through a series of 35 ground monitoring wells. In the addendum of the appraisal the appraiser included a letter dated December 10, 2002, explaining that an additional 2 to 3.5 million dollars would be the cost to address the environmental contamination and obtain a No Further Remediation (NFR) letter from the Illinois Environmental Protection Agency (IEPA). He testified that they have spent approximately \$500,000, which would indicate that there is approximately \$1.5 million dollars in clean-up work left. The witness testified that he deducted this amount from the final value to arrive at a net value of \$7,900,000, in what is known as the "as-in condition". The witness indicated this is what the property is worth prior to cleaning up the environmental contamination that was identified by the corporation.

The appraiser testified that experts in the field of real estate appraisal typically rely upon the type of reports prepared by the corporation. He stated that it requires an environmental engineer to determine what the hazardous substance is, where it is and the cost to remove it. Appraisers rely on those studies like they would any other type of study for things that are outside the expertise of the appraiser's competence.

In the Property History section of the appraisal (Page 7) the appraiser disclosed that there was a purchase and sale agreement entered in November 2000 for a price of \$10,300,000. The price was reduced to \$10,050,000 in December 2000; however, the sale was subsequently terminated by the purchaser due to environmental issues concerning the property.

The witness testified that the highest and best use of the property was commercial use. In the appraisal at page 29 the appraiser explained that subject property has an unadjusted land to building ratio of 5.55:1, which is considered above the normal ratio exhibited by the market for a property such as the subject. He indicated that there is an undeveloped tract of land on the southeast portion of the property that is considered excess land. He was of the opinion that the property could be successfully operated with a land to building ratio of 5.19:1, which indicates excess land in the amount of 138,724 square feet. The adjusted land to building ratio is based on a primary site having 1,971,876 square feet. The appraiser stated within the appraisal the value attributed to the excess land area is added to the

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value indications in the income capitalization approach and the sales comparison approach.

He also testified that the subject has a weighted age of 36 years. He concluded, however, the subject had an effective age of 30 years with an economic life of 40 years resulting in a remaining life of 10 years.

The first approach to value discussed by the appraiser was the cost approach. The initial step under the cost approach was to estimate the value of the subject's land using four comparable land sales. The comparables were located in Matteson, Kankakee, Bourbonnais and Bradley, Illinois. The comparables ranged in size from 22,800 to 674,309 square feet and sold from February 1998 to February 2000 for prices ranging from \$68,400 to \$1,628,765 or from \$2.42 to \$4.34 per square foot. The appraiser concluded that since all the sales were smaller than the subject, thus being superior in size, a downward adjustment was warranted resulting in an estimated land value of \$1.50 per square foot. Based on this unit value the appraiser estimated the primary site had a value of \$2,957,814 and the excess land had a value of \$208,086 resulting in a total land value of \$3,200,000, rounded.

The appraiser estimated the replacement cost new of the improvements using the Means Cost Service. The appraiser used a unit in place method to arrive at a total building replacement cost of \$32,370,000. To this amount the appraiser added an amount for site improvements such as landscaping and paving totaling \$1,946,000 to arrive at a total replacement cost of \$34,216,000 or \$90.36 per square foot of gross building area.

Depreciation was abstracted from the market using the sales contained in the sales comparison approach to value. The appraiser estimated the comparable sales had annual rates of depreciation ranging from 3.0% to 12.2%. The appraiser estimated the subject suffered from an annual rate of depreciation of 2.3%. Multiplying the estimated annual rate of depreciation by the subject's weighted age of 36 years resulted in total accrued depreciation of 83%, rounded. Deducting total depreciation of \$28,482,280 from the cost new resulted in a depreciated value of the improvements of \$5,833,720. To this amount the appraiser added the estimated land value of \$3,200,000 resulting in an estimated value of \$9,030,000, rounded. From this amount the appraiser deducted the estimated cost of environmental remediation of \$1,500,000 to arrive at an estimated value under the cost approach of \$7,530,000.

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The second approach to value developed by the appraiser was the income capitalization approach. The first step under this approach was to estimate the market rent of subject property. The appraiser testified that approximately 45% of the subject is occupied by anchor tenants with the balance being occupied by smaller tenants ranging in size from 50 to 25,000 square feet. Because of the differences in size among the subject tenants the appraiser divided the leases into different size categories. Those tenants that ranged in size from 0 to 5,000 square feet had a weighted average rent of \$9.53 per square foot. Based on this data the appraiser estimated the market rent for the 62,842 square feet of tenants in the 0 to 5,000 square foot size category to be \$10.00 per square foot, triple net. Those tenants that ranged in size from 5,001 to 15,000 square feet had a weighted average rent of \$5.30 per square foot. Based on this data the appraiser estimated the market rent for the 65,063 square feet of tenants in the 5,001 to 15,000 square foot size category to be \$5.00 per square foot, triple net. Those tenants that ranged in size from 15,001 to 25,000 square feet had a weighted average rent of \$3.75 per square foot. Based on this data the appraiser estimated the market rent for the 50,244 square feet of tenants in the 15,001 to 25,000 square foot size category to be \$4.00 per square foot, triple net. For the area in the subject property that is greater than 25,001 square feet there was only one lease of the property that was for a 29,850 square foot area at \$3.25 per square foot. The appraiser also considered five comparables rentals for this size category. The comparables were located in Matteson, Bradley, Orland Park, Bourbonnais and Kankakee. The leased areas ranged in size from 15,000 to 165,654 square feet and the properties ranged in age from 11 to 35 years. The rental rates ranged from \$3.00 to \$4.08 per square foot. Based on this information the appraiser estimated the market rent for the retail spaces at the subject in excess of 25,001 square feet to be \$3.00 per square foot, triple net. The appraiser also explained that the subject has 44,217 square feet of former retail space that was converted to office area that was previously leased to a tenant for \$2.20 per square foot. This tenant vacated the area in 2001. The appraiser indicated this area is inferior to typical office space. Market rent for this area was estimated to be \$5.00 per square foot, triple net. Based on this data the appraiser estimated the subject had a base rental income of \$1,848,047. The appraiser then added \$451,942 for the real estate tax reimbursement, \$284,837 for the Common Area Maintenance (CAM) Reimbursement from tenants and \$45,574 for insurance reimbursement to arrive at a potential gross income of \$2,630,000. From this amount the appraiser deducted 30% for vacancy and collection loss and added \$3,500 in other income to arrive at an effective gross income of \$1,844,780. Expenses totaling \$503,000 for a leasing fee, CAM expenses and administrative costs were deducted to arrive at a net income before real estate taxes of \$1,340,000, rounded.

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The next step under the income approach was to estimate the capitalization rate associated with the subject property. The appellant's appraiser testified he abstracted the capitalization rate from the market using the sales contained in the sales comparison approach to value of his appraisal. The four comparable sales sold from June 1997 to December 2000 for prices ranging from \$3,150,000 to \$11,250,000. The appraiser indicated these comparables had estimated net rents ranging from \$345,000 to \$1,180,000 or from \$2.50 to \$8.45 per square foot. These properties had overall rates ranging from 10.5% to 12.8%. The appraiser also considered the sale agreement to purchase the subject property that was entered in December 2000 for a price of \$10,300,000. Deducting the excess land value of \$208,086 results in an adjusted contract price of \$10,100,000. Using the subject's net income as of that date of \$1,220,000 resulted in an overall capitalization rate of 12.1%. The appraiser noted the sale subsequently terminated upon the discovery of contamination on the site. Using the data provided by the corporation and deducting \$1.5 million for remediation costs results in an adjusted contract price of \$8,600,000 and a resulting overall capitalization rate of 14.2%. The appraiser concluded that there was a 2.1% premium associated with the environmental issues impacting the subject property. Based on this data, the appraiser determined the overall capitalization rate applicable to the subject property with consideration given to the environmental remediation was 14.0%. To this amount the appraiser also added 3.39% for an effective tax rate resulting in an overall rate of 17.4%. Capitalizing the net income and adding the value of the excess land resulted in an estimated value under the income approach of \$7,910,000.

The final approach to value developed by the appraiser was the sales comparison approach. In the appraisal the appraiser stated that a high proportion of the subject property (41%) consists of large anchor space of over 25,000 square feet. According to the appraiser, this high proportion has a significant impact on the unit price applicable to the subject property since anchor space typically leases and sells for a lower unit price. Based on this factor the appraiser included two categories of comparable sales with the first four sales consisting of multi-tenant shopping centers similar to the subject's smaller in-line spaces and sales 5 through 7 consisting of large single tenant buildings most similar to the anchor space. In making adjustments the appraiser also considered the subject's stabilized net income after taxes of \$2.69 per square foot.

The first four comparables were improved with multi-tenant shopping centers that ranged in size from 63,304 to 221,351 square feet and ranged in age from 4 to 25

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years old. The comparables were located in Glenwood, Bourbonnais, Bradley and Homewood. The sales occurred from June 1997 to December 2000 for prices ranging from \$3,150,000 to \$11,250,000 or from \$23.64 to \$80.45 per square foot of building area. The single tenant stores ranged in size from 49,020 to 111,429 square feet and in age from 8 to 30 years old. The comparables were located in Bourbonnais, Homewood and Lansing. The sales occurred from July 1997 to November 2000 for prices ranging from \$1,410,000 to \$2,250,000 or from \$15.26 to \$28.41 per square foot of building area. The appraiser also recognized the subject's purchase agreement indicated a price of \$10,050,000 or \$26.46 per square foot of building area, which is a good indication of value as of November 2000, prior to consideration of the environmental issues. The appraiser noted, however, that occupancy at the subject decreased from the November 2000 from 75.4% to 57%. Based on these factors the appraiser reasoned that a price lower than \$26.46 per square foot was indicated before consideration of the environmental contamination.

The appraiser noted that the multi-tenant sales had actual or pro forma net incomes ranging from \$2.50 to \$8.45 per square foot and the sales prices of \$23.64 to \$80.45 per square foot correlated well with their rents. As previously stated the subject's net income per square foot was calculated to be \$2.69. Using this data the appraiser estimated the subject property had a unit value of \$24.00 per square foot resulting in a total estimated value of \$9,114,792. To this amount the appraiser added \$208,086 for the excess land resulting in a total indicated value of \$9,322,878. Deducting \$1,500,000 for the remediation costs resulted in an estimated value of \$7,820,000 under the sales comparison approach to value.

In reconciling the three approaches to value the appraiser gave moderate consideration to the cost and sales comparison approaches to value and maximum consideration to the income capitalization approach. In conclusion, the appraiser estimated the subject property had a market value of \$7,900,000 as of January 1, 2002.

The witness also testified that he has prepared an appraisal of the subject property as of January 1, 2004. He testified that the value of the subject property had not changed significantly from 2002 to 2003.

Under cross-examination the appraiser stated it is normal appraisal practice to deduct the cost of remediation because either the buyer or seller will incur the cost. The appraiser also stated that no deduction was made for stigma, which is the potential negative effect on value even after removal in the sense that the

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marketplace looking suspect at the property. The appraiser also testified that since the appraisal the dry cleaner's building, identified as building 57 on the plot plan, had been removed to further the remediation process. This allowed access under the building where there was a significant amount of dry cleaning fluid. The appraiser also stated that he had the engineer's study with respect to the contamination, wherein the cost of remediation was provided to the appraisers from the engineer.

The appraiser also explained that a loaded capitalization rate, meaning an overall rate plus an effective tax rate, was used in his analysis. The subject's real estate taxes were not used as an expense in the income approach.

The appraiser explained that the McDonald's building was not included in his value of the subject property. McDonald's was not included because there was a ground lease in place, which means they are only paying rent on the land and they then constructed their own building. He explained his client asked that the McDonald's building area be excluded from the appraisal. The appraiser did not know the value of the McDonald's building, did not include the size of the building in the appraisal and did not include the value of the McDonald's building in the appraisal. The appraiser also agreed that the McDonald's is an improvement that is something of value but was not appraised.

The appraiser testified that the practical impact of the contamination was that the 2000 sale was not consummated after the buyer learned of the needed remediation. He further indicated the purchaser liked the property and requested the seller pay for the remediation or else it wouldn't purchase the property for \$10 million. The appraiser indicated that the buyers want some type of adjustment for the property for the liability and the cost of clean-up if they buy the property as-is.

The appraiser testified that he was not aware of the environmental contamination had impacting the use of the subject property in 2002 and 2003. He indicated that the owner of the property would be responsible for the clean-up, and not a buyer of the property. He explained that typically a buyer wants to be either indemnified or the property cleaned up prior to the purchase.

The appraiser was of the opinion that the environmental remediation costs are a burden on the property, whether borne by the seller or buyer.



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The board of review submitted its "Board of Review Notes on Appeal" for the subject property for each of the years under appeal. For 2002 the subject property had a total assessment of \$4,110,822 reflecting a market value of \$12,169,396 using the 2002 three year median level of assessments for Kankakee County of 33.78%. For 2003 the subject property had a total assessment of \$4,094,893 reflecting a market value of \$12,172,690 using the 2003 three year median level of assessments for Kankakee County of 33.64%.

The board of review submitted an appraisal of the subject property marked as Exhibit A. The board of review's appraiser estimated the subject property had a market value of \$16,500,000 as of January 1, 2002. The appraiser was not called as a witness by the board of review. The board of review requested the Property Tax Appeal Board take notice of the appellant's appraiser's testimony in a hearing before the Property Tax Appeal Board concerning the 2000 and 2001 assessment of the subject property.

The board of review also requested that the Property Tax Appeal Board take notice of the review appraisal marked as Exhibit B. The review appraisal was a review of an appraisal of the subject property prepared on behalf of the taxpayer with an effective date as of January 1, 2001. The review appraisal was not a review of the appraisal report submitted by the taxpayer in the instant consolidated appeals and testified to by the appellant's appraiser.

The first witness called on behalf of the board of review was a real estate appraiser. The parties stipulated to the appraiser's qualifications as an expert. The board of review's appraiser estimated the subject property had a market value of \$12,200,000 as of January 1, 2003. The appraisal was marked as BOR Ex. #1. In estimating the market value of the subject property the appraiser used the sales comparison approach and the income capitalization approach. The witness explained his report contained typographical errors on pages 22 and 36 but these had no effect on his conclusion of value.

The witness testified that he visited the subject property on February 13, 2004, for the purpose of preparing an appraisal of the subject property for the Kankakee and Bourbonnais Township Assessors' offices. He testified he observed the parking areas to be pretty good. He also noted the multiple buildings in a slightly unusual configuration, however, he was of the opinion their facades were nice. He also observed that the property was located on a major intersection and appeared to have a good traffic count on its primary fronting street. He also was of the opinion

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the subject was in a mixed area and was a nice location for a neighborhood retail, being tucked in a residential area.

Within the report (Pages 19 & 20) the appraiser described the subject as containing 377,574 square feet of gross leasable area. He also noted the buildings were constructed in stages from the late 1950s to the mid 1990s. He also noted that the subject is composed of seven buildings that are primarily one-story strip center buildings. He stated within his report that two buildings face Kennedy Drive and have the best visibility. He also stated that two northern buildings anchored by Big Lots and Classic Cinemas are further removed from Kennedy Drive and face into the parking lot with the rear elevation facing Brookmont Boulevard, giving them inferior visibility and orientation. He stated in the report that the design of the shopping center limits the street exposure of the storefronts along Kennedy Drive, a major thoroughfare in Kankakee.

At page 3 of the appraisal the appraiser provided a discussion of the history of the property. He stated that the property was reportedly under contract in November 2000 for \$10,300,000, which was reduced to \$10,050,000 in December 2000. He stated the potential buyer due to environmental issues regarding the property terminated the sale. He also stated the site was voluntarily enrolled in the Illinois EPA Site Remediation Program on June 6, 2001. The report indicated some remediation has occurred although the Illinois EPA had not yet issued a confirmation letter indicating no further remediation is necessary.

The appraiser further testified that the subject property has a very large site and there are approximately 3 acres in the southeast corner that he considered excess land. He was of the opinion that it would be legally and physically possible to subdivide that area to develop or sell. He also testified that the highest and best use of this vacant land would be multi-family. He also was of the opinion the excess land would have an increased land value. The appraisal indicates the subject property is currently zoned C-2, Service Commercial District, which permits a variety of retail uses. The appraisal indicated that the highest and best use of the property as vacant is for commercial use such as a retail development. The highest and best use of the site as improved is its current use.

The appraiser testified that he used the cost approach to estimate the value of the land. He did not use the cost approach to value the improvements because the subject is a shopping center, an income producing property, and a typical buyer is interested primarily in the cash flow generated and is not interested in the depreciated replacement cost of a building original constructed in the 1950s. In

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estimating the land value the appraiser used four land sales located in Bourbonnais and Bradley. The sales ranged in size from 117,612 to 368,452 square feet and sold from February 1998 to July 2003 for prices ranging from \$500,000 to \$1,600,000 or from \$2.87 to \$6.47 per square foot. The appraiser estimated that both the primary site and the excess land had unit values of \$1.75 per square foot. The appraiser indicated the primary site had an indicated value of \$3,500,000 and the excess land had a value of \$200,000 for a total land value of \$3,700,000.

The next approach to value developed by the board of review's appraiser was the sales comparison approach. The appraiser utilized four comparable sales located in Bradley, Carbondale and Glenwood. Three of the four sales were also used by the appellant's appraiser as his comparable sales numbered 1, 2 and 4. The sales were improved with properties that ranged in size from 63,796 to 245,191 square feet of building area. These comparables were constructed from 1975 to 1996. The sales occurred from June 2000 to December 2002 for prices ranging from \$3,650,361 to \$13,500,000 or from \$25.62 to \$80.45 per square foot of building area. In comparing the comparables to the subject only the comparable located in Glenwood that sold for a unit price of \$25.62 per square foot required no adjustment. Based on these sales the appraiser estimated the subject property had a unit value of \$32.00 per square foot for a total value of \$12,100,000. To this amount the appraiser added \$200,000 for the excess land resulting in a final estimate of value under the sales comparison approach of \$12,300,000.

The appraiser indicated that there was evidence of an impact on the marketability of the subject property due to an environmental complaint. He testified that there was an offer to purchase two years prior to the date of value but the buyer wanted complete indemnification for any potential future problems with the site and the seller was not willing to guarantee it. He agreed that it is typical that a purchaser would want indemnification. He also testified there had been some remediation on the site.

The final approach to value developed by the appraiser was the income capitalization approach. The appraiser indicated the subject property was broken down into two primary classifications, small shop space and large tenants. To estimate the market rent the appraiser included information on eight rental comparables with six being actual rents and two being asking rents. The spaces of 15,000 square feet or less had rental rates ranging from \$10.00 to \$24.00 per square foot, triple net. The four comparables with available rental space exceeding 15,000 square feet ranged in size from 26,811 to 81,922 and had rents ranging from \$4.00 to \$11.00, triple net. The appraiser also examined the rent rolls of the

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subject property as found on pages 38 and 39 of his report. In placing some emphasis on the rent comparables and the actual rents the appraiser estimated the market rent for the subject's small shop space to be \$9.50 per square foot, \$4.10 per square foot for the large shopping anchor space, and \$6.00 per square foot for the office space. Using these rents and adding \$6,201 for percentage rent resulted in a gross rental income of \$2,317,025.

To estimate the expenses associated with the subject property the appraiser analyzed the subject's actual expenses and used two publications, *Dollars & Cents of Shopping Centers: 2004* and Korpacz Real Estate Investor Survey. The appraiser indicated that the subject would recover \$991,215 in expenses resulting in a potential gross income of \$3,308,240. From this the appraiser deducted 25% in vacancy and collection loss to arrive at an effective gross income of \$2,481,180. The appraiser then deducted \$1,130,917 in operating expenses, including \$420,000 in real estate taxes, to arrive at a net operating income of \$1,350,263. He testified that he stabilized taxes based on the value conclusion in the sales comparison approach.

In estimating the capitalization rate the board of review's appraiser analyzed the comparable sales in his report that had overall rates ranging from 11.1% to 12.8%. The appraiser also reviewed Korpacz Real Estate Investor Survey, First Quarter, 2003 that indicated the average strip shopping center overall rate was 11.17%. Using the band of investment technique the appraiser estimated a capitalization rate of 8.9%. Based on this data the appraiser estimated the appropriate capitalization rate for the subject was 11.25%. Capitalizing the net income of \$1,350,263 resulted in an estimated value of \$12,000,000. Adding the estimated value of the excess land of \$200,000 resulted in an estimated value for the subject under the income capitalization approach of \$12,200,000.

In reconciling the approaches to value the appraiser concluded the income approach to be the best estimate of value and estimated the subject had a market value of \$12,200,000 as of January 1, 2003.

During his direct testimony the board of review's appraiser indicated that he was aware that a McDonald's was on the subject property but only included revenue for the ground rent.

Under cross-examination the appraiser acknowledge the subject has had a high vacancy for a long time. He also acknowledged that there was no discussion in the highest and best use section about the highest and best use of the vacant land is to

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be separated and sold. The appraiser also agreed that in estimating the value of the subject the appraiser used two sales that occurred in June and December 2000 but did not make adjustments for market conditions. However, the appraiser on page 3 of his report indicated that the November 2000 contract price of the subject was not considered because it was approximately two years prior to the date of value and not considered representative of current market value. The board of review's appraiser testified that he did consider the environmental contamination but made no adjustment because the problem had been substantially remediated and there were no concrete figures.

The board of review called no other witnesses. The record does contain Group Exhibit E consisting of aerial views of the subject property. The aerial shows that the McDonalds Restaurant is located on property index number 16-09-32-100-002. This parcel had an improvement assessment in 2002 and 2003 of \$249,672. The aerial depiction of the parcel indicated two improvements were located on this tract. However the property record card did not delineate the value of the respective buildings, the paving or any other improvement on this parcel.

The board of review also submitted Exhibit F, which consisted of printouts from Illinois EPA Bureau of Land web site but provided no testimony as to what relevancy the exhibit had to the proceeding.

The appellant called a real estate appraiser as its rebuttal witness. The witness has been a real estate appraiser for over 30 years and has appraised over 1,000 retail properties and well over 100 shopping centers, most of them in Illinois. The witness testified that he was familiar with the subject property and had inspected it approximately three years ago.

The witness was hired to do a review of the Dost appraisal in late 2005. He analyzed the factual discussion; the discussion of the site; the land, lease and market comparables utilized and the methodology used in the report.

In discussing the comparable sales used and noted that one comparable was located in Carbondale, more than 200 miles from the subject property. He also was of the opinion that comparable number one was much smaller and more modern. The other comparable located in Bradley, number 3, was superior in location and is more modern. This comparable also had national high quality tenants. The appraiser was of the opinion that the most similar comparable sale was located in Glenwood, comparable number 4. He also was of the opinion there was not much

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discussion regarding where the income information came from to make adjustments.

The witness was also of the opinion that the subject's obsolescence issues were not really discussed in the analysis. He also pointed out that the board of review's appraiser did not believe the 2000 contract to sale the subject was not relevant due to being approximately two years prior to the date of value, nevertheless, the appraiser used two land sales and two comparable sales that sold in 2000.

With respect to the income approach the witness was of the opinion the subject's obsolescence issues were not discussed. He noted the subject has had a declining income and a very high vacancy rate. He was of the opinion the expenses were not high enough and the vacancy was not high enough to reflect the risk and problems with the property. He also was of the opinion the rent levels at the subject were high based on the configuration, size of the space, the competition and the population of the market area. He was of the opinion there is high risk involved in the cinema at the subject site; he testified the 44,200 square foot office building at the site is vacant, obsolete and will be difficult to lease to a single user; and he agreed that the grocery store anchor is a strong positive but the other large box space is going to be difficult to lease. He noted that the estimated rent levels in the appraisal are high, approximately \$300,000 higher than the subject's actual rent in 2002.

He was also of the opinion that the capitalization rate should be at the higher end of the range as reported by Korpacz Real Estate Investor Survey. He was of the opinion that the capitalization rate was too low.

The witness also was of the opinion that the board of review's appraiser glossed over and did not consider the environmental contamination at the subject.

Under cross-examination the witness explained that his opinion that the subject suffered from a high vacancy rate was from a review of operating information provided by the ownership. This high vacancy rate was trending higher from 2000 through 2003. He noted that the vacancy went as high as 43% in 2003, which he considered very high. He agreed that the average vacancy over a period of several years was 30% but the trend is going the in wrong direction. He was of the opinion that a negative trend for the subject was the retail development in the area around Route 50 and Interstate 57.

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He was of the opinion that the subject, because of its size, is too big to be considered a neighborhood shopping center and is more of a community shopping center. He was of the opinion the property is quite large for the area with approximately 100,000 people. The witness, based on his experience and familiarity with the property's manager, was of the opinion the management of the property is competent.

The first appraiser was called as a surrebuttal witness. He testified his report is a summary report, which summarizes the data used in the analysis. With respect to the data used he explained that he has rent rolls and actual leases for the rental comparables. For some of the rent comparables he uses secondary sources such as appraisers. The witness explained that land sales are confirmed with "green sheets" and local assessors. Comparable sales are confirmed through the assessor's office, buyers and sellers. He also selected sales that were reflective of the Kankakee market due to its uniqueness. He also would not characterize the subject property as obsolete.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

The appellant contends the market value of the subject property as reflected by the assessment is excessive. 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 (3<sup>rd</sup> Dist. 2002). The Board finds the evidence in the record supports the appellant's claim of overvaluation.

The Board finds that the best evidence of market value contained in this record is the narrative appraisal submitted on behalf of the appellant. The appellant's appraiser estimated the subject property had a market value of \$7,900,000 as of January 1, 2002 and was of the opinion that the value of the subject property as of January 1, 2003, had not changed significantly. The estimated market value includes consideration of a \$1,500,000 cost of remediation for environmental contamination.

The board of review submitted an appraisal estimating the subject property had a market value of \$12,200,000 as of January 1, 2003. The appraiser did not provide

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any testimony with respect to whether his opinion of value was reflective of the properties market value as of January 1, 2002.

During the course of the hearing, the board of review did not present any witnesses or provide any testimony with respect to the subject's estimated market value as of January 1, 2002. The Property Tax Appeal Board finds the board of review submitted an appraisal estimating the subject had a market value of \$16,500,000 as of January 1, 2002. The appraiser was not called as a witness to provide supporting testimony and be cross-examined during the hearing. The board of review requested the take Property Tax Appeal Board take notice of the appraiser's testimony in a hearing before the Property Tax Appeal Board concerning the 2000 and 2001 assessment of the subject property. In accordance with the board of review's request, the Property Tax Appeal Board takes notice that on December 22, 2003, the Board issued a decision concerning the correct assessment of the subject property for the 2001 and 2002 assessment years under docket numbers 00-01709-C-3 and 01-00367-C-3. After considering the testimony and the appraisal presented by the appraiser the Property Tax Appeal Board found at page 18 of the decision that the value conclusion reached by the board of review's appraiser was unrealistic. In further commenting on the appraisal, the Board found that the three approaches to value contained in the appraisal to be less reasonable and less supported than those in the appellant's appraisal. Accordingly, in the instant matter the Property Tax Appeal Board gives no weight to the appraisal for the same reasons outlined in the aforementioned decision.

Additionally, the board of review requested that Property Tax Appeal Board take notice of a review appraisal. The Property Tax Appeal Board gives this evidence no weight. The review appraisal submitted by the board or review was a review of an appraisal of the subject property prepared on behalf of the taxpayer with an effective date as of January 1, 2001. The review appraisal tendered by the board of review was not of the narrative appraisal submitted by the taxpayer in connection with the instant appeals for the 2002 and 2003 assessment years. The Board finds the review appraisal has no probative value and gives it no weight.

The Property Tax Appeal Board evaluated the two appraisals and also considered the testimony provided by the experts and finds the appellant's appraisal is superior and the supporting testimony more credible than that presented by the board of review's witness.

Before analyzing the remaining two appraisals that Board makes some initial findings about the subject property. The Board finds that based on the testimony,



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the subject's configuration has a negative impact on its value. These three witnesses explained that the subject's layout does not provide for significant exposure or frontage on the main arterial street that is adjacent to the property. These witnesses explained that retail space is benefited by storefront exposure on arterial streets. Furthermore, testimony disclosed that buildings to the rear of the subject property are blocked from view by other buildings on the site, which has a negative impact on the ability to lease this space. The Board also finds the subject property is experiencing high vacancy due in part to the development of retail space, including a regional mall, at or near the interchange of Route 50 and Interstate 57. Testimony indicates that larger national retailers are more inclined to locate in this area of development rather than in the subject's area. Testimony discussed in detail the active marketing attempts to find tenants to lease available space at the subject shopping center. He explained that these market efforts have resulted in a occupancy level that have remained relatively unchanged. The Board further finds that testimony indicated that retail space at the subject property was razed after the valuation dates at issue, which further indicates that the subject property is experiencing economic or functional problems with difficulty in finding and maintaining tenants to occupy retail space.

The Board will now analyze the appraisals and testimony of the appraisers presented at the hearing. Under the cost approach both appraisers estimated the value of the land. Each appraiser recognized the subject property had approximately 3.0 acres of excess land. Both appraisers used four comparable sales to estimate the value of the land, with two comparables being common to both reports. Additionally, both appraisers were in near agreement on the value of the land with the appellant's witness estimating the land as having a unit value of \$1.50 per square foot and the board of review's witness estimating the land as having a unit value of \$1.75 per square foot. The appellant's appraiser estimated the excess land had a value of \$208,000 while the board of review's appraiser estimated the value of the excess land to be \$200,000. The appellants' appraiser's total estimated land value was \$3,200,000 while the board of review's witness estimated the subject had a land value of \$3,500,000. The difference in estimated land value is approximately 9%.

The Board gives little weight to testimony provided by the board of review's witness with respect to the feasibility of dividing the subject parcel and using the excess land for multi-family development. This testimony is at odds with the contents of his appraisal. First, the appraisal states that the highest and best use of the parcel is for commercial use such as a retail development. Second, the appraisal notes the subject's zoning is C-2, Commercial Service District, which

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permits a variety of retail uses. The zoning does not permit multi-family use and the appraisal does not speak of multi-family use nor does the board of review's appraisal address the feasibility of obtaining a change in zoning. Thus the Board finds gives no weight to this aspect of the board of review's appraiser's testimony.

Of the two appraisers only the appellant's witness estimated the value of the improvements under the cost approach. He utilized a recognized cost service to estimate the replacement cost new of the improvements. The witness' report also contained an analysis of the subject's depreciation and abstracted depreciation from the market using the sales contained in the sales comparison approach to value of his report. The appellant's appraisal report also contained a better analysis of the subject's weighted age and effective age. The appraiser estimated the depreciated value of the improvements to be \$5,833,720 to which he added the land value of \$3,200,000 to arrive at an indicated value under the cost approach of \$9,030,000, rounded, prior to a deduction for the costs of environmental remediation.

The Property Tax Appeal Board finds that the appellant's appraisal is superior to the board of review's report with the inclusion of the cost approach to value that considers the value of the improvements. The Board recognizes that typically the cost approach is given the least weight; nevertheless, this method provides a check as to the validity of the income capitalization approach and the sales comparison approach to value contained within an appraisal.

With respect to the income capitalization approaches developed by the two appraisers the Board finds that the appellant's is superior to that prepared by the board of review's witness. The Board finds that the appellant's appraiser seemed to better develop his market rents considering the subject's unique characteristics and the wide range of tenant space within the property. The Board further finds that the appellant's appraiser's estimate of the vacancy and collection loss of 30% better reflected the subject's trend with higher vacancies than did the board of review's appraisal. The Board also finds that the appellant's appraiser's use of an effective tax rate rather than expensing a stabilized real estate tax is more in accordance with the valuation of properties for real estate assessment and taxation purposes. The Board finds that the appellant's appraiser's estimated net income of \$1,340,000 is the best in the record. The Board also finds that the appellant's appraiser's development of the capitalization rate better considered the risk factors associated with the subject such as location, configuration and the competition with a superior shopping area at the location of Route 50 and Interstate 57. In developing the capitalization rate the appellant's appraiser abstracted the rate from the market and also considered the subject's sales contract entered in December 2000. He

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estimated the subject's overall capitalization rate to be 14.0%, inclusive of a 2.1% premium for environmental issues associated with the subject property. After adding 3.39% for the effective tax rate he calculated a capitalization rate of 17.4%. After capitalizing the net income and added a component for the excess land the appellant's appraiser estimated the property had an indicated value under the income approach of \$7,910,000. This estimate is inclusive of a reduction for environmental contamination remediation.

The Board also finds that the appellant's appraiser's sales comparison approach is better supported than that provided by the board of review's witness. First, the Board finds that the board of review's report included four comparable sales, three of which were also used by the appellant's appraiser. The board of review's comparable not used by the appellant's appraiser was located in Carbondale, Illinois, more than 200 miles from the subject. The Board finds the location of this comparable detracts from the weight that can be given this sale.

In addition to utilizing the three best sales contained in the report, the appellant's appraiser used four additional sales located in Lansing, Homewood and Bourbonnais. He further explained that a high proportion of the subject property (41%) consists of large anchor space of over 25,000 square feet. According to the witness, this high proportion has a significant impact on the unit price applicable to the subject property since anchor space typically leases and sells for a lower unit price. Based on this factor the appraiser included two categories of comparable sales with the first four sales consisting of multi-tenant shopping centers similar to the subject's smaller in-line spaces and sales 5 through 7 consisting of large single tenant buildings most similar to the anchor space.

The first four comparables were improved with multi-tenant shopping centers that ranged in size from 63,304 to 221,351 square feet and ranged in age from 4 to 25 years old. The comparables were located in Glenwood, Bourbonnais, Bradley and Homewood. The sales occurred from June 1997 to December 2000 for prices ranging from \$3,150,000 to \$11,250,000 or from \$23.64 to \$80.45 per square foot of building area. The single tenant stores ranged in size from 49,020 to 111,429 and in age from 8 to 30 years old. The comparables were located in Bourbonnais, Homewood and Lansing. The sales occurred from July 1997 to November 2000 for prices ranging from \$1,410,000 to \$2,250,000 or from \$15.26 to \$28.41 per square foot of building area. The appraiser also recognized the subject's purchase agreement indicated a price of \$10,050,000 or \$26.46 per square foot of building area, which is a good indication of value as of December 2000, prior to consideration of the environmental issues. The appraiser noted, however, that

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occupancy at the subject decreased from the November 2000 from 75.4% to 57%. Based on these factors the appraiser reasoned that a price lower than \$26.46 per square foot was indicated before consideration of the environmental contamination.

The appellant's appraiser's multi-tenant sales had actual or pro forma net incomes ranging from \$2.50 to \$8.45 per square foot and the sales prices of \$23.64 to \$80.45 per square foot correlated well with their rents. The appraiser calculated the subject's net income per square foot to be \$2.69. Using this data the appraiser estimated the subject property had a unit value of \$24.00 per square foot resulting in a total estimated value of \$9,114,792. To this amount the appraiser added \$208,086 for the excess land resulting in a total indicated value of \$9,322,878. Deducting \$1,500,000 for the environmental remediation costs resulted in an estimated value of \$7,820,000 under the sales comparison approach to value.

Of importance the Board finds that the appellant's appraiser considered the subject's sales contract entered in November 2000 and adjusted in December 2000 resulting in a putative purchase price of \$10,050,000. The board of review's witness indicated that the November 2000 contract price of the subject was not considered because it was approximately two years prior to the date of value and not considered representative of current market value. However, the witness used two improved sales that occurred in June and December 2000 but did not make adjustments for market conditions. This contradiction undermines the appraiser's credibility. The Board further finds that board of review's final opinion of value of \$12,200,000 is not particularly credible or plausible in light of December 2000 contract price of \$10,050,000.

In conclusion the Property Tax Appeal Board finds that the appellant's appraiser's sales comparison approach to value is superior to that prepared by the board of review's witness.

The Board must next consider whether the appellant's appraiser's adjustment to the subject's estimated market value for the purported costs of \$1,500,000 for environmental remediation is justified. After reviewing the testimony the Board finds that the evidence in the record does not warrant an adjustment for environment remediation. The record seems to indicate that environmental contamination at the subject was an issue due to the fact that the subject's November 2000 sale was not completed purportedly due to the remediation work required to eliminate the site from contamination. However, there was no testimony from any witness familiar with contract negotiations to give probative

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information on what truly transpired to cause the putative purchase to terminate. Second, the testimony was that the environmental contamination has not impacted the ability to lease the property and has not had an impact on the dollar per square foot rent the property is able to achieve. The evidence indicates the inability to lease the subject and the relatively high vacancy rate appears to be due to the subject's location, configuration and competition with a regional mall and retail development in close proximity to Route 50 and Interstate 57, in Kankakee County. The appraiser also testified that he was not aware of the environmental contamination as having any impact on the use of the property in 2002 and 2003. The Board finds there was no testimony that the environmental issues had any impact on the use of the subject property. The Board further finds that the testimony from both persons indicates there is no stigma associated with the subject's environmental issues.

The Board finds that the appellant's appraisal did contain a letter in the addendum with respect to the cost to remediate the subject's environmental contamination. However, the statements in the letter concerning the costs to remediate were not particularly precise and were speculative in nature. As a result the Property Tax Appeal Board gives this aspect of the appellant's argument less weight. In conclusion the Board finds that the evidence in the record does not warrant the appellant's appraiser's \$1,500,000 adjustment for environment remediation.

In conclusion, relying on the appraisal submitted by the appellant, the Property Tax Appeal Board finds the subject property had a market \$9,400,000 as of January 1, 2002 and January 1, 2003. Since market value has been determined the 2002 and 2003 three-year median level of assessments for Kankakee County of 33.78% and 33.64% shall apply.

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<b>APPELLANT:</b>	<b>Dan Green</b>
<b>DOCKET NUMBER:</b>	<b>03-01001.001-C-1</b>
<b>DATE DECIDED:</b>	<b>October 20, 2006</b>
<b>COUNTY:</b>	<b>Will</b>
<b>RESULT:</b>	<b>No Change</b>

The subject property consists of an 816 square foot structure situated on a concrete slab foundation that was built in 1955. The structure was originally a single-family residence, but was converted to a commercial use. The parcel is also improved with a 140 square foot breezeway and an attached 280 square foot garage that were built in approximately 1980. In addition, the parcel is improved with a detached garage/storage building with two overhead doors containing 1,260 square feet that was built in 1993. The subject lot contains 7,623 square feet of land area located in Lockport Township, Will County, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this claim, the appellant submitted a letter explaining the appeal and a three page document labeled "Illinois Department of Transportation Basis for Computing Total Approved Compensation and Offer to Purchase".

The appellant testified and his letter explains that the subject assessment reflects an estimated market value of \$89,700. He testified the Illinois Department of Transportation (IDOT) acquired .014 of an acre of land or approximately 610 square feet of land from the subject parcel in order to widen Us Route 30. The appellant testified he was compensated by IDOT for \$58,500; \$3,900 for the land taken and \$54,600 for damages to the remaining property as the result of acquisition. The appellant explained his business lost nine parking spaces and a sign due to the taking and the subject now suffers from noise and pollution. The appellant also argued that if the subject's improvements were destroyed, a new structure would have to be built one foot back from the old foundation due to the local set back requirements. The appellant contends these factors have a negative impact on subject's fair market value.

The document labeled Illinois Department of Transportation Basis for Computing Total Approved Compensation and Offer to Purchase was dated February 6, 2003. The appellant opined this document constituted an appraisal of the subject

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property. The preparer of the report was not present at the hearing to provide testimony concerning the documentation. The document lists (1) the subject's commercial site as containing .189 acres more or less (8,233 square feet of land area); (2) Land to be acquired in fee simple for new right of way as .014 acres (610 square feet of land area); (3) Improvements and/or fixtures to be acquired as asphalt paving; (4) Compensation for land acquired in fee simple: Fair market value of the 0.014 acres to be acquired including all improvements as part of the whole property, based on an analysis of market data in the vicinity of the acquisition was \$3,900 (or \$6.39 per square foot of land area). Damage to the remaining property as a result of the acquisition (if any) was \$54,600. Total compensation for the permanent right of way acquired in fee simple or by dedication was \$58,500. Based on this evidence, the appellant argued the subject's land assessment should be reduced to \$6,000 and its improvement should be reduced to \$10,900 for a total assessment of \$16,900, reflecting a fair market value of \$50,700.

Under questioning, the appellant opined the actual taking occurred in approximately June 2003 or sometime in 2004.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$29,900 was disclosed. The subject's assessment reflects an estimated market value of \$90,387 using Will County's 2003 three-year median level of assessments of 33.08%. In response to the appeal, the board of review argued the appellant's appeal should be denied because the document submitted is not an appraisal report and does not describe in any fashion the property that is subject to the 2003 appeal. Furthermore, the board's representative argued the preparer of this document was not present to be cross-examined regarding how compensation for the taking and damages were calculated.

In support of the subject's assessment, the board of review submitted the subject property record card. The subject's property record card calculates an estimated market value for the subject's improvements to be \$55,540 using the depreciated cost approach to value. The subject's improvement assessment of \$15,900 reflects an estimated market value of \$47,700. The subject's land assessment of \$14,000 reflects an estimated market value of \$42,000 or \$5.51 per square foot of land area. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

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In rebuttal, the appellant submitted an appraisal review certificate dated December 2002 to further support the subject was overvalued. The Board gave no consideration to this document. Foremost, the preparer of this document was not present at the hearing to provide direct testimony or be cross-examined regarding the veracity of this evidence. Moreover, the Board finds this document constitutes new evidence that was not timely filed. Section 1910.66(c) of the Official Rules of the Property Tax Appeal Board provides in part:

Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. . . (86 Ill.Adm.Code 1910.66(c)).

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellant argued the subject property is overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 183, 728 N.E.2d 1256 (2nd Dist. 2000). After an analysis of the evidence, the Board finds the evidence demonstrates the subject property is not overvalued.

The Board gave little weight to the Illinois Department of Transportation Basis for Computing Total Approved Compensation and Offer to Purchase. First, the Board finds the preparer of this document was not present at the hearing to be cross-examined regarding how compensation for the taking and damages were calculated. Furthermore, the Board finds IDOT's compensation package fails to establish the subject's fair market value or show the subject's assessed valuation is incorrect after the taking. The Board further finds the only reliable valuation evidence contained in IDOT's compensation package and this record was the estimated value attributed to the .014 acres or 610 square feet of land to be taken for \$3,900 or \$6.39 per square foot of land area. The subject's land assessment of \$14,000 reflects an estimated market value of \$42,000 or \$5.51 per square foot of land area, which is less than the compensated value amount attributed to the land taken. Therefore, the Board finds the subject's land assessment is supported.

With regard to the subject's improvements, the Board finds the only evidence of market value was submitted by the board of review. The Property Tax Appeal Board finds the board of review submitted the subject's property record card



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estimating a market value for the subject's improvements to be \$55,540 using the depreciated cost approach to value. The subject's improvement assessment of \$15,900 reflects an estimated market value of \$47,700, which is less than the estimated market value depicted on its property record card. Thus, the Board finds the subject's improvement assessment is supported and no reduction is warranted.

In conclusion, the Board finds the evidence in this record does not demonstrate the subject property was overvalued by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is warranted.

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<b>APPELLANT:</b>	<b><u>Highland Manufacturing and Sales Co.</u></b>
<b>DOCKET NUMBER:</b>	<b><u>04-00563.001-C-2</u></b>
<b>DATE DECIDED:</b>	<b><u>July 14, 2006</u></b>
<b>COUNTY:</b>	<b><u>Madison</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

The subject property is improved with an 81,126 square foot manufacturing and warehouse building of concrete block construction. The original portion of the building was constructed in 1965 with additions in 1974 and 1983. The building has a clear ceiling height ranging from 12 to 14 feet and the building has a wet sprinkler system. The building has 78,166 square feet of manufacturing space; 1,960 square feet of office and break area; and a 1,000 square foot loading dock with an in-ground truck well. The property is composed of two parcels containing a total land area of 7.09 acres. The property is located in Highland, Helvetia Township, Madison County.

The appellant contends the market value of the subject property is not accurately reflected in the property's assessed valuation. In support of the overvaluation argument the appellant submitted a narrative appraisal estimating the property had a market value of \$375,000 as of January 1, 2004. Although only one parcel was appealed, the appraisal was for property identified as being composed of two parcels with the parcel identification numbers (PIN) of 01-2-24-06-00-000-014 and 01-2-24-06-00-000-015. The appellant called as its witness, the real estate appraiser.

The witness made a personal inspection of the subject property at which time he photographed and measured the property. He noted the building is of concrete block construction, which he contends is an outmoded style of construction for most industrial properties. He also indicated the subject suffered from low clear-ceiling heights and further noted on inspection there was visible damage due to leakage from water. The appraiser further explained that the loading dock is composed of a low-grade truck well with the top about the same grade as the street level. The witness testified that the truck well goes down approximately 4 feet. Because of the low-grade the truck-loading bay fills with approximately one foot of water during heavy rain. He was of the opinion this water would be detrimental to truck bearings. The witness identified a photograph contained in the appraisal of the loading dock area.

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During his inspection the appraiser also observed areas of the building that need tuck-pointing and damage along the roofline. The appraiser also asserted that the roof has damage, which is apparent by the leakage observed in the building. The appellant's appraisal at page 15 had a reference that bids provided by the owner indicate that a roof replacement would cost \$315,727.

In estimating the market value of the subject property the appraiser used the three traditional approaches to value. The first approach developed by the appraiser was the cost approach to value. The initial step under the cost approach was to estimate the value of the land using four land sales. The land comparables ranged in size from 2.02 to 46.56 acres and were located in either Highland or Marine, Illinois. These comparables sold from March 2000 to April 2003 for prices ranging from \$40,500 to \$632,439 or from \$5,908 to \$20,050 per acre. After making adjustments for size, time, location and access the appraiser determined the comparables had adjusted sales prices ranging from \$7,623 to \$21,984 per acre. Based on these sales the appraiser estimate the subject parcel had a land value of \$20,000 per acre resulting in a total value of \$140,000.

The next step under the cost approach was to estimate the replacement cost new of the improvements using the Marshall Valuation Service (MVS). Under the cost approach the appraiser stated within the appraisal that the subject is a concrete tilt-up type of building that he classified as a Class C Manufacturing Facility. The appraiser used a cost estimate of \$20.34 per square foot to determine the replacement cost new of the building. After making adjustments to account for the sprinkler, story height multiplier, floor area perimeter, current cost multiplier and local cost multiplier, the appraiser calculated the subject property had a final cost of \$21.91 per square foot. Multiplying the subject's size by \$21.91 resulted in a replacement cost new of the building of \$1,777,441. To this amount the appraiser added \$50,600 for paving and gravel and 10% for entrepreneurial profit resulting in a total replacement cost new of \$2,010,000.

The appraiser next calculated depreciation to be deducted from the cost new. Physical Depreciation was calculated using an effective age of 30 years and an economic life of 40 years. The appraiser indicated that MVS indicated that a building with an effective age of 30 years and an economic life of 40 years is 57% depreciated. The report indicated the subject suffered from \$315,000 curable physical depreciation and \$965,000 incurable physical depreciation totaling \$1,280,000. However, multiplying 57% by the replacement cost new results in physical depreciation of \$1,145,700. The appraiser calculated functional obsolescence associated with low ceiling heights, a truck well prone to flooding

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and tuck pointing to result in a annual rental loss of \$17,500, which when capitalized resulted in functional obsolescence of \$180,000. External obsolescence of \$360,000 was also calculated using rent loss associated with being located in an area of limited industrial development and fair access. Using these figures the appraiser estimated the depreciated value of the improvements was \$190,000. Adding the land value the appraiser estimated the subject had an indicated value by the cost approach of \$330,000.

The next method developed by the appellant's appraiser was the income approach to value. The first step under this approach was to estimate the market rent for the subject property using five rental comparables located in the Illinois cities of Madison, Edwardsville, Mascoutah, East St. Louis and Greenville. Four of the comparables were constructed from 1996 to 2001 with one described as being constructed in 1930 with a renovation and expansion in 1995. The rentals ranged in size from 34,000 to 165,000 square feet with ceiling heights ranging from 20 to 40 feet. These comparables had net rentals ranging from \$2.49 to \$3.66 per square foot of building area. After making adjustments for size, location, age/condition, quality, utility, clear ceiling and office area the appraiser estimated the comparables had adjusted rentals ranging from \$1.10 to \$1.63 per square foot. Based on this data the appraiser estimated the subject property had a market rent of \$1.10 per square foot resulting in a potential gross income of \$89,000. The appraiser estimated the subject would suffer from 5% vacancy and collection loss resulting in an effective gross income of \$85,000. The appraiser then deducted \$20,100 for expenses, which included \$15,000 for the reserves for replacement, which are set aside to repair long term assets, to arrive at a net operating income of \$64,900. The appraiser used the mortgage equity method to derive a capitalization rate to capitalize the net income into an estimate of market value. The appraiser determined the subject's capitalization rate was 9.7% resulting in a value under the income approach of \$670,000. The appraiser, however, deducted \$315,000 for the cost of the curable depreciation as found in the cost approach to arrive at an indicated value of \$355,000.

The appraiser next developed the sales comparison approach to value using five comparable sales located in the Illinois cities of Pontoon Beach, Belleville, Highland, and Venice. These five comparables were improved properties that had from 18,900 to 198,658 square feet of building area. These comparables had clear ceiling heights ranging from 10 to 26 feet. Sale number one was vacant five years prior to its sale; sale number two was composed of six warehouse buildings and two office buildings; sale three contained 18,000 square feet and was constructed in 1956; sale four was built in 1940 with additions and renovations in 1993; and

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sale five contained 198,658 square feet and was built in 1975. The appraiser described sale number four as containing 99,380 square feet of useable area due to an excessively low ceiling height and further was of the opinion the property was inferior to the subject. The sales occurred from December 2000 to April 2003 for prices ranging from \$320,000 to \$3,905,910 or from \$7.45 to \$20.18 per square foot of building area. The appraiser explained that higher clear ceiling height is important because it allows one to have larger equipment and higher stacking capabilities. Based on these sales the appraiser estimated the subject had an indicated value of \$8.50 per square foot of building area or \$690,000. The appraiser then deducted \$315,000 for the physical curable depreciation associated with the roof to arrive at an indicated value of \$375,000.

The witness explained the subject property is used for the production of Easter grass and a process that converts rosin into liquid plastic that is spun into plastic sheets. These sheets are in turn spun on huge rolls that are sometimes as large as four feet thick. The rolls are stacked in racks up to the ceiling. The Easter grass was stacked in huge bundles that go to the ceiling. In some areas this could not be done because of leaking. He also described some concrete cracking and chipping near the loading dock and explained that the office area was older and sparse.

In reconciling the three approaches to value the appraiser gave most emphasis to the sales comparison approach and arrived at an opinion of value of \$375,000 or \$4.62 per square foot of building area.

The appellant's appraiser stated the condition of the roof was a definite factor in determining market value.

Under cross-examination the appraiser stated that on page 31 of his appraisal that references \$15,000 set aside for reserves for replacement for major items such as a roof is set aside annually. The appraiser was of the opinion that a new roof would have an economic life of 15 to 20 years. The appraiser also agreed that it is not uncommon to set aside reserves in the income approach. The appellant's appraiser was of the opinion the subject's roof was a physically curable item.

Page 24 of the appraisal contained the statement that "[t]here are no significant items of physical depreciation present." The appellant's appraiser asserted that this was an error. The first sentence of the final paragraph on page 24 contained the statement "[t]he subject property has no significant physical curable depreciation but there is a notable amount of physical incurable depreciation." The appellant's appraiser asserted that this also was an error.

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Under cross-examination the appraiser explain that he did not question anyone about how often the dock area was unusable due to water in the bay and he did not know how often the dock was not usable. The appraiser acknowledged the building was constructed in stages but did not know what percentage was constructed in 1965, 1974 or 1983. The appraiser further acknowledged that on page 15 of his report its states "[o]verall the subject is considered to be in fair condition." The appraiser determined that the subject had an effective age of 30 years as compared to its actual age of 39 years, which means there has been some care of the building. His report indicated that the maintenance of the building was considered fair.

The appraiser indicated that the percentage adjustments to the rental comparables were based on a combination of paired analysis and general experience with appraising industrial properties. He acknowledged that the age adjustment was subjective.

The appraiser indicated his comparable sale number one was constructed in 1975 although his report does not disclose the age. His comparable sale number two, composed of six buildings, was constructed from 1965 to 1981, although his report does not indicate they were constructed over a period of time. Sale number three was 25% the size of the subject property containing 18,900 square feet, and is approximately 10 years older than the subject being constructed in 1956. However this comparable has lower ceiling heights than the subject and is of concrete block construction. The appraiser was of the opinion the location of his comparable sale number four, in Venice, was inferior to the subject. The witness also acknowledge this building had some bad roof areas, with an exceptionally bad area of approximately 10,000 square feet, that collapsed in a thunderstorm sometime after the purchase in December 2001 for a price of \$7.45 per square foot of building area. The appraiser also acknowledged that his comparable sale number five, containing 198,658 square feet, was twice the size as the subject. The appraiser's final opinion of value of \$375,000 converts to a unit value of \$4.62 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$235,780 was disclosed. The subject's assessment reflects a market value of \$708,048 when applying the 2004 three year median level of assessments for Madison County of 33.30%.

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In support of its assessment of the subject property the board of review submitted a narrative appraisal estimating the subject property had a market value of \$730,000 as of January 1, 2004. Although only one parcel was appealed, the appraisal was for property identified as being composed of two parcels with PINs of 01-2-24-06-00-000-014 and 01-2-24-06-00-000-015. The board of review called as its first witness. The appellant stipulated to the witness' qualifications to testify as an expert. The witness is a State Certified General Real Estate Appraiser. Additionally, he is a self-employed independent real estate appraiser and also is a valuation specialist with the Office of the Chief County Assessment Official of Madison County.

The witness testified that he had inspected the subject property in connection with preparing the appraisal report. His description of the property was similar to that provided by the appellant's appraiser with the exception that he noted the property was also improved with four steel grain bins, two of which were constructed in 1970 and two were built in 1997.

The witness was of the opinion the highest and best use of the property was its present use as a light industrial building. The witness testified that he inspected the subject property and was made aware of many of the problems identified by the appellant's appraiser and further stated he agreed with a lot of what the appellant's appraiser said. In estimating the market value of the subject property the witness also developed the three traditional approaches to value. The witness explained that his adjustments between the comparables and the subject property were based on qualitative comparison as opposed to a quantitative adjustment.

The first approach to value developed by the appraiser was the cost approach to value with the initial step being to estimate the value of the land as if vacant. In estimating the value of the land the appraiser used six comparable land sales. The comparables range in size from 1.44 to 29.5 acres and were located from approximately 1 mile to 5 miles from the subject property. The sales occurred from August 1999 to August 2005 for prices ranging from \$25,000 to \$532,000 or from \$15,727 to \$53,106 per acre. He considered sales 2, 5 and 6 to be most comparable to the subject, particularly in location. After reviewing these land sales the appraiser estimated the subject's land had a market value of \$22,000 per acre resulting in a total value of \$151,800.

The next step in the cost approach was to estimate the reproduction cost new of the improvements using the Marshall Valuation Cost Service. The appraiser classified the subject as a Class C average light industrial building and cited section 14, page

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14 of the cost service as the source of his cost data. He indicated this is basically concrete block construction. The appraiser indicated the subject had a basic cost new of \$34.11 per square foot. He made an adjustment for air conditioning, sprinkler system, floor area multiplier, current cost multiplier, local cost multiplier and comparative cost multiplier to arrive at an adjusted cost of \$37.02 per square foot. Multiplying this cost estimate by the building size resulted in a reproduction cost new for the building of \$3,003,285. To this amount the appraiser added for the truck and train wells, 5% for indirect costs and 12% for entrepreneurial profit to arrive at a total cost new of \$3,585,448.

Using the age-life method estimating the subject had an effective age of 35 to 40 years and an economic life of 45 years the appraiser estimated the subject property suffered from accrued depreciation of 83% or \$2,975,922. He testified that the effective age from 35 to 40 years included the damaged roof, water sitting on the property, and the cracks in the floor. Deducting depreciation from the total reproduction cost new resulted in a depreciated improvement value of \$609,526. To this amount the appraiser added the land value of \$151,800 and the contributory value of the steel bins of \$22,610 to arrive at an estimated value under the cost approach of \$784,000.

The next approach to value developed by the appraiser was the sales comparison approach. The appraiser utilized five sales, four of which were located in Highland and one was located in Venice. The appellant's appraiser also utilized the witness' comparable sales 1, 2 and 5. The comparables were composed of industrial properties with improvements that ranged in size from 7,320 to 195,298 square feet of building area. Four of the buildings were constructed from 1956 to 1983, with the property located in Venice being constructed in 1940 with several additions and renovations in 1993. These properties had ceiling heights ranging from 10 to 24 feet and office areas ranging from 7% to 7.4% of total building area. The comparables sold from July 1999 to October 2003 for prices ranging from \$175,000 to \$3,906,000 or from \$7.45 to \$23.91 per square foot of building area. The appraiser testified that he was fortunate to have sale number 5 located in Venice because he had been in that property numerous times and it suffers from some serious functional obsolescence and ongoing roof problems. He was of the opinion this sale had similar types of depreciation as the subject, including the roof damage, and gave it the most weight. He noted this property set the low end of the price range. Comparable sale number four set the high end of the range at \$23.91 per square foot of building area but sold in 1999 and was not given much weight. Based on these sales the appraiser estimated the subject property had a unit value



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of \$9.00 per square foot of building area resulting in a total estimated value under the sales comparison approach of \$730,000.

The final approach to value developed was the income capitalization approach. To estimate the market rent attributable to the subject property the appraiser used three rental comparables located in Highland, Milstadt and Granite City, Illinois. The rental comparables ranged in size from 22,500 to 168,456 square feet of building area. The report indicated that rental comparables 1 and 3 were approximately 12 and 18 years old while comparable number 2 was remodeled to the requirements of the tenant. These properties had ceiling heights ranging from 18 to 24 feet and office areas of either 2% or 9% of total building area. The comparables had rental rates ranging from \$2.35 to \$4.04 per square foot of building area. The appraiser was of the opinion these comparables were superior to the subject in just about every aspect. Using this data the appraiser estimated the subject had a market rent of \$1.50 per square foot resulting in a potential gross income of \$121,689. The appraiser deducted 10% of potential gross income to account for vacancy and collection loss to arrive at an effective gross income of \$109,520. Expenses were estimated to be 10% of effective gross income, which included an allowance for replacement reserves, resulting in a net operating income of \$98,568. The appraiser used the band of investment technique to estimate the capitalization rate to be applied to the subject's net income. Using the mortgage equity technique the appraiser estimated an overall rate of 11% to which he added 2% for the risk factor associated with the dubious nature of the property in its present condition to arrive at a capitalization rate of 13%, excluding a component for the effective tax rate. Capitalizing the net income by 13% resulted in an estimated market value under the income approach of \$758,200.

In reconciling the three approaches to value the appraiser placed the least amount of interest on the cost approach and the most confidence on the sales comparison approach to arrive at a market value of \$730,000 as of January 1, 2004.

The appraiser explained that the proper way to handle the roof situation was to expect an owner to properly manage the property and set aside money for repairs. This was accounted for in the income approach using reserves for replacement. He did testify that on inspection of the subject property he observed water in the loading dock wells.

The board of review chairman was questioned with respect to PIN 01-2-24-06-00-000-015, which was included in both appraisals but not appealed. He explained this parcel had a land assessment of \$14,260 and an improvement assessment of

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\$7,450 for the two storage bins, resulting in a total assessment of \$21,710 reflecting a market value of approximately \$65,000. He was of the opinion that the appropriate way to value the subject parcel would be to deduct the estimate of market value from the parcel not under appeal from the conclusion of value developed by the appraiser. He acknowledged that this would result in a reduction in the assessment of the subject property. The appellant's counsel had no objection with respect to this process in adjusting the market value for the parcel not under appeal.

After hearing the testimony and reviewing the record the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

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 (3<sup>rd</sup> Dist. 2002). Proof of the market value of the subject property may consist of an appraisal of the subject property as of the assessment date at issue. (86 Ill.Adm.Code 1910.65(c)(1)). After reviewing the appraisals submitted by the parties and considering the testimony of the two appraisers, the Board finds a reduction in the subject's assessment is warranted.

Each of the parties submitted a narrative appraisal to support their respective positions. The appellant's appraiser estimated the subject property had a market value of \$375,000 as of January 1, 2004. The board of review submitted an appraisal estimating the subject property had a market value of \$730,000 as of January 1, 2004. Additionally, each appraisal identified the property being appraised as being composed of two parcels with the parcel identification numbers (PINs) of 01-2-24-06-00-000-014 and 01-2-24-06-00-000-015. However, only PIN 01-2-24-06-00-000-014 was properly appealed to the Property Tax Appeal Board from a decision of the Madison County Board of Review. The board of review presented testimony that the 2004 assessment for PIN 01-2-24-06-00-000-015 totaled \$21,710 reflecting a market value of approximately \$65,000. Both the board of review and the appellant agreed that \$65,000 should be deducted from the Board's finding of market value based on these appraisals to arrive at the assessment for PIN 01-2-24-06-00-000-014. The Board further finds that subject's assessment totaling \$235,780 reflects a market value of \$708,048 when applying the 2004 three year median level of assessments for Madison County of 33.30%.

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After reviewing the appraisals and considering the testimony of the two appraisers, the Property Tax Appeal Board finds the best evidence of value in the record is the appraisal prepared on behalf of the Madison County Board of Review estimating the subject property had a market value of \$730,000 as of January 1, 2004.

Both appraisers were in agreement with respect to the description of the subject property. The primary difference in the two appraisals was the manner in which each expert accounted for the condition of the roof. The Property Tax Appeal Board finds that board of review's appraiser's method of accounting for the roof in calculating the depreciation under the cost approach; considering the subject's roof in the reserves for replacement and adjusting the capitalization rate for the higher risk associated with the condition of the building in the income approach; and focusing on a sales comparable that had similar functional obsolescence and a similar poor roof condition as the subject in the sales comparison approach was better supported and more in accordance with appraisal practice and theory.

In reviewing the sales comparison approach, the approach on which both appraisers placed the most weight, the appraisers used three common sales. The Property Tax Appeal Board finds of particular significance that in each appraisers' sales comparison approach to value submitted a common sale of an older industrial building located in Venice. Both appraisers recognized that this comparable also had a roof in poor condition at the time of sale, a portion of which collapsed in a thunderstorm subsequent to the sale. Additionally, the board of review's appraiser testified he had been in that property numerous times and stated it suffers from some serious functional obsolescence and ongoing roof problems. He was of the opinion this sale had similar types of depreciation as the subject, including the roof damage. This property sold in December 2001 for a price of \$850,000 or \$7.45 per square foot of building area. The Board finds this sale, common to both appraisals, support's the board of review's appraiser's conclusion of value for the subject property of \$730,000 or \$9.00 per square foot of building area.

The Board further finds the validity of the appellant's appraiser's opinion of value was undermined somewhat based on the discrepancy between his testimony and the contents of his appraisal. Page 24 of the his appraisal contained the statements that "[t]here are no significant items of physical depreciation present" and "[t]he subject property has no significant physical curable depreciation but there is a notable amount of physical incurable depreciation." Nevertheless, the appellant's appraiser made significant deductions in the sales comparison approach and the income approach to account for perceived physical curable depreciation associated with the subject's poor roof. The appellant's appraiser asserted that these

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statements in the appraisal were errors. Additionally, the appraisal asserted that the cost to replace the roof was \$315,727 based on bids provided to the owner. This cost estimate was used as the basis for the deductions for physical curable depreciation. However, no copies of the bids were submitted with the appraisal nor was there any testimony or evidence provided concerning who made the bids or when the bids were made. Nor was there any description of the nature of work included in the bids other than roof replacement. Furthermore, the Board finds there was no showing that the purported cost to replace the roof would be equivalent to the contributory value a new roof would provide. Additionally, on page 22 in the cost approach section of the appraisal, the appraiser described the subject as being of concrete tilt-up construction whereas the building was actually concrete block construction. Second, there seemed to be an incorrect calculation with respect to physical depreciation within the appellant's appraisal. The appraisal indicated that MVS indicated that a building with an effective age of 30 years and an economic life of 40 years is 57% depreciated. The report indicated that subject suffered from \$315,000 curable physical depreciation and \$965,000 incurable physical depreciation resulting in total physical depreciation of \$1,280,000. However, multiplying 57% by the replacement cost new results in total physical depreciation of \$1,145,700, a difference of \$134,000. The Board finds these issues tend to detract from the credibility of the witness and ultimately undermine the validity of his conclusion of value.

In conclusion, the Property Tax Appeal Board finds the subject property had a market value of \$730,000 as of January 1, 2004. The Board further finds that \$65,000 must be deducted to account for the value of the PIN that was not appealed. As a result, the Property Tax Appeal Board finds the market value of the real estate associated with PIN 01-2-24-06-00-000-014 is \$665,000 as of January 1, 2004. Since market value is established the 2004 three year median level of assessments for Madison County of 33.30% shall apply. (86 Ill.Adm.Code 1910.50(c)(1)).

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<b>APPELLANT:</b>	<b><u>Jamestown Management Corporation</u></b>
<b>DOCKET NUMBER:</b>	<b><u>04-01712.001-C-2 and 04-01712.002-C-2</u></b>
<b>DATE DECIDED:</b>	<b><u>August 8, 2006</u></b>
<b>COUNTY:</b>	<b><u>Randolph</u></b>
<b>RESULT:</b>	<b><u>No Change</u></b>

The subject property consists of two adjacent parcels, one of which is improved with two, adjoining one-story brick buildings, one built in 1970 and the other in 1976, which comprise a 59-bed nursing home commonly known as Senior Manor. The facility is located in Sparta Township, Sparta, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted information documenting the subject's sale in December 2004 for \$77,600. The appellant also submitted income tax returns evidence documenting the subject's financial decline in recent years due to construction of a new and competing nursing home seven miles from the subject in Coulterville, Illinois, in 1999. The appellant's evidence indicated the subject lost from \$12,777 to \$91,296 each year from 2001 through 2004, that it closed its doors for good on April 30, 2004 and that it was listed for sale that same day. The appellant contends the December 2004 sale of the subject for \$77,600 represents the best evidence of its market value for 2004. Based on this evidence, the appellant requested a reduction in the subject's assessment.

During the hearing, the appellant's representative submitted evidence documenting the subject's financial decline in the form of graphs displaying the loss in occupied beds from 57 in 1997 down to 25 in 2004, just prior to the facility's closing. He testified the nursing home built in Coulterville had newer and more spacious facilities. Hence, many of the occupants of Senior Manor, most of whom were public-aid residents, chose to move from the subject to the Coulterville facility. The representative also testified a nursing home operated for many years by Randolph County also lost residents to the new Coulterville home. The representative further testified that the owners of the subject nursing home realized that county nursing home licensing restrictions and its older physical plant with narrower hallways made it clear the subject was not worth the expense of renovation and updating to compete with the Coulterville facility. The representative also testified the owners of Senior Manor also owned eight other nursing homes, but declined to buy the subject when it was listed for sale in April

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2004 because of its bleak financial prospects. Finally, the representative testified he had driven by the subject several times recently and observed the 2004 purchasers of the subject appeared to be converting it to apartments.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$138,365 was disclosed. The subject has an estimated market value of \$418,527, as reflected by its assessment and Randolph County's 2004 three-year level of assessments of 33.06%.

In support of the subject's assessment, the board of review claimed the subject was an active nursing home as of its January 1, 2004 assessment date and that the board had no knowledge of the subject's financial decline prior to the hearing. However, the board of review did acknowledge the subject's December 2004 sale and adjusted the subject's 2005 assessment to reflect the \$77,600 sale price.

During the hearing, the board of review's representative testified the subject did not sell until nearly twelve months after its January 1, 2004 assessment date, that the subject was operating as a nursing home until it closed and that its assessment should reflect its condition on the assessment date. The representative also testified the board of review considered the subject's December 2004 sale as a distress sale, but submitted no evidence that the sale was not an arms-length transaction.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds a reduction in the subject property's assessment is warranted. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2<sup>nd</sup> 1256 (2<sup>nd</sup> Dist. 2000). The Board finds the appellant has overcome this burden.

The Board finds the subject nursing home sold in December 2004 for \$77,600, after closing its doors in April 2004. The Board finds the board of review adjusted the subject's 2005 assessment to reflect the December 2004 sale, but declined to reduce the 2004 assessment because the subject was still in operation as a nursing home on January 1, 2004. The Board notes the Illinois Supreme Court has indicated that a sale of property during a tax year in question is a "relevant factor" in considering the validity of an assessment. People ex rel. Munson v. Morningside Heights, 45 Ill.2d 338, 342, 259 N.E.2d 27. The Board finds the board of review provided no evidence or testimony that the subject's December

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2004 sale was not an arms-length transaction, or did not reflect the subject's market value. Therefore, the Board finds the best evidence in the record of the subject's market value as of its January 1, 2004 assessment date is its December 2004 sale for \$77,600.

In conclusion, the Board finds the appellant has met its burden of proving overvaluation by a preponderance of the evidence. Since fair market value has been established, the three-year weighted average median level of assessments for Randolph County of 33.06% shall apply.

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<b>APPELLANT:</b>	<u>Kohl's Dept. Stores, Inc.</u>
<b>DOCKET NUMBER:</b>	<u>04-00589.001-C-3 &amp; 04-00589.002-C-3</u>
<b>DATE DECIDED:</b>	<u>May 26, 2006</u>
<b>COUNTY:</b>	<u>Madison</u>
<b>RESULT:</b>	<u>Reduction Warranted</u>

The subject property consists of two parcels containing 8.17 acres improved with a one-story, masonry, single occupant commercial discount store containing 94,974 square feet of building area. The building was constructed in 1979 and is approximately 25 years old. The building is fully sprinklered, includes full heating, ventilation and air conditioning, and has a ceiling height of approximately 12 feet. The building also has two bed level truck docks, 1,500 square feet of finished office space, and a stock room. The site is improved with asphalt paved, striped and lighted parking for 479 cars. The property is located along Route 159 (Troy Road) in Edwardsville, Edwardsville Township, Madison County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted a narrative appraisal prepared by a real estate appraiser who estimated the subject property had a market value of \$4,700,000 as of January 1, 2004. This appraiser was called as a witness on behalf of the appellant.

The appraiser is the owner, real estate appraiser and consultant of his own real estate appraisal and consulting firm. He has been a real estate appraiser for approximately 31 years. The witness has had the Member of the Appraisal Institute (MAI) designation through the Appraisal Institute since 1979 and has been a State of Illinois licensed certified general real estate appraiser since the mid 1980s. The witness has experience in appraising single-tenant retail properties for national retailers. He was accepted as an expert in real estate valuation.

The witness testified the subject building was constructed in 1979 but occupied by Kohl's in 2003, at which time the building was retrofitted and refurbished. The witness also testified the subject property was purchased by GVD Commercial Properties in 2003 for a price of \$3,826,758. Subsequently, in November of 2003 GVD Commercial Properties conveyed a 50% interest in the property to Bear Valley Partners for a price of \$1,975,000.

Appellant's appraiser testified the purpose of the appraisal was to estimate the as-is fee simple market value of the property. The witness was of the opinion the highest and best use of the property as improved is its present use.



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In estimating the market value of the subject property, the appraiser developed the three traditional approaches to value. The first approach to value developed by the appellant's appraiser was the cost approach with the initial step of estimating the value of the subject's land. In estimating the value of the land, the appraiser used four land sales located in Edwardsville and Glen Carbon. The comparables ranged in size from .96 to 10.805 acres. The sales occurred from January 2003 to September 2003 for prices ranging from \$200,000 to \$4,568,926 or from \$4.78 to \$10.45 per square foot of land area. The appraisal indicated that land sale number four was an assemblage of three parcels that included substantial improvements with remaining useful lives. He noted the purchaser incurred the demolition costs, which would effectively increase the unit sale price. After making adjustments to the sales, the witness estimated the subject parcel had a value of \$4.00 per square foot for a total land value of \$1,425,000.

The appraiser next estimated the reproduction costs new of the improvements using the Marshall Valuation Service. The appraiser was of the opinion the subject building was a Discount Store in the Class C category and an average building type with an effective age of 5 years. The appraiser estimated the subject building had a unit cost of \$48.29 per square foot resulting in a cost new of \$4,586,294. The appraiser then added \$500,000 for paving and mezzanine resulting in a total reproduction cost of \$5,086,294. From this amount the appraiser deducted 15% for physical depreciation calculated using an effective age of 5 years and an estimated economic life of 40 years. The appraiser also estimated the subject suffered from 15% functional obsolescence due to the fact that Kohl's took the shell of the former K-Mart store and expanded it for its use. He indicated that the existing truck dock area is less than desirable for modern retail operations for a building of this size which would be three to four docks; the existing floor plan requires the offices to be separated from the customer service department; and store refuse must be manually transported from the dock area through the sales area to the opposite side of the building to the outside compactor. The appraiser also indicated there is a corridor within the front portion of the store that is "dead space." He also was of the opinion the large size of the building diminishes the overall availability of purchasers. Deducting \$1,525,888 in depreciation and adding the land value resulted in an estimated value for the subject property under the cost approach of \$4,985,000.

The next approach to value developed by the appellant's appraiser was the income to value. The first step under this approach was to estimate the market rent using four comparable rentals. The comparable rentals were located in the Illinois cities of Edwardsville, Galesburg, Waterloo and Bradley. The first rental comparable was the subject property, which is presently leased for a twenty-year term at a flat rental rate of \$283,000 per year or \$2.98 per square foot net. This lease was prior to the improvements made by Kohl's. Rental comparable number two is an 85,000 square foot store located in

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Galesburg that has stood vacant for several years. It is being marketed for lease on a sub-lease basis with an asking rental rate of \$4.00 per square foot net. Comparable number three is a 62,720 square foot building located in Waterloo and being leased to Rural King for a ten-year term beginning in November 2001 at \$2.00 per square foot net. Rental number four consists of an 80,535 square foot building that is part of the Northfield Square Shopping Mall in Bradley. This property is currently leased for \$325,000 annually or \$4.04 per square foot. Based on this data the appraiser estimated the subject property had a market rent of \$5.50 per square foot, net, resulting in a potential net income of \$522,357. The appraiser estimated the subject would have a vacancy and collection loss of 10% or \$52,236, resulting in an effective income of \$470,121. Operating expenses for management, miscellaneous charges and reserves for replacement totaling \$33,051 were deducted to arrive at a net annual income of \$437,070.

The final step under the income approach was to estimate the capitalization rate to be used to convert the net income into an estimate of value. The appraiser consulted Korpacz Real Estate Investor Survey and utilized the band of investment method to arrive at an overall capitalization rate of 9.5%. Capitalizing the net income resulted in an estimated value under the income approach of \$4,600,000.

The final approach to value developed by appellant's appraiser was the sales comparison approach. The appraiser utilized five comparable sales located in the Illinois communities of Collinsville, Wood River, Highland, Pekin and Addison. The comparables ranged in size from 56,728 to 115,322 square feet and in age from 13 to 25 years old. The first three comparable sales were located in Madison County. The sales occurred from January 2003 to August 2004 for prices ranging from \$1,325,000 to \$5,800,000 or from \$12.72 to \$50.45 per square foot of building area. Based on these sales the appraiser estimated the subject property had an indicated value of \$50.00 per square foot resulting in an estimated value under the sales comparison approach of \$4,750,000.

In reconciling the three approaches to value, the appraiser gave most credence to the sales comparison approach and estimated the subject property had a market value of \$4,700,000 as of January 1, 2004.

Under cross-examination he indicated that during the last five years very little of his appraisal work has been performed in the Illinois suburban area of St. Louis. He testified that he had appraised the J.C. Penney store at the St. Clair Square Mall in Fairview Heights approximately a year and one-half ago. The witness was also questioned extensively about the land comparables he used under the cost approach to value.

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Under cross-examination the appraiser agreed, as stated on page 28 of his appraisal, Kohl's spent \$3,951,971.53 to retrofit the building.

The witness was questioned about the rental comparables and the sales comparables he used. He testified that he confirmed the data about the comparable sales located in Madison County through someone associated with the buyer or seller and the real estate transfer declaration. The appraiser agreed that the location of his comparable number 1 in Collinsville is in an inferior location compared to the subject property. He agreed that his second comparable located in Wood River was vacant at the time he drove by it but is now being used as a paint ball operation. He indicated the area of this comparable has not yet become a very viable commercial area. He agreed this was not the same type of market area as the subject's. The third comparable sale was identified as being sold to R. P. Lumber and is used as an indoor lumberyard. He also did not consider comparable number four, located in Pekin, to be in a similar location in terms of growth and commercial desirability as in Edwardsville. The witness also agreed that his comparable sale number 5, located in Addison, was vacant at the time of sale and subsequently demolished to build a new Wal-Mart.

Under redirect the witness explained that the purchaser of the subject property realized that Kohl's was already there and a lease was in place when the purchase was made. He indicated you could consider this a leased fee sale. He also stated that Kohl's expended the money to retrofit the building and had no relationship with the parties to the purchase.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject property totaling \$2,344,520 was disclosed. The subject's assessment reflects a market value of approximately \$7,040,700 using the 2004 three year median level of assessments for Madison County of 33.30%.

A member of the board of review was called as a witness and testified that she has the Certified Illinois Assessing Officer – Specialist (CIAO-S) designation. She has been employed as a member of the Madison County Board of Review since June 1997. She also has been an instructor with the Illinois Property Assessment Institute for 18 years. She was accepted as an expert in the fields of assessment and appraisals.

The witness testified that comparable land sale number one in appellant's appraisal has no access to Route 159. She testified that land sale number two in appellant's appraiser's report is located behind a bank and is not fronting Route 159.

The witness stated the Galesburg Township Assessor informed her that appellant's appraiser's rental comparable number two had been vacant since 2001 and there had not

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been much interest in the property because it was located on the wrong side of the interstate. She further did not consider the appraiser's rental comparable number three composed of a 30-year-old building located in Waterloo a good comparable. She did not consider Waterloo to be similar to the subject building or in a similar area.

The witness testified she was familiar with the area of the appellant's appraiser's comparable sale number one. She stated that it is located in an area of lower incomes and in what she considers a blighted area. She did not consider this area comparable to the area along Route 159 in Edwardsville and she did not consider the property comparable to the subject. She testified that she is also familiar with the location of the appraiser's sale number two located in Wood River. She testified the building is in extremely poor condition on the inside and has been the subject of numerous board of review hearings. This property had been vacant since 1996 and was placed in use as a paint ball operation within the last six months. She did not consider this location similar to the subject in terms of commercial appeal. She also did not consider comparable sale number three, a former Wal-Mart building that was converted to an R. P. Lumber facility, a comparable building to the subject. The witness also testified that she contacted the Bloomingdale Township Assessor's office about the appraiser's comparable sale number five and was informed the office had the property marked basically as a teardown.

Under cross-examination the witness testified the board of review considers sales located in Missouri if they are in the St. Louis metropolitan area. She also explained that the facility in Wood River used by appellant's appraiser is a game place where persons shoot each other with paint balls.

The next witness called on behalf of the board of review and intervening taxing districts was a real estate appraiser. The witness testified that he is employed by the Madison County Chief Assessment Official's office and is also an independent fee appraiser. He has been employed by Madison County for approximately 16 years and has been working as an appraiser for approximately 25 years. The witness holds the Senior Residential Appraiser (SRA) designation from the Appraisal Institute and is also an Illinois state-certified general real estate appraiser. He was accepted as an expert in the field of real estate appraisal.

The witness prepared a narrative appraisal of the subject property using the three traditional approaches to value wherein he estimated the property had a market value of \$6,250,000 as of January 1, 2004. The purpose of the appraisal was to estimate the fair market value of the subject property. He was also of the opinion that the highest and best use of the subject property as improved is its current use as a discount store.

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In estimating the value of the land under the cost approach the appraiser used seven sales located in Edwardsville and Glen Carbon, with three of the sales located along the same street as the subject parcel. The comparables ranged in size from .75 to 39.61 acres. The sales occurred from September 2001 to January 2005 for prices ranging from \$300,000 to \$6,000,000 or from \$3.48 to \$12.90 per square foot of land area. The witness testified the land sale least comparable to the subject is sale number 6 because it had no frontage on Route 159. He was of the opinion the most similar land comparables were sales number 2 and 3. These sales were located approximately ½ mile south of the subject property and contained 13.55 and 11.69 acres, respectively. These properties sold in September 2001 and January 2003 for unit prices of \$8.37 and \$8.97 per square foot, respectively. Based on this data, the witness estimated the subject parcel had a land value of \$7.50 per square foot resulting in a total land value of \$2,700,000.

The witness testified that he conducted a physical inspection of the subject building which included examining the roof, the storage areas, the office area and retail area. He explained that he photographed the exterior and interior of the property. He was of the opinion the property was in very good condition and agreed the property had been rebuilt except for the shell.

In estimating the reproduction cost new the witness also used the Marshall Valuation Cost Service and characterized the subject building as a Class C, average Discount Store. Using the cost manual he estimated the subject building had a unit cost of \$44.20 per square foot resulting in a cost new for the building of \$4,127,926. The appraiser then added \$140,400 for the asphalt paving and \$80,000 for light standards and landscaping to arrive at a total cost new for the building and site improvements of \$4,348,326. Under the age/life method, using an effective age of 5 years and a total economic life of 35 years, he estimated the subject suffered from 14.3% or \$621,811 in physical depreciation. He was of the opinion the subject building suffered from no function or external obsolescence. The witness was of the opinion that the size of the building, the location of the office space, the location or condition of the loading docks or the garbage facilities did not justify any major depreciation based on functional obsolescence. Deducting physical depreciation resulted in a depreciated value of the improvements of \$3,726,515. He then added the land value of \$2,700,000 resulting in a final estimate of value under the cost approach of \$6,400,000, rounded.

Under the income approach to value the witness utilized six rental comparables located in the Illinois cities of Alton, Collinsville, Wood River and Fairview Heights. The comparables ranged in size from 34,112 to 87,120 square feet and were constructed from 1979 to 1990. The comparables had rental rates ranging from \$5.00 to \$8.00 per square foot. He testified that his first three comparables were located in Madison County and he

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had actually looked at those properties for the county. He has been in two of the properties in Fairview Heights. The properties located in Fairview Heights were selected due to being retail buildings being located in a high traffic, highly shopped area. Based on this data the appraiser estimated the subject property had a market rent of \$7.50 per square foot resulting in a potential gross income of \$700,440. The witness estimated the subject would suffer from a 5% vacancy and collection loss that when deducted from the potential gross income resulted in an effective gross income of \$655,418. He also deduction \$116,000 in expenses associated with management fees, miscellaneous expenses and reserves for replacements resulting in a net operating income of \$548,970. Using the band of investment method he calculated a capitalization rate of 8.91%. Capitalizing the net income resulted in an estimated value under the income approach of \$6,200,000.

Under the sales comparison approach the witness used six sales, one being located in Alton, Illinois, one being located in Springfield, Illinois, and four being located in the metropolitan St. Louis, Missouri area. He testified that it was more difficult to locate comparable sales; therefore, he went into the St. Louis market to find comparables. The witness also testified that the St. Louis standard metropolitan statistical area, which includes both the metro-east and St. Louis, is more economically identical than looking for comparables located throughout the state. The comparables ranged in size from 81,128 to 131,005 square feet and were constructed or renovated from 1974 to 1997. The improvements were located on parcels that ranged in size from 7.94 to 18.73 acres and were described as being improved with Class C buildings used as either a hardware store or a discount store. The sales occurred from October 1998 to May 2004 for prices ranging from \$4,200,000 to \$9,563,112 or from \$43.94 to \$73.00 per square foot of building area. In analyzing the comparables the witness made qualitative adjustments to account for differences between the comparables and the subject property. Based on this data he estimated the subject property had a unit value of \$67.00 per square foot resulting in a total indicated value under the sales comparison approach of \$6,300,000.

The witness was of the opinion that when comparing the purchase price of the subject property and the cost of the renovation totaling approximately \$8,000,000, his figures are quite conservative.

In reconciling the three approaches to value the witness analyzed all three approaches and gave most weight to the sales and income approaches to value. He estimated the subject property had a market value of \$6,250,000 as of January 1, 2004.

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Under cross-examination he testified the last time he prepared a complete summary appraisal of a discount store was approximately five years ago, that being of the Value City Department Store in Alton.

The witness further agreed that in his opinion the subject property is overvalued for assessment purposes. He also indicated that he had no market data to calculate whether the subject suffered from functional obsolescence. The witness also was of the opinion, although he had not seen the lease, that Kohl's had assumed the existing lease from K-Mart. The appraiser's opinion that the subject's rent of \$2.98 per square foot was below market was based in part upon this assumption and based on the comparable rental data in the appraisal. He was also questioned with respect to the location of the rental comparables in Fairview Heights and their proximity to the St. Clair Square Mall. The witness also stated that he did consider the direct method in determining the capitalization rate to be applied to the subject property; however, in reviewing Korpacz Real Estate Investors' Survey for the first quarter of 2004, the rate was almost 1% below the capitalization rate using the band of investment method.

With respect to the comparable sales, the witness' first comparable was built for Lowe's and sold to Lowe's in 1998. He also indicated in his report that his comparable sale number 2 was formerly a Kohl's department store. He also indicated that a lease was in place at the time the property sold in March 1999. The appraiser was questioned about who occupied his comparable sale number 3. This property sold in February 2003 and had a lease in place at the time of sale. The witness also indicated his sale number 4 was a K-Mart store, retail strip mall and fast food restaurant. He indicated the property was leased at the time of sale but made no adjustment for that fact. The sales price per square foot for this sale was calculated incorrectly in the appraisal. The actual price per square foot was \$32.38 per square foot as opposed to \$43.94 per square foot as contained in the report. He also indicated that sale number 5 was leased at the time of the transaction. With respect to his sale number 6, the witness indicated that it may have included more than one building but the square footage he utilized was for all the improvements. He testified he made no adjustment to this transaction because it was leased at the time of sale. He also agreed that on page 45 of his appraisal where he bracketed the subject property, there was an error in reporting a sales price for comparable number three in that it should have been \$66.47 per square foot and not \$67.50 per square foot as appeared in the table. The witness further indicated that if you correct this error, his opinion of value under the sales comparison approach would be \$6,200,000 and not \$6,300,000 as contained in the appraisal. The witness also agreed that in the reconciliation portion of his appraisal contained on page 58 the income approach is incorrectly reported to have resulted in an estimate of value of \$6,300,000 as opposed to \$6,200,000. The witness

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indicated that based on these corrections he would probably change his opinion of value to \$6,200,000.

Appellant's appraiser was called as a rebuttal witness and explained that the board of review's and intervenor's appraiser's improved comparable sale number 2 had been purchased by Kohl's but Kohl's never occupied the building and subsequently sold it.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

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 (3<sup>rd</sup> Dist. 2002). The Board finds the evidence in the reduction supports a reduction in the subject's assessment based on overvaluation.

The record disclosed the subject property had a total final assessment of \$2,344,520 reflecting a market value of approximately \$7,040,700 using the 2004 three year median level of assessments for Madison County of 33.30%. The appellant submitted an appraisal estimating the subject property had a market value of \$4,700,000 as of January 1, 2004. Both the board of review and the intervening school districts relied on an appraisal estimating the subject had a market value of \$6,250,000 as of January 1, 2004. The board of review's and intervenor's appraiser amended his opinion of value at the hearing to \$6,200,000. The Board finds that the opinions of value offered by the two experts reflect market values below that reflected by the assessment.

Of the two appraisals the Property Tax Appeal Board finds that report tendered by the board of review and the intervening taxing districts is superior to the appraisal presented on behalf of the appellant.

With respect to the cost approach prepared by both appraisers, the Board finds that both experts utilized the Marshall Valuation cost manual to calculate the cost new of the improvements. After calculating the cost new and making deductions for depreciation both appraisers were in near agreement on the depreciated value of the improvements. The primary difference in the value of property under the cost approach was in the estimated land values developed by the appraisers. The Board finds that the board of review's and intervenor's appraiser's estimated land value of \$2,700,000 is better



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supported by the data in the record. His report included two sales relatively similar to the subject in size and location. These properties had unit prices of \$8.37 and \$8.97 per square foot of land area. The Board finds that his estimate that the subject had a unit value of \$7.50 per square foot is well supported. In conclusion the Board finds that the board of review's and intervenor's appraiser's estimate of value under the cost approach of \$6,400,000 is the best supported in the record.

With respect to the sales comparison approach to value, the Board finds the conclusion reached by the board of review's and intervenor's appraiser is best supported in the record. The Board finds the improved comparables sales used by appellant's appraiser were not as representative of the subject property in condition or location as were the improved sales used by the board of review's and intervenor's appraiser. The testimony and photographs within the appraisal disclosed that appellant's appraiser's comparable sales 1 and 2 were located in inferior areas and were in inferior condition as compared to the subject property. Comparable sale number three was an inferior building that was converted to use in connection with a lumberyard. Appellant's appraiser's fourth comparable sale was located a significant distance from the subject in Pekin, Illinois. Appellant's appraiser's fifth comparable sale was razed after its purchase and located in Addison, DuPage County, a significant distance from the subject property. The Board finds these sales comparables are not representative of the subject property.

By contrast, five of the six sales used by the board of review's and intervenor's appraiser were located in the St. Louis standard metropolitan statistical area, which includes both the metro-east and St. Louis. Additionally, his comparables were relatively more similar to the subject in use and condition than the appellant's comparables. The Board finds that his revised opinion of value of \$6,200,000 given during the hearing was best supported in the record. The Board finds that there were questions posed with respect to whether his sales were leased at the time of their transactions. However the Board finds there was no testimony establishing that the leases undermined the arm's length nature of the sales or demonstrated that the sales prices were not indicative of market value due to the leases.

With respect to the income approach to value, the Board again finds the opinion offered by the board of review's and intervenor's appraiser under this approach is better supported. The Board finds the rental comparables utilized by the appraiser to establish the market rent of the subject property are more representative of the subject property than the rental comparables used by appellant's appraiser. Appellant's appraiser's comparables were composed of properties located in Galesburg, Waterloo and Bradley, Illinois, areas not particularly similar to the subject. By contrast the board of review's and intervenor's appraiser's comparables are located in the metro-east area as is the subject property. Furthermore, one of appellant's appraiser's comparables included a

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listing that has been vacant for a number of years and testimony indicated this property has an inferior location. Based on this data the Property Tax Appeal Board finds the board of review's and intervenor's appraiser's estimate of value under this approach of \$6,200,000 is best supported.

The Board further finds the evidence and testimony in the record disclosed the subject property was purchased in March 2003 for a price of \$3,826,758. Furthermore, in 2003 Kohl's expended \$3,951,917 in retrofitting the subject building. In total approximately \$7,779,000 was expended on the property in 2003. The Board finds, in light of this investment in the property, appellant's appraiser's opinion of value of \$4,700,000 does not seem particularly realistic or credible. The Board finds that the board of review's and intervenor's appraiser's estimate of value of \$6,200,000 is better supported by the costs incurred in purchasing and rehabilitating the subject property in 2003.

In conclusion, the Property Tax Appeal Board finds the subject property had a market value of \$6,200,000 as of January 1, 2004. Since market value has been established the 2004 three year median level of assessments for Madison County of 33.30% shall apply.

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<b>APPELLANT:</b>	<b><u>LSA LP</u></b>
<b>DOCKET NUMBER:</b>	<b><u>03-02852.001-C-3</u></b>
<b>DATE DECIDED:</b>	<b><u>September 18, 2006</u></b>
<b>COUNTY:</b>	<b><u>Knox</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

The subject property consists of a 9.828-acre site improved with a 112-unit apartment complex. The improvements consist of 7 two-story garden apartments buildings that contain 12, 16 and 24 units. The apartment buildings have brick veneer construction and were built on slab foundations. The property contains 48 two-bedroom units and 64 three-bedroom units. The property is also improved with an office-clubhouse with a swimming pool. Construction of the improvements began in 2001 and was completed in 2002. The complex has a total gross building area of 143,281 square feet. The apartment complex was built and operated as a Section 42 (26 U.S.C. 42) low-income housing project. The property is located in Galesburg, Knox County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant presented a narrative appraisal. The appraiser was called as a witness on behalf of the appellant. The witness explained that when he started his appraisal practice he valued a number of different types of subsidized housing projects. He explained that Section 42 projects allows for tax credits and he has performed appraisals in excess of one dozen on these types of projects in the last four to five years.

Within his appraisal and during his testimony the appraiser discussed the workings, advantages and disadvantages of Section 42 housing projects. He explained that Section 42 housing provides investors or developers of these projects income tax credits, which are a dollar for dollar credit that can be deducted from their income tax. The appellant's appraisal provided that the amount of tax credits is based on the percent of the project that is placed in the Section 42 program and the cost to construct the improvements. Furthermore, after the total amount of tax credits is determined, they are allocated over a 10-year period to the owner. Salisbury testified that generally developers sell the tax credits and use the proceeds to pay down the cost of the project. The tax credit is tied to and stays with the property and is the primary benefit that the developer gets from becoming part of the program.

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The appraiser testified that the developer can devote a portion of the project to Section 42 housing and a portion of the complex can be market based; alternatively the developer can elect to make the entire project eligible for the tax credits. Furthermore, individuals have to meet certain qualifications in order to become Section 42 tenants. Tenants have to meet low income criteria meaning they have to have either 50% or 60% or less of the area's median gross income. The developers or managers are told by either Housing and Urban Development (HUD) or the Illinois Housing Development Authority (IHDA) what these income levels are and tenants need to submit proof of their incomes to show they qualify. The tenant's income level must be certified each year with the project manager. Additionally, HUD establishes the maximum gross rents, which are equal to 30% of income levels. In his experience the appraiser has not found where any of these projects have secured "market rent" because of the limited tenant pool and the fact that potential tenants that fall within the prescribed income range can't afford market rent.

The witness also explained that properties enrolled in the Section 42 program must remain in the program for 30 years. The witness further testified that there are no rent subsidies associated with this program although Section 8 tenants that receive rent subsidies are allowed to move into the project. The appraiser also testified that if the project ceases to be a section 42 project the remaining tax credits are disallowed and a portion of the pre-used credits have to be paid back. The witness also testified that expenses associated with Section 42 projects are generally higher than those associated with conventional properties. These higher costs are due to the increased accounting functions that need to be maintained, tenant turnover, higher repair costs due to the quality of tenant care of the project, and higher utility costs.

The appellant's appraiser testified that beside the tax credits the second main benefit of these types of projects is that the developer usually has a management company, building company and an architectural or engineering firm that profit from the construction and management of the project. He further stated that without the tax credits these projects would not be built.

The witness testified that these benefits would not be available to the purchaser of the property while the detriments would remain with the property for 30 years.

The witness indicated that all of the units in the subject property are in the tax credit program and all the units must be rented to tenants that earn 60% or less of the area's median income. Furthermore, he testified that the subject property must

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remain within the Section 42 program for 30 years. Additionally, the appraiser indicated in the report that the subject property will receive the credits for 10 years.

In estimating the market value of the subject property the appraiser developed the income approach to value. His report included a summary of the income and expenses for the property for both 2002 and 2003. The appraiser indicated that 2002 was a partial year's income and expenses due to its new construction while 2003 represented a full year of operation. The subject was reported to have a net operating income in 2003 of \$324,187. The first step in the income approach was to develop the subject's potential gross income. The appraisal indicated that in 2002 and 2003 the subject's two-bedroom units had a monthly rental of \$490 or \$.46 per square foot while the three-bedroom units had a monthly rental of \$570 or \$.45 per square foot. In estimating the subject's potential gross income the appraiser also examined two other Section 42 projects located in Galesburg. The first comparable was constructed in 1996 and 1997 and contained 64 units containing one, two or three bedrooms. The one-bedroom units had a monthly rent of \$325 or \$.45 per square foot, the two-bedroom units had a monthly rent of \$405 or \$.43 per square foot, and the three-bedroom units had a monthly rent of \$460 or \$.42 per square foot. The second complex contained 102 units located in 15 buildings constructed in 1998 and 2001. The two-bedroom units had a monthly rent of \$334 or \$.36 per square foot, and the three-bedroom units had a monthly rent of \$438 or \$.37 per square foot. The appraiser noted the subject property had features the comparables did not including an exercise room, a second bathroom in the two-bedroom units, an outdoor swimming pool, and the units are larger than the comparable units. To develop the potential gross income the appraiser used the subject's current asking rents of \$490 per month for the two-bedroom units and \$570 per month for the three-bedroom units resulting in a potential gross income of \$720,000.

The next step was to estimate the vacancy and credit loss associated with the property. The witness noted the subject had a vacancy rate of 23.5% in 2003 and a rate of 19.4% in 2004. The witness testified that with a new project, such as the subject, it takes some time for occupancy to level out. He estimated that occupancy would stabilize at 15% since the first six months of 2004 demonstrated a downward trend. He testified, however, that after completion of the report he discovered the downward trend did not continue. Nevertheless, he utilized 15% as a vacancy rate resulting in a deduction of \$108,000. The appraiser then added \$32,000 for miscellaneous income. He explained in the report that the subject was reported to have had ancillary income in 2002 and 2003 of \$7,214 and \$31,350, respectively. The resulting effective gross income was calculated to be \$644,000.

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The next step was to calculate the stabilized expenses that are associated with the subject property. The appraiser listed the itemized actual expenses associated with the property in 2002 and 2003 within his report, which totaled \$85,976 and \$258,821 or \$768 and \$2,311 per unit, respectively. These expenses excluded real estate taxes and reserves for replacements. In 2003 the subject's expense ratio was 44.4% of effective gross income. The appraiser also examined the expense ratios of conventional apartment sales included in his sales comparison approach to value. These sales had expense ratios ranging from 36.3% to 50.9%. The appraiser also included an analysis of expense ratios associated with 11 other Section 42 properties he had appraised. These properties had vacancy rates ranging from 5.0% to 31.0%; expense ratios ranging from 29.5% to 52% of effective gross income; and expenses per unit ranging from \$1,934 to \$2,637. Based on this data the appellant's appraiser estimated the subject had stabilized expenses of \$2,300 per unit resulting in total expenses of \$257,600. The appraiser also estimated reserves for replacement for such items as roof replacements, floor covering, appliances, furnaces, air conditioners and water heaters to be \$250 per unit or \$28,000. Deducting expenses and reserves for replacement from the effective gross income resulted in an effective net income of \$358,400.

The final step under this approach was to estimate the capitalization rate to be used to capitalize the net income into an estimate of value. Using six of the sales of conventional apartments contained in his sales comparison approach the appraiser calculated overall capitalization rates ranging from 9.37% to 9.99%. The appraiser testified he also examined trade magazines that provided overall rates for conventional properties during the fourth quarter of 2002 that ranged from 6.5% to 10% with an average of 8.26%. The appraiser testified the subject property has more risk because of the negative features associated with the Section 42 program, which in turn would require a higher capitalization rate. Based on this analysis the appraiser estimated the capitalization rate to be applied to the subject was 11%. He next added a component for the effective tax rate of 2.69% to arrive at an overall capitalization rate of 13.69%. Capitalizing the net income of \$358,400 by the estimated capitalization rate of 13.69% resulted in an estimated value under the income approach of \$2,600,000, rounded.

The appraiser also testified the subject property is in a tax increment financing (TIF) district that abates 80% of the taxes until 2009. At the hearing he calculated the effective tax rate to be 2.31% considering the TIF. He testified if one used the alternative effective tax rate the estimated value would be \$2,700,000.

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The appellant's appraiser also developed the sales comparison approach to value using seven comparable sales of conventional apartment buildings. The comparables were located in the Illinois cities of Bloomington, Moline, Danville, Decatur and Peoria. The properties were improved with apartment complexes that contained from 42 to 450 units and ranged in age from 20 to 31 years old. The sales occurred from June 1999 to March 2002 for prices ranging from \$1,160,000 to \$12,500,000 or from \$19,792 to \$37,180 per unit. The appraiser indicated that it was doubtful the subject could achieve a similar net income to that of any of the comparables because of the restrictions imposed by Section 42, however, due to its superior age and condition, its value should fall at the low end of the range. Using this data the appraiser estimated the subject had an indicated value under the sales comparison approach of \$23,000 per unit resulting in a total market value of \$2,575,000.

The witness testified he did not estimate the subject's value using the cost approach because section 1-130 of the Illinois Property Tax Code (35 ILCS 200/1-130) requires that tax credits be disregarded. However, the tax credits are a function of costs for these types of properties. He opined that the cost approach is meaningless because it hinges on the tax credits and the tax credits are based on when the project was built. He also indicated there was no way to be precise in estimating functional and external obsolescence because there are no sales of Section 42 properties to extract depreciation from the market.

In conclusion, the appraiser estimated the subject property had a market value of \$2,600,000 as of January 1, 2003.

Under cross-examination the appellant's appraiser stated that he would have changed the effective tax rate in his report and revised his estimate of value to \$2,700,000 had he considered the TIF.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$1,564,000 was disclosed. The subject's assessment reflects a market value of approximately \$4,653,380 or approximately \$41,548 per unit using the 2003 three year median level of assessments for Knox County of 33.61%. In support of its contention of the correct assessment of the subject property the board of review submitted a narrative appraisal.

The appraiser was called as a witness on behalf of the board of review. He testified that he has appraised several hundred apartment complexes and ten Section 42 projects during the last ten years.

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The witness' description of the property contained within his appraisal was in general agreement with that provided by the appellant's appraiser. The witness also agreed that the subject property is a Section 42 low-income housing tax credit property. The appraiser developed the three traditional approaches to value in estimating the subject property had a market value of \$4,600,000 as of January 1, 2003. During the hearing his testimony dealt primarily with the calculation of the capitalization rate under the income approach to value since both he and the appellant's appraiser were in near agreement as to the net operating income associated with the property. In summary he estimated the subject property had a potential gross income of \$720,000, the same as the appellant's appraiser. The witness estimated the subject had a 10% vacancy and collection loss and miscellaneous income of \$2,400 resulting in an effective gross income of \$650,000. Making deductions for operating expenses that were estimated to be \$275,000 and reserves for replacement of \$22,440 resulted in a net operating income of \$352,840, which is approximately 1.5% less than estimated by the appellant's appraiser.

The next step under the income approach was to estimate the capitalization rate applicable to the subject property. In estimating the capitalization rate the appraiser employed the mortgage equity band of investment technique. Within his report the appraiser explained that the subject property is financed through the Illinois Housing Development Authority with low interest loans intended to offset some of the loss in income due to program restrictions. He indicated that the terms include a \$750,000 loan at 1% and a \$3,057,000 amortized loan at 7.15%. According to the report the appraiser applied an 80% loan to value ratio and a 40-year amortization period. In calculating the capitalization rate the appraiser estimated 16% of the mortgage debt at a rate of 1%, 64% of the mortgage debt at a rate of 7.5883%; and the 20% equity portion at a rate of 10%. The appraiser also calculated an effective rate of .5444%. Using these factors the appraiser estimated an overall capitalization rate of 7.5609%. Capitalizing the net income of \$352,840 by the capitalization rate of 7.5609% resulted in an estimated value of \$4,665,000 under the income approach.

Although the appraiser provided no testimony in detail about the remaining approaches to value contained in his appraisal the Property Tax Appeal Board examined both the cost and sales comparison approaches contained in the appraisal.



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The appraiser's initial step under the cost approach was to estimate the value of the subject's land using six land sales located in Galesburg. The comparables ranged in size from 1.18 to 9.828 acres and sold from December 1995 to May 2002 for prices ranging from \$65,000 to \$480,000 or from \$28,634 to \$63,559 per acre. The appraiser's land sale number two was the sale of the subject parcel in November 2000 for \$480,000 or \$48,840 per acre. Based on these sales the appraiser estimated the subject's land had a value of \$50,000 per acre or \$490,000, rounded.

In estimating the cost new of the improvements the appraiser used the Marshall Valuation Service. The appraiser estimated the cost new of the apartments, office building and balconies to be \$6,814,505. He made no deduction for physical or functional obsolescence. The appraiser made a 25% deduction for external obsolescence because of the lower income due to Section 42 restrictions. After making deductions the appraiser estimated the depreciated value of the improvements to be \$5,083,879. To this amount the appraiser added \$350,000 for the value of the site improvements and the value of \$490,000 for the land to arrive at an estimate of value under the cost approach of \$5,925,000. Within his report the appraiser indicated the cost approach was the least reliable of the three approaches and during the hearing the appraiser testified that he did not put a lot of weight on this approach to value.

In the sales comparison approach the appraiser used six sales of apartment complexes located in Galesburg, Peoria, Urbana, Savoy and Champaign. The comparables sold from June 1998 to August 2002 for prices ranging from \$547,000 to \$10,614,316 or from \$19,536 to \$68,040 per unit, \$4,883 to \$18,167 per room, and \$28.21 to \$61.98 per square foot. The appraiser also indicated that three of the comparables had gross income multipliers ranging from 6.27 to 7.43. Based on these units of comparison the appraiser indicated the subject property had indicated values ranging from \$4,390,200 to \$5,735,120. In the report the appraiser indicated that the price per square foot and the gross income multiplier are typically the most reliable indicators of value. He further stated the gross income multiplier resulted in a lower value due to Section 42 restrictions limiting potential revenue at the subject property and is considered to be the best indicator of value for the subject property. In conclusion the appraiser estimated the subject property had an indicated value under the sales comparison approach of \$4,400,000.

In reconciling the three approaches to value the appraiser indicated the income approach was the most reliable and the sales comparison approach resulted in a

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value estimate consistent with that estimated under the income approach. In conclusion the appraiser estimated the subject property had a market value of \$4,600,000 as of January 1, 2003.

Under cross-examination the appraiser was questioned about the development of his capitalization rate using the mortgage documents contained within his report. The appraiser did not include a .18% loan insurance fee or a .25% service fee in the capitalization rate even though these are made reference to in the documentation. He also was questioned about the \$750,000 second mortgage as being only an interest only loan. The appraiser could also not adequately explain the basis for his assumption that a 20% equity position used in the estimate of the capitalization rate was typical for this type of program. The appraiser also acknowledged that the overall capitalization rate associated with his comparable sale number 3, which sold in March 2002, was 9.12%. The appraiser also acknowledged that the overall capitalization rate associated with his comparable sale number 5, which sold in June 1998, was 9.46%. He also agreed that his comparable sales were of conventional unregulated properties.

The next witness called on behalf of the board of review was the City Assessor for the City of Galesburg. The assessor testified that two other Section 42 projects located in Galesburg had assessments reflecting market values of \$21,000 and \$25,000 per unit. He noted, however, that the subject property is the newest project. The assessor also explained that he used a Property Tax Appeal Board decision on a Section 42 housing in Champaign in the valuation of the property. He indicated that there was a court opinion associated with this decision that set the value of the Champaign property at \$25,000 per unit. The witness testified that those were the three Section 42 housing projects he used for comparison with the subject Section 42 housing. He also was of the opinion the subject was superior to the two Galesburg properties in construction.

Under cross-examination the witness testified the subject is currently assessed reflecting a market value of \$41,000 per unit. He further testified the two other Section 42 housing projects located in Galesburg were constructed in approximately 1999 and 2002.

Based on this evidence the board of review indicated on its "Board of Review Notes on Appeal" that it would stipulate to an assessment reduction to \$1,533,330 reflecting a market value in accordance with the board of review's appraiser's appraised value of \$4,600,000.

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After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

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 (3<sup>rd</sup> Dist. 2002). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The standard for determining the fair cash value of property is the price at which ready, willing, and able buyers and sellers would agree. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 16 (1989). A property's income-earning capacity is the most significant element in arriving at its fair cash value for assessment purposes. Kankakee County, 131 Ill.2d at 15. A taxing authority must weigh both the positive and negative aspects of a subsidy agreement and adjust the actual income figure to accurately reflect the true earning capacity of the property in question. Kankakee County, 131 Ill.2d at 17. In Kankakee County, the supreme court held a subsidy agreement affecting a property's income-earning capacity must be considered in calculating fair market value if the property is designed for use as subsidized housing, its best and highest use is as subsidized housing, and it is transferable to others for use as subsidized housing. Kankakee County, 131 Ill.2d at 18-19.

In Rainbow Apartments v. Illinois Property Tax Appeal Board, 326 Ill.App.3d 1105 (4<sup>th</sup> Dist. 2001) the court followed Kankakee County in holding that the positive and negative aspects of a subsidy agreement must be considered by taxing authorities in valuing properties designed, developed and used with Section 42 restrictions.

Furthermore, the Property Tax Code contains provisions relating to Section 42 low-income housing. Section 1-130 of the Property Tax Code (35 ILCS 200/1-130) in defining real property for assessment purposes specifically excludes "low-income housing tax credits authorized by Section 42 of the Internal Revenue Code, 26 U.S.C. 42." In addition section 10-260<sup>1</sup> of the Property Tax Code in effect as of the assessment date at issue provides that:

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<sup>1</sup> The Property Tax Appeal Board recognizes that Section 10-235 of the Property Tax Code was amended effective January 1, 2004, to establish the policy of this State that low-income housing projects that qualify for low-income tax credits under

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In determining the fair cash value of property receiving benefits from the Low-Income Housing Tax Credit authorized by section 42 of the Internal Revenue Code, 26 U.S.C. 42, emphasis shall be given to the income approach, except in those circumstances where another method is clearly more appropriate. (35 ILCS 200/10-260).

As noted the subject property is operated as a low-income apartment complex under the rules of Section 42 of the Internal Revenue Code. Under Section 42 the subject property qualifies for tax credits. In turn there are rent restrictions requiring that residents whose income does not exceed the income limits for "very low-income tenants" or "low-income tenants" as defined in the agreement must occupy the units. There are also restrictions with respect to the use of the property as low-income housing for a number of years and there are numerous acts such as conveying the property, transferring management of the property, leasing or subleasing and the like that are to be approved by HUD or IHDA. The restrictions in the agreement run with the project for a period of 30 years and bind any owner of the property. Testimony also indicated there are penalties in the form of refunding the tax credits if for some reason the property ceases to be operated as a Section 42 project.

In accordance with Section 10-260 of the Property Tax Code the Property Tax Appeal Board will give primary focus to the income approach to value prepared by the two appraisers in determining the correct assessment of the subject property. The record contained testimony that the cost approach should be given less weight because of the tax credits associated with building the project and the difficulty in estimating functional and external obsolescence. Additionally, the board of review's appraiser, gave least weight to the cost approach to value. With respect to the sales comparison approaches to value neither appraiser could locate and neither used as comparable sales Section 42 apartment complexes. Both appraisers used as comparables conventional apartment complexes that were not designed, constructed or operated as Section 42 low-income housing receiving tax credits, as is the subject property. Based on this record the Board finds that emphasis should be given to the income approach because the cost and sales comparison approaches were not shown to be clearly more appropriate methods of valuing the property.

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Section 42 shall be valued at 33 and one-third percent of the fair market value of the economic productivity to their owner. Additionally, Section 10-145 of the Property Tax Code was amended effective January 1, 2004, to provide that to determine 33 and one-third percent of fair cash value of any low-income housing project that qualifies for the low-income housing tax credit under Section 42 local assessment officials are to consider the actual or probable net operating income attributable to the project, using a vacancy rate of not more than 5%, capitalized at normal market rates.

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In comparing the income approaches to value the Board finds the appraisers were in near agreement on the stabilized net operating income attributable to the subject property. The appellant's appraiser estimated the subject's net income to be \$358,400 as compared to the board of review's appraisal estimate of \$352,840, a difference of approximately 1.5%. The primary difference between the two appraisers' income approaches was in the estimated capitalization rates. The appellant's appraiser estimated the appropriate capitalization rate for the subject would be 13.69%, although during the hearing he indicated that consideration should be given the TIF abatement and which would revise the capitalization rate to 13.31%. The board of review's appraiser estimated the appropriate capitalization rate to be 7.5609%. The Board finds the capitalization rate estimated by the appellant's appraiser to be better supported within the appraisal and finds his testimony concerning the calculation of the capitalization rate more credible. He made reference to periodicals and also extracted capitalization rates from the market using comparable sales contained within his report. The appellant's appraiser also explained that the subject property was a higher risk property considering the negative aspects of the Section 42 limitations that are not experienced by conventional apartment complexes. This requires a higher capitalization rate. The Board also finds that two of the sales contained in the board of review's appraisal had overall capitalization rates that supported the appellant's appraisal analysis. The Board finds that the board of review's appraiser primarily focused on the mortgage documents to determine the capitalization rate, which was not related or supported by any market considerations nor was there any consideration for the increased risks associated with this type of property. The Board finds that the board of review's appraiser's testimony was not particularly persuasive or credible with respect to the mortgage and equity components he used to develop his capitalization rate.

The Board gave less weight to the assessor's testimony with respect to using comparable properties to establish the assessment of the subject property. Again, as required by the Code, the focus should be on the income approach when valuing Section 42 properties.

In conclusion, after considering the appraisals submitted by the parties and the testimony of the witnesses, the Property Tax Appeal Board finds that the appraisal and the testimony provided by the appellant's witness is the best estimate of value in the record. The Board finds, however, that during the hearing he indicated that the TIF abatement should have been considered in his income approach resulting in a revised estimated value of \$2,700,000. Thus Board finds the subject property

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had a market value of \$2,700,000 as of January 1, 2003. Since market value has been established the 2003 three year median level of assessments for Knox County of 33.61% shall apply.

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<b>APPELLANT:</b>	<u>School District No. 54</u>
<b>DOCKET NUMBER:</b>	<u>00-21630.001-C-3</u>
<b>DATE DECIDED:</b>	<u>June 02, 2006</u>
<b>COUNTY:</b>	<u>Cook</u>
<b>RESULT:</b>	<u>Increase Warranted</u>

On June 6, 2001 the Two Century Centre, LLC, by its attorney, filed a request to intervene. The intervenor was given until July 8, 2001 to submit evidence or request an extension. The intervenor timely requested an extension of time to submit evidence. On July 17, 2001, the Property Tax Appeal Board granted an extension until September 15, 2002. The intervenor did not timely submit its evidence and was notified of its being found in default by letter dated September 26, 2001.

The subject property consists of a 7.705-acre parcel improved with a 229,083 square foot 11-story multi-tenant office building and a two-level 56-car parking garage. The subject has a 1.47:1 land to building ratio. The office building is a steel frame, glass and granite clad structure constructed in 1990. All mechanicals and equipment are sufficient for its current use. The subject is located in Schaumburg Township, Cook County.

Appearing before the Property Tax Appeal Board on behalf of the appellant was its attorney arguing the fair market value of the subject was not accurately reflected in its assessed value. In support of the market value argument, the appellant submitted a summary appraisal report with a valuation date of January 1, 1999 and the testimony of its author. The witness is a State of Illinois certified general real estate appraiser with a Member of the Appraisal Institute (MAI) designation. After a brief discussion of his experience, he was tendered and accepted as an expert witness. The subject was appraised as a fee simple estate for *ad valorem* tax purposes. The appraiser made a personal inspection of the subject on August 16, 2000. The appraiser was of the opinion that the subject's highest and best use as improved is its current use.

To estimate a total market value of \$26,000,000 for the subject as of January 1, 1999, the appraiser employed the three traditional approaches to value.

The first approach to value employed by the appraiser was the cost approach. To estimate a land value for the subject, the appraiser examined the sales of four

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vacant properties in the subject's market area. The parcels range in size from 74,962 to 435,600 square feet of land area. The parcels sold between June 1998 and January 2000 for prices ranging from \$791,000 to \$4,002,336, or from \$6.13 to \$12.67 per square foot of land area. After adjustments for location, size, and market conditions at date of sale, he estimated \$7.50 per square foot as a unit of value for the subject land, resulting in an indicated land value of \$2,520,000, rounded.

Reproduction cost was employed to estimate the cost new of the subject's improvements. The witness testified that using *Marshall Valuation Service*, a total reproduction cost for the subject's improvements of \$25,192,363, was established. This figure includes site improvements such as the garage, pavement, landscaping and lighting. A 10% factor to reflect entrepreneurial profit was then added. The witness testified that depreciation, based on the market extraction method, was estimated to be 14%, or \$3,879,624. Deducting depreciation and adding the land value resulted in an indicated value by the cost approach for the subject of \$26,400,000, rounded, as of January 1, 1999.

The income approach to value was the next technique utilized by the appraiser. Seven office-building type properties located in the subject's general area were analyzed. The comparables contain between 186,000 and 1,840,916 square feet of net rentable area with net rents ranging from \$14.50 to \$18.00 per square foot. Occupancy for the comparables ranged from 16% to 99%. After adjusting the comparables for building quality and location, the appraiser concluded that \$15.00 per square foot of rentable building area, or \$3,269,400, was a reasonable rent for the subject. The appraiser testified that he estimated vacancy and collection loss to be 8% based on the actual market in the subject's area and various other local studies performed by firms that follow and track occupancy. After deducting the estimate of vacancy and collection loss, the witness calculated \$3,007,848 as the subject's effective net income (ENI). Typical expenses such as miscellaneous non-recoverable expenses, reserves for replacement, tenant improvements and leasing commissions totaling \$659,547 were deducted from the ENI resulting in a net operating income (NOI) of \$2,348,301.

To establish a capitalization rate applicable to the subject's NOI, the appraiser testified he examined the overall rate from actual transactions, investor surveys and the band of investment method. From this information, he selected a capitalization rate of 9.25% to apply to the subject's NOI. His value estimate for the subject via the income approach was \$25,400,000, rounded.



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In the sales comparison approach, the appraiser examined the sales of six office complexes located in the subject's general area. Containing between 205,000 and 1,840,916 square feet of building area, the comparables had land to building ratios ranging from 0.62:1 to 3.17:1. The comparables sold between February 1997 and June 1999 for prices ranging from \$23,000,000 to \$218,700,000, or from \$103.79 to \$171.19 per square foot of building area including land. After adjusting the comparables for location, date of sale, age, condition, size and land to building ratios, the witness' estimate of value for the subject using the sales comparison approach, as of January 1, 1999, was \$27,500,000, rounded.

The witness also testified that the subject sold on June 10, 1998 for a total consideration of \$34,500,000, or approximately \$150.60 per square foot of gross building area, and was not part of a bulk or portfolio sale. He further testified that the subject re-sold in June of 2002 for a price of \$25,443,000. This sale, he testified, was part of a portfolio sale but to his knowledge the price was not just an allocated part of the overall portfolio sale.

In his reconciliation of the three methods of estimating value, the witness placed primary weight on the income approach indicating that the sales comparison approach lent support to the income approach. His final opinion of value for the subject was \$26,000,000, as of January 1, 1999.

In conclusion, the witness testified that based on his experience and analysis of the data contained in his report, his opinion of value for the subject as of January 1, 2000 is the same amount, or \$26,000,000. Based on the witness' appraisal and testimony, the appellant requested an increase of the subject's assessment as of January 1, 2000.

The board of review did not cross-examine the appraiser.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$6,186,540 was disclosed. This assessment reflects a fair market value of \$16,280,368, when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5a property, such as the subject, is applied. The board of review also offered the sales of six office buildings located in Cook County as comparable to the subject. Ranging from 11 to 22 years old, the properties ranged in size from 117,347 to 234,000 square feet of building or rentable area. The properties had land areas ranging in size from 192,050 to 1,130,905 square feet. The sales took place between December 1995 and August 1999 for prices ranging from \$6,825,000 to

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\$17,500,000. Based on the foregoing the board of review requested confirmation of its assessment.

In rebuttal, the witness was questioned by appellant's counsel regarding the sales presented by the board of review. He testified that he was familiar with these properties and that overall they were not comparable to the subject. He indicated they were, in general, different in location and age when compared to the subject. Further, he indicated, overall the dates of sale discredited their use as a comparables.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is the determination of the subject's market value for ad valorem tax purposes.

When market value is the basis of the appeal, the value of the subject property must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (86 Ill.Adm.Code 1910.65(c)).

The Board finds the board of review's presentation of six sales without any meaningful analysis merely anecdotal. Therefore, the Board places no weight on the board of review's evidence.

The Property Tax Appeal Board finds that the best evidence to estimate the subject property's market value contained in the record is in testimony, data and analyses contained in the appraisal performed by the appellant's appraiser. The witness testified that he employed the three traditional approaches to value. In the cost approach, the appraiser performed a thorough examination of the subject and its components. When establishing the depreciation percentage, he testified that he used market extraction based on the reliable sources, which the Board finds support the estimated depreciation percentage employed.

In the income approach, the appraiser clearly described each aspect of the procedures utilized to determine a value for the subject. The Board finds that the appraiser's implementation of market data to establish a stabilized income/expense statement for the subject appropriate and credible. Further, the Board finds that the

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appraiser's utilization of three supporting methodologies to determine a capitalization rate for the subject persuasive.

The Board finds the witness' sales comparables compelling evidence of the subject's market value. These were office buildings or complexes very similar in location, as well as other critical characteristics, to the subject. The Board finds that each comparable was appropriately adjusted and supports the appraiser's estimated unit of value for the subject.

In the reconciliation and final value estimate for the subject, the Board finds the appraiser's reasoning logical and sensible. Moreover, the Board finds that the appraiser's conclusion that the subject's market value as of the date at issue, January 1, 2000, well founded in the appraisal and is further supported by the subject's two sales in 1998 and 2002.

Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of \$26,000,000, as of January 1, 2000 by a preponderance of the evidence. Since the fair market value of the subject has been established, the Board finds that the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5a properties, such as the subject, shall apply and an increase is accordingly warranted.

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<b>APPELLANT</b>	<u>Sears, Roebuck &amp; Company</u>
<b>DOCKET NO:</b>	<u>00-23299.001-C-3, 00-23299.002-C-3; 01-25516.001-C-3, 1-25516.002-C-3; 02-23006.001-C-3, 02-23006.002-C-3, 04-01712.001-C-2 and 04-01712.002-C-2</u>
<b>DATE DECIDED:</b>	<u>December 15, 2006</u>
<b>COUNTY:</b>	<u>Cook</u>
<b>RESULT:</b>	<u>Reduction Warranted</u>

The subject property consists of a single-tenant department store building, a Sears, Roebuck & Company (Sears) outlet, located in The Ford City Shopping Mall, in the southwest side of Chicago. The subject is one of four anchor tenants in what is considered a super-regional mall composed of 146 stores. The entire mall contains approximately 1.6 million square feet of gross lease-able area on 100 acres. The subject property consists of approximately 148,606 square feet of retail space. The mall was originally constructed as an industrial facility in 1944 to support the World War II war effort for the manufacture of jet aircraft components. The entire area was converted in 1965 to a shopping mall. Sears leases the property from the owner of the Ford City Mall. The Sears store has been at this site since approximately 1988, operating as a retail facility.

The appellant, through its attorneys, appeared before the PTAB and argued that the market value of the subject was not accurately reflected in its assessed value. The appellant argues that, based upon its correct market value, the subject is over assessed. The PTAB granted the parties request to consolidate all three years of appeals.

As a preliminary matter, the parties presented motions. The intervenor filed a motion to have portions of the appellant's appraisal stricken. The appellant's appraisal, prepared by a real estate appraiser estimated a market value for the subject of \$4,700,000, as of the lien date of January 1, 2000. The appellant's appraiser reduced the estimated market value for the contributory value of the common areas by \$1,641,811, as referenced in its transmittal letter to Sears dated October 2, 2000, resulting in the subject's final market value estimate of \$3,060,000, rounded. In arriving at its conclusion, the report uses a land to building ratio of 1:1, not 3:1. The 3:1 land to building ratio would encompass the contributory value of 298,511 square feet of land, designated as common area, for which the report attaches a value of \$1,641,811.

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The intervenor relied upon two appellate court decisions from the Second District Appellate Court, DuPage County Board of Review v. Property Tax Appeal Board, 277 Ill.App.3d 532, 660 N.E.2d 985 (2<sup>nd</sup> Dist. 1996) and DuPage County Board of Review v. Property Tax Appeal Board, 313 Ill. App. 3d 538, 708 N.E.2d 525 (2<sup>nd</sup> Dist. 1999). In the two cases, the appellate court was presented with the issue of a reduction in the subject's market value in an amount attributable to the value of the common areas. In both cases the preparer of the report and the appraiser prepared the appraisal on behalf of the taxpayer. In both cases, the appellate court decided against the report preparer's methodology, which attributes a separate value to the surrounding common area.

PTAB denied intervenor's Motion To Strike. The intervenor's argument goes more to the weight accorded to the appraisal and not to its admissibility. The appraiser's methodology is subject to cross-examination, and, accordingly will be addressed in this decision.

The City presented another motion. The intervenor specifically requested that the appellant's rebuttal witness be excluded from testifying. Said rebuttal witness did not present his own written report in the form of rebuttal. Rather, the City argues, this expert should be excluded since he is merely reviewing another appraiser's report without any written evidence of his own in the form of a review report. The PTAB denied the motion, since a review appraiser can testify from his findings independent of a written report. The fact that rebuttal evidence shall consist of written or documentary evidence, as argued by the City, does not preclude the witness from testifying to his findings relative to a review of another's report. Accordingly, the motion to strike appellant's review witness was denied.

In support of its market value argument, the appellant submitted an appraisal in summary reporting format and its appraiser to testify in support of the appraisal. The witness is the president of the corporation that prepared the report. He is a Member of the Appraisal Institute (MAI) and carries the SRPA designation from the Society of Real Estate Appraisers. The witness is also a Certified General Real Estate Appraiser for the State of Illinois. The PTAB accepted the witness' qualifications as an expert in the field of real estate appraisal.

The witness testified that he had prepared a complete appraisal report in summary format on the subject property with an effective date of January 1, 2000. He had estimated the market value of the subject in fee simple estate (including land that is not part of the parcels under appeal) to be \$4,700,000 as of the 2000 assessment date. The market value finding of \$4,700,000 was based upon a land to building

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ratio of 3:1, which includes a land parcel of 445,818 square feet, encompassing the subject Sears store, which sits on a pad site of 147,307 square feet of land. The appraiser, in his letter of transmittal, deducted for the land not part of the pad site and reached a final market value for the subject of \$3,060,000 as of January 1, 2000.

The witness valued the subject property using two of the three common approaches to value, the income approach and the sales comparison approach. He testified the cost approach was not used since very little weight could be placed on this approach to value. The witness inspected the subject on September 29, 2000, and a staff appraiser, also an author of the report, inspected the subject on July 7, 2000. The highest and best use of the subject is as a large anchor department store, its current use.

In reaching his conclusion of market value, the witness testified that he utilized data from comparable rentals to form an income approach and from comparable sales to form a sales comparison approach.

In his income approach the witness testified he used 13 comparable anchor store properties and analyzed their leases. In his analysis, he also used the lease information from another anchor store, Carson Pirie Scott (Carson's), at the Ford City Mall. The witness testified that rental figures have a strong correlation to retail sales figures, and are almost always at the rate of approximately 2.5% to 3% of sales.

Comparables 1 through 11 range in location throughout the entire multi-state Midwest region. Building sizes range from 72,292 to 153,386 square feet and ages range from 1 to 33 years. Lease commencement dates range from 1988 to 1998 and the net rental per square foot ranges from \$2.74 to \$6.81. Comparables 12 and 13 are presented as properties with leases as a percent of store retail sales. Sizes of these two comparables are 150,000 and 175,000 square feet and net rental rates per square foot is either 3.0% or 2.75% of the retail store sales (declining to 1.0% over time). Building ages are either 24 or 32 years and both are located in Chicago, with comparable 12, Carson's, in the same mall as the subject.

The appraiser also utilized the nationally recognized publication, The Dollars & Cents of Shopping Centers, for the median percentage rent for national anchor department stores in regional and super-regional malls. The median percent rent was approximately 2.0% of sales. The subject's sales range from \$124.97 to \$134.81 per square foot for the three years preceding 2000. The witness testified

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that typical sales for the subject are \$140.00 per square foot. Applying 2.5% to 3.0% of sales to this figure produced a market rent of approximately \$3.50 to \$4.20 per square foot. The witness testified he used a figure of \$4.00 per square foot for the subject property. When multiplied by the subject's 148,606 square feet of retail space, the total nominal net rent is \$594,424, less an allowance of 5% for vacancy and collections of \$29,721, gives an effective net rent of \$564,703, the witness testified.

A capitalization (CAP) rate was selected. Utilizing his list of sales comparables, the witness testified that the range of CAP rates were 9.2% to 11.6%, with some as high as 15.7%. Since the subject is older than most of the sales comparables, the witness testified the subject merited a higher risk factor. The witness put special emphasis on the J.C. Penney's store at Stratford Square in Bloomington, in DuPage County. It sold in 1988 and 1992 at an overall rate (OAR) of 11.6%. The witness opined a CAP rate of 11.5% for the subject. Applying this figure to the effective net rent, the witness testified that the subject's fee simple market value, via the income approach, was \$4,900,000 as of January 1, 2000.

Turning to the sales comparison approach, the appraiser used 13 comparable sales of anchor tenant department stores in regional malls. Of the 13 comparable sales used, 11 are in Illinois, one is in Texas and one is in Nebraska. Names include Sears (1), Montgomery Wards (2), Carson Pirie Scott (3), J.C. Penney (1), Gately's (1), Dillard's (1), Wieboldt's (2), Bergner's (1), and Lord and Taylor (1). Each is a well-known, large, single-tenant, department store.

Dates of sales range from January 1985 to October 1999. Building sizes range from 84,747 to 208,308 square feet and land-to-building ratios range from 1.92:1 to 3.84:1. Retail sales per square foot range from \$90.00 to \$180.00, or from \$15.86 to \$44.34 sales price per square foot. Ages range from six to twenty six years. The 29-year-old, 148,606 square foot, Sears subject has retail sales per square foot figure of \$140.00, the witness testified.

The witness opined that buyers and sellers of large anchor stores in malls deal on a national market and their primary consideration is the stabilized retail sales of the particular anchor store. All of the comparables are major name department stores, with the exception of the Gately's comparable, the witness testified. The witness testified that the buyers and sellers in the market use the retail sales as the main element of comparison. This analysis is the most accurate in valuing a property such as the subject, the witness testified.

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The appraiser adjusted for dates of sale, land-to-building ratio, size and age when comparing these properties to the subject. However, the witness testified, his single most important adjustment when comparing the comparables to the subject was for the stabilized retail sales. After considering all of these factor, the witness estimated the subject property at \$30.80 per square foot, or \$31.00 rounded, which, when applied to the subject's square footage of 148,606, indicated a fee simple market value for the subject, via the sales comparison approach, of \$4,600,000, rounded, as of January 1, 2000.

In reconciling his opinion of value, the witness placed substantial weight on the income approach and substantial emphasis on the sales comparison approach. The witness testified that the subject's fee simple market value as of January 1, 2000, is \$4,700,000. This figure, the witness testified, includes the contributory value of the surrounding land, which is not part of the parcels under appeal. After considering the deduction for the contributory land, the witness opined a value for the subject of \$3,060,000, rounded, for the year 2000. The witness further testified that he concluded the same market value for years 2001 and 2002.

The witness was cross-examined by both the board and the intervenors. The witness was examined on the following topics: the lack of a cost approach to value; the two appellate court cases previously cited, herein; the rental and sales comparables and their locations; the retail sales of the comparables; the sales per square foot of the comparables; and the use of a retail sales multiplier. The witness was also questioned on the two appellate court cases, of which his methodology, as used in the instant case, was rejected. The witness answered all of the questions posed with confidence and clarity. All of the witness' answers were articulated with reasonableness and sincerity. The witness was able to substantiate all of his findings. The witness was then excused.

The board of review presented its "Board of Review Notes on Appeal." The board of review's assessed value for the subject property is \$2,622,000 for each of the three years: 2000, 2001, and 2002. The board's market value for the subject property is \$6,900,000 for each of the three years, based upon the Cook County Real Property Assessment Classification Ordinance. Said ordinance provides an assessment level of 38% for Class 5a property. The board also submitted case law, In re: Application of Rosewell v. U.S. Steel Corp., 106 Ill. 2d 311, 478 N.E.2d 343 (1985) and In re: Application of County Treasurer v. Twin Manors West of Morton Grove Condominium Association, 175 Ill. App. 3d 564, 529 N.E.2d 1104 (1st Dist. 1988). No brief or any explanation as to each case's relevance to the present appeal was submitted.



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Also, the board submitted two reports. The first report is entitled The Illinois Ratio Study for Commercial and Industrial Properties: Review and Recommendations. The report reviewed and evaluated the procedures and methodology used by the Illinois Department of Revenue in its annual sales ratio studies. The second report is entitled IAAO Technical Assistance Project-Review of the Assessment/Sales Ratio Study Program for the Illinois Department of Revenue, hereinafter, the "IAAO report". The purpose of the "IAAO report" was to ascertain compliance with IAAO standards and offer recommendations for improvement.

The report was dated October 29, 2001. The author of the board's report was not tendered as a witness to provide testimony and be cross-examined about his report. The board submitted a valuation report for the three years, which are the subject of this appeal. The estimated market value for the subject is \$7,160,000, for each of the three years at issue.

The valuation report describes the subject property as a 35-year-old, single-story, Sears store located in the Ford City Mall. The report states that the improvement contains approximately 148,606 square feet of net rentable area and has a land-to-building ratio of 1:1. No personal inspection of the subject premises was performed.

The report uses four suggested rental comparables in order to develop an income analysis. Rentals range from \$6.46 to \$8.00 net per square foot. The report indicated a selected a rental rate of \$6.50 for the subject for a projected gross income of \$965,939. After subtracting vacancy and collection of 5% and management and reserve expense of 5%, the report provides a NOI of \$871,761. Applying a capitalization rate of 10% arrives at a value, via the income approach, of \$8,715,000, rounded. The report is lacking any analysis.

Turning to the sales comparison, the report uses four suggested sales comparables that range in age from 5 to 25 years and in size from 75,096 to 187,927 square feet. Land-to-building ratios range from 2.8:1 to 6.3:1. The subject is listed as a 35-year-old, 148,606 square foot building, with a 1:1 land-to-building ratio building. The comparables sold for prices that ranged from \$61.93 to \$81.56 per square foot, based upon sales prices, which were not analyzed. The report indicated an estimate of \$60.00 per square foot for the subject and an estimated market value, via the sales comparison approach, of \$8,915,000. The report estimated a figure of \$8,800,000 market value for the subject at a "typical" land-to-building ratio less 298,511 square feet of land at \$5.50 per square foot. These values were reconciled

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to reach a final market value conclusion for the subject of \$7,160,000. The board did not call any witnesses. The board requested confirmation of the subject's assessment for each of the three years at issue.

The City called an Illinois Certified General Appraiser as a valuation witness. The witness is also a certified review appraiser through the National Association of Review Appraisers. The witness was previously employed by the creator of the report, the appellant's appraiser's firm. The witness was accepted by the PTAB as an expert in the field of real estate appraisal. The witness prepared a self-contained complete appraisal on the subject property with an effective date of January 1, 2001. The witness signed the report under a different heading, a firm whom he apparently worked for during the period the report was created. He inspected the subject property on April 7, 2003. The witness opined a fee simple market value for the subject of \$7,500,000, as of January 1, 2001.

The witness employed all three approaches to value. In his sales comparison approach, the witness testified that he used five improved sales of comparable property, each in the Chicago metropolitan area. One of the sales is part of a bulk sale of six Carson Pirie Scott stores. Therefore, a total of ten physical properties were used in the witness' sales comparison approach. Each of the six stores, as used in the bulk sales comparable, are located within 30 miles of the subject and in Illinois, with the exception of one sale in Indiana. Each was an anchor store and all are similar in size to the subject, the witness testified. Therefore, he considered this bulk sale comparable.

In the report, the witness summarized his sales. The properties consist of the following department stores: Carson Pirie Scott (3), J.C. Penney (1), and Von Maur (1). Sales dates ranged from July 1992 to August 1998. Ages range from 11 to 24 years. Building sizes range from 103,043 to 982,964 (a bulk sale consisting of a total of six Carson's sales), or from \$28.66 to \$89.53 per square foot of building area on sales prices that range from \$4,000,000 to \$88,000,000 (bulk sale price).

The witness opined a value for the subject of \$50.00 per square foot of building area. When applied to the subject's square footage of building area, the witness opined a value for the subject, via the sales comparison approach, of \$7,430,000.

Using the income approach, the witness relied upon six rental comparables, in the greater Chicago land area. Each is an anchor department store. Sizes range from 83,354 to 150,000 square feet of building area, or from \$4.41 to \$7.38 per square

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foot. Curiously, one of the comparables used is the subject property itself, at a rental rate of \$4.41 commencing in 1989 on a 15-year-term, with an upward adjust for time. Another comparable is a Carson Pirie Scott store, also in the Ford City Mall at \$4.50 per square foot, on a 15-year-term with a commencement date of 1988. The witness opined a rental of \$5.50 per square foot for the subject property. When multiplied by the subject's square footage of 148,606, the witness estimated the potential gross income at \$820,000, rounded. The witness deducted for vacancy and collection of 2%, non-recoverable expenses of \$0.16 per foot, replacement reserves of \$0.25 per square foot, and management fees of 3.5%. The effective net operating income was estimated at \$715,000. Applying a capitalization rate of 9.5% yielded a value for the subject property, via the income approach, of \$7,420,000, as of January 1, 2001.

In his cost approach, the witness estimated a land value of \$6.00 per square foot and a total land value for the subject of \$880,000. Using Marshall and Swift's Valuation Service, the witness estimated a replacement cost new for the subject at \$100.00 per square foot, or \$14,860,000, rounded. Adding 8% for entrepreneurial profit, the total cost new was estimated at \$16,048,800.

The witness considered the subject's age as 57 years with an effective age of 22 years. Assuming an economic life of 40 years, the witness estimated the subject at 55% total depreciation. When applied to the total cost new, the result is \$8,826,840 in total depreciation, and the remaining depreciated value of the improvements is \$7,221,960. Adding back the land value, the witness testified that the subject's market value, via the cost approach, was \$8,100,000, as of January 1, 2001. Byrnes reconciled market value, using all three approaches, for the subject at \$7,500,000.

On cross-examination pertinent to potential bias, the witness testified that his termination from the appellant's appraisal firm, revolved around an appraisal report on two downstate Illinois hotel properties, which were the subject of some notable press coverage. The witness testified he was terminated for his work on appraisals of the properties, which came under scrutiny, wherein one expense item was double counted. The witness also testified that he left the firm in 2004.

On cross-examination, the witness was questioned on the sources of his information in order to determine a 2001 market value for the subject. The witness responded that he used a national reporting service, personal research and other appraisals. Also, the witness was questioned about a previous erroneous representation of his qualifications as an MAI. The witness testified that was

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erroneously reported. The witness was also questioned on his expertise in appraising industrial properties converted to anchor stores, and his valuation techniques of department stores, his use of capitalization rates, arm's length versus non-arm's-length transactions used as comparables in his report, his use of the bulk sales transactions, and his use of leased fee versus fee simple transactions.

The witness appeared uncertain of a number of his answers and openly admitted that he did not recall directly speaking with any parties directly involved in a number of his sales comparables. Also, some of the comparables used were not exposed to the open market, the witness testified. The witness also admitted that the bulk sales transaction of six Carson Pirie Scott stores was a leased fee, not a fee simple, transaction. Lastly, the witness was unable to ascertain the retail sales figures of any of his comparables. At this point, the witness was excused.

The City called an appraiser as a rebuttal witness. The witness was offered to and accepted by the PTAB as an expert in the field of real estate appraisal. The witness was called to review the report. The witness provided a technical appraisal review of the appellant's appraisal.

The witness testified that he inspected the property on December 7, 2004. The witness reviewed the report and found violations of the Uniform Standards of Professional Appraisal Practice (USPAP) rules regarding failure to provide a land value and the report also fails to properly account for the contributory land value, the witness testified. Additionally, the witness testified that the report did not adequately describe the subject's legal description and the market demographics. Further, the report fails to include changes in market conditions for the years 2001 and 2002, the witness testified.

The report also fails to consider the contributory value of the easements that allow the landlocked subject to operate. This, the witness testified, is also a USPAP violation. The report does not include a title report review to evaluate the existence of any easements that would impact the subject. Also, the witness testified, the income approach in the report is flawed in its methodology to derive income since it does not properly arrive at a potential gross income figure from all sources.

The witness also took issue with the report's use of various comparables. Further, the witness testified, the report should have analyzed sales data from other anchor stores at the Ford City Mall and applied such data to its determination of value for the subject for all three years at issue.

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The witness testified, that, in the sales comparison approach, the report should have cited the buyers and sellers to the transactions and details of the sale. The failure to include a land value and the methodology to arrive at the contributory land value is not properly derived, the witness opined. In conclusion, the witness testified to various USPAP violations, appraisal methodology, and technical deficiencies.

On cross-examination, the witness testified that he had never appraised an anchor department store in a regional or super-regional mall. The witness was also asked about his numerous references to USPAP violations; however, he was unsure whether or not he was entitled to make such determinations and if he had complied with the requirements of a review appraisal per USPAP.

When asked, on cross-examination, as to how he would cure the alleged USPAP defects, the witness responded that it was not his problem, since he did not author the report. Also, alleged violations of the, used in subsequent years 2001 and 2002, were not substantiated by the witness. The witness was not able to substantiate his allegation that the report failed to properly address the land component of the subject property; rather, it was merely the witness' opinion.

Furthermore, the witness testified that in his inspection he did not observe some physical features of the property. During these proceedings, the City raised numerous objections, in an attempt not to allow counsel for the appellant to pursue his line of questioning. At this time, the witness was excused.

The appellant's counsel called its next witness as its rebuttal witness. Again, the City renewed its motion to bar this witness' testimony. The PTAB denied the motion, again. The witness was allowed to testify. The board made a motion for a directed verdict confirming the subject's assessment. The PTAB denied that motion, as well.

The witness is the managing partner of real estate appraisal firm located in Duluth, Minnesota. He is an MAI and a licensed appraiser in both Minnesota and Wisconsin, both mandatory licensure states, the witness testified. The State of Illinois is a voluntary state for licensing purposes and a license is required in Illinois only when doing federally-related transactions involving federally-regulated lending institutions, the witness testified. Property tax assignments, the witness testified, are not activities that require a license.

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The witness testified that he has a specialty practice in the area of the appraisal of anchor department stores, and to a lesser degree, shopping centers. The service is nationwide. The witness was offered to and accepted by the PTAB as an expert in the field of real estate appraisal in theory and practice. The witness was offered as a review appraiser of the board of review's appraisal report and the intervenor's valuation appraisal.

Numerous objections by the board and the intervenors were raised as to the witness' right to review the report without an independent written report of his own submitted into evidence. Again, as previously, the PTAB ruled against these objections, allowing the witness to testify. The parties were instructed that the witness' testimony would be given the proper weight accorded to a review without a written report. The witness testified that there is no USPAP rule that a review appraiser submits a written report.

The witness testified that the board's appraisal report was not a complete document. It contains no intended user information, property rights appraised, and contains no definition of market value, all of which are violations of USPAP. In conclusion, the report did not contain relevant data for either the sales comparison approach or the income approach. The report did not contain a cost approach.

The income approach, the witness testified, did not contain information on market rent or the actual or anticipated retail sales of the subject. This information on sales is critical, the witness testified, when reviewing a property such as the subject. The end result, the witness testified, is that the appraisal is not reflective of a fee simple analysis of an anchor store in a super-regional mall. Also, the report contained numerous leased fee and sale-leaseback comparables. In conclusion, the report is unreliable, the witness testified.

The witness also prepared a review of the valuation appraisal report. As required by Standard 3 of USPAP, the witness developed a short file memorandum. A written review report is not required by USPAP, the witness testified. The report did not contain necessary information, the witness opined. The witness testified that there exists a Directory of Major Malls and there is a Shopping Center Directory. The Directory of Major Malls is used for regional or super-regional malls, to instruct the reader on the layout of the shopping center. Using this information, the witness testified that the subject property is not a classic anchor store of a shopping center. A tunnel, not a concourse, links the subject to some industrial property. Also, the witness stated that the report failed to report that the

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Montgomery Ward's department store in the anchor store was vacant. Also, the Sears HomeLife store in the subject property was also vacant, or "dark."

The witness went on to testify that the report fails to properly report the cost new of the subject. The figures used to value the subject is more appropriate to a freestanding downtown department store, the witness testified. The witness opined that such a difference between the subject and a downtown department store, is approximately 20% in value. Both are Class C properties, the witness opined.

The income approach utilized, with a rental figure of \$5.50 per square foot with no correlation to the actual retail sales of the subject, is flawed. The report relied upon a good deal of inaccurate data, according to the witness. Also, the development of the capitalization rate is unreliable, the witness testified.

Turning to the sales comparison approach, the witness testified that the report uses the subject effective age at only 22 years, but uses chronological age for the subject's comparables. Actually, the subject is older than all the comparables, the witness stated. Adjustments and property rights are not discussed in the sales comparison approach. No adjustment grid is provided. Also, the witness independently verified that the sales comparison approach utilized comparable properties that were not arm's length transactions. Also, regarding the six store bulk sale that the report uses, leases in place on these properties had to be re-negotiated and then sold them off to multiple investors, with the six stores bundled together. Carson's, the store involved, also had to guarantee all of the leases. This was not a simple real estate deal and could not possibly be used as a comparable to the subject Sears store as portrayed in the Byrnes report, the witness testified. A key indicator of the nature of this transaction, and its failure to qualify as arm's length, is that the loan to value amount is 104% of the sales price. The six stores sold for \$85 million, not \$88 million, as represented by the report, the witness testified. Based upon all this information, the witness determined the report unreliable.

The witness, on cross-examination, was asked about his inspection of the property the day before the hearing. His inspection was only a drive-by of the property during a short ride. The witness admitted that he had not ever appraised a regional or super-regional shopping center in Cook County. The witness testified that he had completed between six and ten review appraisals of regional or super-regional anchor department stores in Cook County. For each of these reviews, the witness testified that he prepared an initial file memorandum, in accordance with USPAP.

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For each review appraisal of the subject property, the witness tendered his file memorandum to the examiner.

Questions revolved around the contents of the file memorandums. The witness detailed his entries into the files in a concise and clear manner. The witness explained that the purpose of the file memorandum is to provide a summary of the work product that occurs over time. When questioned about the land valuation, the witness testified in accordance with the appellant's appraiser, methodology for valuing the subject. The witness testified that in some cases (such as the subject) the party that is paying its pro-rata share of taxes for the land not part of the underlying PINS is being double-taxed.

The witness testified to the areas that were "dark" in both the subject's mall and inside the subject itself. Montgomery Wards went bankrupt in 1997, merged with General Electric in 1999, and in year 2000 announced closure of their stores, the witness testified. The date of closure, the witness opined, was December 29, 2000, before the date of the report. This factor was not mentioned in the report, the witness testified. Up to the time of the hearing, the store remained closed ("dark").

Turning to the HomeLife facility within the subject' site, the witness testified that it was present within the subject before 1999 and went "dark" sometime after June 2002. The witness testified that HomeLife was a subsidiary company of parent, Sears. The witness testified that the HomeLife store occupied somewhere between 38,000 to 46,000 square feet of space within the subject, Sears. The witness testified that the decline in sales volume due to the closing of Home Life was "very little."

The witness provided the PTAB and the parties with the retail sales volume for the subject Sears store for years 1997 to 2004.

According to the witness, and based upon his figures, the closing of the HomeLife store did not substantially affect the retail sales of the subject property. As of the date of the hearing, that portion of the subject still remained "dark", the witness testified.

The witness also guided the parties through an explanation of the structure and location of the subject. The subject, originally an industrial site, is not a typical anchor department store at a shopping mall. Rather, it is atypical. A tunnel to the main mall connects it. The subject sits in the backside of the mall. The witness



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characterized the subject as a big box store at the end of a shopping center on a pad site.

The witness testified as to his review of the appraisal. He explained that had not differentiated his comparables in terms of lease fees versus fee simple and sales that were subject to leases. The terms in the leases were not explained adequately.

The witness' answers to all of the questions posed were clear, concise and articulate. The witness exhibited a sincere and honest demeanor in all of his answers. There was no indication of any bias on the part of the witness, merely an effort to answer all of the questions posed truthfully. At this time, the witness was excused.

Just prior to the close of its case, the board of review attempted to introduce a new appraisal of the subject as rebuttal evidence. The board argued that because the appellant's appraiser had performed an appraisal of the subject for the tax year 2003, a new triennial, which contained a higher value, that the new appraisal should come into evidence. Also, the board argued, the rebuttal witness for the appellant, disclosed that the HomeLife store in the subject had gone "dark", and that as a result, the subject is closer in size to 100,000 square feet, not 148,000 square feet. This decrease in size would have an impact upon the sales per square foot, the board argued. The sales figure, the board calculated would be closer to \$180 per square foot, not \$140 per square foot as disclosed by the appellant's appraiser.

The PTAB denied the board's motion to accept the 2003 appraisal into evidence. It is for a tax year not in question and the time for the filing of evidence had long since closed. The PTAB ruled that such evidence is in direct contradiction to PTAB rules which states:

*Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to this appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence. 86 Ill.Adm.Code 1910.66 (b).*

The PTAB further explained to the parties that the time for submission had not only closed, but that the City's own review appraiser, who claimed to have inspected the premises, could have addressed this point. In a concerted attempt to get the new appraisal in, the board and the intervenors unsuccessfully argued that

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there was not any way they could have know that the subject's square footage was different. In fact, counsel for the board misstates witness' testimony that HomeLife closed in mid-2002; rather, the board of review's counsel states that the witness testified that sometime between 1999 and February 2002 Home Life closed, an obvious distortion of the witness' testimony in an attempt to get this appraisal into evidence. The PTAB clearly denied the request.

The PTAB on numerous occasions, denied the request to admit the document, the appraisal document, but allowed the parties to submit an offer of proof, as to testimony, *but not the appraisal document itself*. Alternatively, the board requested to recall a witness, or have the PTAB subpoena him to testify, again. This request to recall a witness was also denied, as the PTAB had excused the witness the previous day. The board was allowed in its offer of proof to submit what it believed would be testified to, if allowed to recall a witness. The board was also ordered to submit property record cards within seven days of the conclusion of the proceedings, along with its offer of proof. The parties were given leave to file written closing statements within 30 days of the close of the proceedings. At this point, the hearing was concluded.

The board of review submitted its offer of proof. However, directly contrary to the PTAB's ruling, the board of review also submitted the entire 2003 appraisal on the subject property. The offer of proof gave a rendition of the chain of events at the hearing leading up to the submission of the offer of proof.

First, the board mischaracterizes the facts. It claims that the appraisal report for the year 2003 was submitted at the time of the hearing. That is not correct. Rather, it was requested to be submitted at the hearing and that request was denied. The board also mischaracterizes the events. It was clear to all parties present that the PTAB's allowance of the offer of proof was not an invitation to allow the appraisal to come in at the same time. There was much discussion about the request to admit the appraisal, the offer of proof, and the request to recall a witness. The offer of proof was allowed only as to what the board believed the witness would testify to had he been recalled as a witness.

It was clear from the back and forth discussion at the hearing, during the time the board attempted to have the 2003 appraisal admitted, that the appraisal was specifically excluded. Counsel for the board of review admits that fact in his submissions. Counsel next tried to get the appraisal admitted through the PTAB official notice of its 2003 appeal on the subject property. That request was also denied. Nevertheless, counsel for the board decided on its own, after numerous

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denials, to submit the 2003 report along with its offer of proof. Furthermore, the property records cards, specifically requested by the PTAB in its ruling, were never submitted to the PTAB.

After ten pages of detail, which includes the above chain of events and parts of the hearing which lead to the board's request for an offer of proof as to what the witness would testify to if he were called as an adverse witness, the board finally got to the anticipated offer of proof. The PTAB will not acknowledge nor will it give any weight to the first ten pages, submitted by counsel on its own accord.

The offer of proof states that had the witness been recalled as a witness he would have testified that: that the anchor department store consists of 102,259 square feet and that HomeLife contained an additional 44,818 square feet; that HomeLife was vacant as of the appraisal date; that the Sears store produced \$20,200,000 in retail sales during the years 2000-2001 on its approximately 102,000 square feet; that the reduction in square footage was the result of the closing of the HomeLife store; and that, the PTAB denied the board's request to recall as a witness. That, in its entirety, the board's offer of proof, is quite similar to what was presented at hearing. Nothing new was provided in the offer of proof.

In its closing argument, submitted in writing, the board of review gave the following summation: First, the board "incorporated by reference" the closing argument of the intervenors. Second, the board again argued, contrary to the PTAB specific order at time of the hearing, portions of the 2003 appraisal. Again, counsel for the board claims this only came to light after the hearing, which statement runs contrary to the personal inspection conducted by intervenors' appraiser. Third, as in its offer of proof, the board argues that the improperly states the income approach findings of his own appraisal for years 2001 and 2002 since the square footage of the subject had changed. Again, portions of the appraisal report are cited contrary to the PTAB express order. The board of review's argument goes into more detail on the 2000 appraisal versus the 2003 appraisal.

The City and the intervenor submitted a consolidated post-hearing brief. In its brief, the intervenors argued that the market value of the subject was properly reflected in the appraisal. The difference, cited by the argument, is that one appraiser relied upon comparable properties within the Chicago area, while the other relied upon comparables outside of the Chicago area. Also, appellant relied upon the retail sales of the stores, an approach that the intervenors argue is flawed. Also, the intervenors disagree with 's methodology for determining the value of the

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real estate of an adjacent parcel, as addressed by the Second District Appellate Court. Moreover, the argument states that the locational differences for the comparables used in the sales comparison approach lend more credence to the Byrnes report as opposed to the report. The fact that the appellant's appraisal went beyond the Chicago area should work against a reduction in the subject's assessment. The application of the approach that applies retail sales per square foot is contrary to common sense, the intervenors argue. The report, the closing argument contends, is more persuasive since it utilizes comparable properties within the subject's demographic region. Since the report's methodology employs the retail sales approach to account for these factors, its conclusion is flawed, intervenors argue. The intervenors term this the "magic ratio" in an effort to undermine the report's methodology. The intervenors argue that the report indicates a figure of \$4.00 per square foot for a rental rate, well below the figure used by the appraiser, and, that the report produces a more reliable figure for determining the subject's market value.

The intervenors also argue that the rebuttal witness for the appellant revealed, for the first time, that the entity named HomeLife occupied between 38,000 and 46,000 square feet of the subject property during the period from 1999 to mid-2002. This fact, the intervenors argue, would substantially increase the subject's market value via the income capitalization approach.

Lastly, the intervenors argue that their appraiser used proper methodology and USPAP to determine the subject's contributory land value. Again, the intervenors cite to the two Second District Appellate Court cases that strike down the methodology. In its argument, the intervenors cite to the Illinois Constitution, Article 4, wherein the requirement for taxes on real property must be uniformly applied is stated. Since the appellate court has so ruled against the corporation who prepared the report on the issue of contributory land, PTAB should apply these decisions to the present matter to insure "uniform valuation of pad sites throughout the State." In conclusion, intervenors request a market value for the subject of \$7,500,000 for all three years.

In its closing statement, the appellant argues for a reduction in the subject's assessed value. Sears presented two witnesses to support its burden of proof by a preponderance of the evidence that the subject is over assessed, the appellant contends. The appraiser personally inspected the subject premises and reported credibly, both in his appraisal and his testimony that the subject is over valued for all three years. The report and its supporting testimony were credible and were in no way undermined by the board or the intervenors.

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The appraiser's use of comparable anchor department stores located in regional malls precisely mirrors the subject's description. The relationship of retail sales for a property such as the subject is the determining factor in the subject's value. properly excludes the surrounding land that is not part of the subject's two parcel numbers, the appellant argues.

The appraiser, it is noted, was terminated from employment under less than pleasant circumstances. The appraiser's testimony was biased and less than credible, it is argued, and his conclusion of value for the subject was based upon erroneous assumptions. The appraiser's methodology was flawed and lacked pertinent information as brought forth by the appellant's rebuttal witness, the appellant contends.

The board of review did not present any witnesses and relied upon a report. Said report is completely unreliable, the appellant argues.

In conclusion, the appellant requests a market value finding for the subject property of \$3,058,189 for each of the three years at issue.

After hearing the testimony and reviewing the record, the PTAB finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellant argues that the subject property's market value is not accurately reflected in its assessed valuation. When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. See National City Bank of Michigan/Illinois v. Property Tax Appeal Board 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002) and Winnebago County Board of Review v. Property Tax Appeal Board 313 Ill.App.3d 179 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill. Admin. Code 1910.65(c). Having considered the evidence and testimony presented, the Board concludes that the appellant has satisfied this burden and that a reduction is warranted.

The PTAB reviewed the record and the testimony before it. Of the two valuation appraisals submitted, one by the appellant and one by the intervenor, the appellant's appraisal is superior to that of the intervenor. Moreover, the appellant's appraiser's testimony is superior, more credible, and more reliable than the testimony by the intervenor's appraiser. Furthermore, the PTAB finds that the

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review appraiser for the appellant was more persuasive and credible than the review appraiser for the intervenor. The board of review's report is given no weight. No witness was tendered to the PTAB and the board's report provides no analysis or logical reasoning in any fashion to support the current assessment.

The PTAB finds that the appellant has successfully carried its burden that the subject is over assessed for all three years. The Board further finds that the best evidence of market value in the record is the appraisal and testimony provided by the appellant's appraiser. The appraiser's detailed analysis and testimony substantially and credibly support the conclusion of the subject's total market value. However, the PTAB finds that the conclusion of value reached by the appraiser cannot be independent of the value of the contributory land value, which provides necessary functions to the value of the subject's improvements. Since it was elicited during the hearing that the subject's market value would not change during the years in question, the PTAB finds that the correct market value for the subject property is \$4,700,000 for each of the three years, 2000, 2001, and 2002.

The appraiser was able to substantiate all of his findings, with the limited exception of the contributory land value. The PTAB finds his appraisal to be logical and reasonable. His written report is detailed and complete and gives the reader a good analysis of the subject, an anchor department store in a super-regional mall. The appraiser demonstrated a good grasp of the subject, its market and the methodology used to reach the subject's market value in fee simple estate. He stressed his reasoning for using retail sales and the necessary adjustments between the subject and the comparables. That included his use of comparable properties outside of the subject's Chicago area. On cross-examination, he more than adequately articulated his reasoning and his rational in reaching his conclusions. He appeared professional, unbiased and confident in his approach. Cross-examination was unable to undermine the witness' testimony on direct examination.

The appraiser for the City was less persuasive. The witness employed all three approaches to value, and reached a conclusion of value for the subject property of \$7,500,000. The witness employed a cost approach, which the PTAB finds of little value in determining the market value for an anchor department store in a super-regional mall, such as the subject.

Leaving aside the witness' possible bias due to his termination from employment with appellant's appraisal firm, the PTAB finds a number of questionable items in the appraisal. The appraiser cites that he personally inspected the subject premises,

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yet appears to almost completely rely upon the appraisal for reporting information. The location of the HomeLife, or whether or not it was "dark", a major point of contention for the board of review, is not addressed by the appraiser, either. The City's witness certainly could have alluded to this fact had he adequately examined the subject premises, as claimed. Yet, the board of review and the intervenors claim that the only way they could have know of the existence of HomeLife is by the appellant's appraiser. Similarly, the rebuttal witness, a witness that also claimed to have inspected the subject, makes no mention of HomeLife. Rather, it is left to the appraiser's rebuttal witness, a person that did not inspect the premises, to bring forth the HomeLife location in the subject. In its lack of accountability, the board of review repeatedly places their own lack of preparation and incomplete examination squarely at the foot of the appellant's witness. Such an argument is completely lacking in credibility.

The appraiser, upon cross-examination, also admitted not to have spoken with parties to a number of his comparables sales. He also used comparable sales from a six-store bulk sale and attempted to use this as comparable to the subject. The witness did not substantiate his reconciliation of comparable sales and the nature of the transactions as to whether these were arm's-length or not. Lastly, the appraiser's expertise in valuing a property such as the subject, a large anchor department store in a super-regional mall, was also called into question as limited. The PTAB gives little weight to the valuation report and testimony of the appraiser.

The City rebuttal witness had never appraised an anchor department store. He made numerous mentions of USPAP violations on the part of the corporation who prepared the report, but was unaware if he, himself, was complying with USPAP in making such determinations. The witness determined that the appraiser had not adequately accounted for the subject's land value, but could not substantiate this conclusion.

The witness also claimed to have inspected the subject premises in 2004, but he, also, did not make mention of any HomeLife improvements. The rebuttal witness did not appear comfortable in the witness chair. Instead, his demeanor and his testimony seemed contrived and non-credible. His conclusions as a review appraiser gave the PTAB the distinct impression of a witness with his own agenda and his bias was clearly evident. The witness was not a credible witness. The PTAB places little weight on the evidence and testimony of the review appraiser.

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One witness gave a meaningful and credible review of the appraiser's report and the board of review's report. The witness' demeanor and testimony was open, honest, and responsive. The witness has a specialty practice in the appraisal of anchor department stores and shopping malls. The witness gave detailed explanation of the subject and its purpose as a retail department store, along with the differences between the subject and a classic downtown department store. The witness described the conversion of the subject from industrial property to its present use in detail. Moreover, he was the only witness that did not examine the subject, yet it was this witness that established the existence of a HomeLife on the subject premises. The witness appeared well educated and articulate, straightforward, and clear in his answers. The witness testified that the single most important valuation factor in a property such as the subject is its retail sales per square foot. That was the methodology applied by the appraiser in his appraisal of the subject.

The witness, in his review of the appraiser, cited several flaws. The appraiser uses a rental figure of \$5.50 per square foot for the subject without any corresponding data to the subject's actual retail sales. The capitalization rate is not properly determined, the witness testified. The appraiser also uses sales comparables that are not arm's length transactions. The bulk-sales transactions in the appraisal were not adequately verified and examined for comparability. Details of the bulk-sale as revealed by the review witness determined that it was not possible to consider such a sale comparable to the subject. The witness also had a detailed knowledge of the retail department store market and the facts surrounding many of the comparable properties. The PTAB found the witness' testimony very credible.

In conclusion, the PTAB finds the appellant's evidence and the appellant's witnesses' testimony much more reliable and credible than the board of review's and the intervenors' witnesses' testimony and evidence. The most reliable and credible conclusion of value is that provided by appellant's appraiser.

Turning to the board of review's argument, the PTAB finds the board's argument disingenuous and lacking in good faith. The board argues that the appellant's later date appraisal should be admitted to work against the appellant's argument for a reduction.

PTAB, on numerous occasions, denied the board's repeated requests to admit the 2003 appraisal. In spite of PTAB's denials, the board nevertheless submitted the appraisal in its offer of proof. Moreover, the property record cards, specifically ordered by the PTAB were never produced by the board.



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There is precedent for denying the submission of a later date appraisal when the tax year dates at issue are different from the later date appraisal. In The Cook County Board of Review v. Illinois Property Tax Appeal Board and Lurie Company, No. 1-05-0849, Illinois Appellate Court, First Judicial District (2006) (PTAB Docket No. 99-25370-C-3), the board attempted to introduce an appraisal for the year 2000, despite the fact that the year at issue in that case was 1999. The PTAB denied the board of review's request. On administrative review, in its order dated May 10, 2006, the First District Appellate Court unanimously affirmed on appeal the PTAB ruling. Similarly, here, the board makes a desperate attempt to introduce a later date appraisal for year 2003, which is not at issue. The board was again denied their request.

The board's argument that the HomeLife store within the subject property had gone "dark" and, therefore, the subject's market value is understated is incorrect. First, the review appraiser for the appellant, the party that disclosed the HomeLife location, and the person that had the most intimate knowledge of the situation, testified that HomeLife had gone "dark" in mid-2002. Since the final date at issue in this case is January 1, 2002 this fact has no bearing on the property's assessed value. Therefore, the argument is without merit.

The witness also testified that Montgomery Wards, another anchor tenant at the same regional mall, also became vacant. These facts were not present in either of the intervenors' witnesses' testimony or evidence. These two witnesses claim to have personally inspected the premises sometime after this occurrence took place, but they appear to have no personal knowledge of either event. This tends to undermine their credibility against their case but tends to add to the veracity of the appraiser's testimony as he inspected the premises prior to either occurrence.

HomeLife was a subsidiary of Sears, and, therefore, it was not incumbent upon the appraiser to distinguish this fact in his presentation. It certainly should be included as part of the premises square footage, and his ultimate conclusion of value and retail sales per square foot. Also, the appraiser testified that HomeLife had "very little" impact on Sears gross retail sales. Based upon the history of the store's sales as given in this decision, that is apparently the case, since there is not a significant change in sales during the years 2002 and 2003.

Therefore, the PTAB finds that the market value for the subject property as of January 1, 2000 to be \$4,700,000; for January 1, 2001 to be \$4,700,000; and for January 1, 2002 to be \$4,700,000.

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The PTAB further finds that the Cook County Real Property Classification Ordinance shall apply to the market value finding. In Cook County, class 5a property such as the subject is assessed at 38% of its market value. In his original pleadings, the appellant requested that the PTAB apply a level of assessment to the subject based upon the "2 and ½" provision in Article IX, Section 4(b) of the Constitution of the State of Illinois. Ill.Const. 1970 art.IX Section. 4(b). The appellant's pleadings request that the PTAB apply this provision based upon a level of assessment argument, which was introduced by the board of review. The appellant requested that the PTAB apply the Illinois Department of Revenue's (IDOR) three-year median level of assessment for Cook County class 2 properties (lowest class), which is the lowest level of assessment of any class of property in the county, and multiply this level of assessment by the Constitutional provision of 2.5:1, in order to yield the final assessment figure to the subject's market value. The appellant's argument is that this level of assessment should apply and not the Cook County Ordinance of 38% of the subject's market value. However, in order to show a lack of uniformity by using the sales ratio studies of the IDOR the taxpayer must show by clear and convincing evidence that the studies are random, representative properly edited and properly adjusted. See Cook County Board of Review v. Property Tax Appeal Board, 339 Ill.App.3d 529 (1<sup>st</sup> Dist. 2002) and Cook County Board of Review v. Property Tax Appeal Board, 345 Ill.App.3d 539 (1<sup>st</sup> Dist. 2003). In these cases, the court places the burden of establishing the correct level of assessment on the party making the claim. In this case, the appellant has not met that burden. Moreover, the appellant did not introduce any evidence or testimony at the time of the hearing to support this position.

For all the reasons stated above, the PTAB finds that the subject's market value for the years 2000, 2001, and 2002 is \$4,700,000, and its assessed value for years 2000, 2001, and 2002 is \$1,786,000, applying the Cook County Real Property Classification Ordinance figure of 38% for 5a commercial property, such as the subject. Since the current assessment for the subject property is \$2,622,000, a reduction is warranted for each year.

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<b>APPELLANT:</b>	<b><u>3021-23 Southport, LLC</u></b>
<b>DOCKET NUMBER:</b>	<b><u>02-23090.001-C-2 and 02-23090.002-C-2</u></b>
<b>DATE DECIDED:</b>	<b><u>October 05, 2006</u></b>
<b>COUNTY:</b>	<b><u>Cook</u></b>
<b>RESULT:</b>	<b><u>No Change</u></b>

The subject property consists of a 5,500 square foot parcel improved with a partially constructed multi-family building. The subject is located in Lake View Township, Cook County.

The appellant, through counsel, contends that the subject property was the site of a construction project during 2002. The completed project is to consist of a condominium including seven residential units, one commercial unit and seven residential parking units. In its brief, counsel for the appellant argued that the subject should be re-classified from a Cook County Real Property Assessment Classification Ordinance Class 3-18 property to Class 1 vacant land for 2002 as the improvement was under construction from 2001 through September 2003 and thus uninhabitable during 2002. Further, counsel argued that according to the Cook County Real Property Assessment Classification Ordinance Class 3 real estate is to be assessed at 33% of fair market value while Class 1 real estate is to be assessed at 22% of fair market value.

In support of its argument, the appellant submitted two building permits issued by the City of Chicago dated April 23, 1999 and August 12, 1999; and two revised building permits dated April 10, 2000 and December 18, 2000 issued by the same body. The appellant's counsel also submitted an affidavit of an authorized agent of a general construction company, an affidavit of the manager/owner of the subject property, and an affidavit of an authorized agent for a contractor performing work at the subject's construction site all indicating the subject was at all times from January 2001 through 2002 was under construction. Also submitted was the owner's sworn statement demonstrating that payments were made for fees to the general contractor, subcontractors and public agencies between February 26, 2001 and January 22, 2002. The January 22, 2002 owner's sworn statement indicated an adjusted total contracted amount of \$2,446,000, which included the 1999 purchase of the subject property in the amount of \$775,000. The evidence disclosed the site was improved at the time of purchase and the existing improvement was demolished. Of the total contracted amount of \$2,446,000, the statement indicated \$1,830,686.94 was expended. The general contractor's sworn statement of the

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same date indicated that \$708,958.99, which equates to approximately 60% of the total contracted amount \$1,170,000 for the construction of the subject improvement, was expended as of January 1, 2002. Architectural renderings of the subject improvement were included as was a copy of the settlement statement for the January 1999 sale of the subject property for a price of \$775,000.

In addition, the appellant submitted a copy of the 2002 final decision of the board of review wherein its final assessment of the subject totaling \$399,062 was disclosed. The subject's assessment reflects a market value of \$1,209,279 using the 33% level of assessment as established by the Cook County Real Property Assessment Classification Ordinance for Class 3 property.

Based on the foregoing evidence, the appellant requested an increase of the land assessment from \$37,500 to \$170,500 and a reduction of the improvement assessment from \$361,402 to \$0 for the year at issue.

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property. On November 6, 2003 the Cook County Board of Review was notified of the appeal and given until December 6, 2004 to submit evidence or request an extension. The board of review timely requested an extension of time to submit evidence. On December 19, 2003, the Property Tax Appeal Board granted an extension until February 17, 2004. The board of review did not timely submit its evidence and was notified of its being found in default by letter dated June 7, 2004.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

The Board finds that the appellant's argument that the subject should be classified and vacant land under the Cook County Real Property Assessment Classification Ordinance unpersuasive.

The Property Tax Appeal Board finds that according to the Cook County Real Property Assessment Classification Ordinance Class 3-18 real estate is defined as:

Mixed use commercial/residential with apartments above seven units or more or building square footage over 20,000.

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Furthermore, the Cook County Real Property Assessment Classification Ordinance Class 1-00 is defined as:

Vacant land.

The Board finds that the appellant's evidence clearly demonstrates that subject property was not vacant but had an improvement that was approximately 60% complete as of the assessment date of January 1, 2002. Further, the Board finds that the appellant's evidence plainly demonstrated the subject improvement was being constructed to contain seven residential units, one commercial unit and seven parking units, which comply with the Cook County Real Property Assessment Classification Ordinance Class 3-18 classification. For these reasons the Property Tax Appeal Board finds the subject property was correctly classified under the provisions of the Cook County Real Property Assessment Classification Ordinance.

The appellant also contends the assessment of the subject property is excessive because the improvement was not complete and was under construction as of the assessment date. The Board finds this argument has no merit.

The Board finds that section 16-160 and section 16-180 of the Property Tax Code (35 ILCS 200/16-160 & 16-180) provide for the assessment of incomplete improvements as of the assessment date. The court in Brazas v. Property Tax Appeal Board, 339 Ill.App.3d, 978,791 N.E.2d 614 (2<sup>nd</sup> Dist. 2003) discussed the workings of these provisions of the Property Tax Code as they relate to the assessment of an incomplete improvement as of the assessment date. The court stated in part that:

That section 9-160 allows the assessor to value any partially completed improvement to the extent that it adds value to the property, regardless of whether the improvement is "substantially complete." Furthermore, section 9-180 addresses when the assessor is allowed to fully assess the improvement *i.e.*, when it is "substantially completed or initially occupied or initially used." 35 ILCS 200/9-180

Section 9-160 of the Code requires the assessor to value any improvements to the extent that they add value to the property. Brazas, 339 Ill.App.3<sup>rd</sup> at 983, 791 N.E.2d at 619.

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The Board finds that the appellant's evidence clearly demonstrates that the subject was approximately 60% complete as the assessment date of January 1, 2002. Moreover, the Board finds that the subject's current assessment of \$399,062 reflects an estimated market value of \$1,209,279 including land, using the 33% level of assessment for Class 3 property as contained in the Cook County Real Property Assessment Classification Ordinance, which is slightly less than 60% of the subject's total projected costs of \$2,140,000 including land.

Therefore, the Property Tax Appeal Board finds that no reduction of the subject's assessment is warranted.

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<b>APPELLANT:</b>	<b><u>2001 South Naperville Road, LLC</u></b>
<b>DOCKET NUMBER:</b>	<b><u>03-02042.001-C-3 and 04-01448.001-C-3</u></b>
<b>DATE DECIDED:</b>	<b><u>October 20, 2006</u></b>
<b>COUNTY:</b>	<b><u>DuPage</u></b>
<b>RESULT:</b>	<b><u>Increase Warranted</u></b>

*(The 2003 and 2004 appeals were consolidated into one hearing.)*

The subject property consists of a one-story, multi-tenant shopping center containing 17,274 square feet of building area. The original 6,483 square foot structure was built in 1993 with a 10,791 square foot addition constructed in 1999. The building is situated on a 47,926 square foot out-lot associated with a larger lifestyle shopping center commonly known as Town Square of Wheaton.

The appellant submitted evidence before the Property Tax Appeal Board through counsel claiming overvaluation as the basis of the appeal. In support of this claim, the appellant submitted an appraisal of the subject property estimating its fair market value to be \$1,600,000 as of January 1, 2000, using the three traditional approaches to value. By letter dated July 31, 2006, the Property Tax Appeal Board sent notice to the appellant, board of review and intervenor setting the matter for hearing at 9:00 A.M., Tuesday, September 19, 2006. The taxpayer, appellant's counsel and the appellant's appraiser failed to appear before the Property Tax Appeal Board at the scheduled date and time.

Section 1910.69 (b) of the Official Rules of the Property Tax Appeal Board provides:

When a hearing is ordered by the Property Tax Appeal Board, **all parties shall appear for the hearing on the appeal on the date and at the time** set by the Property Tax Appeal Board. Failure to appear on the date and at the time set by the Property Tax Appeal Board shall be sufficient cause to default that party. (86 Ill.Adm.Code §1910.69(b)).

The board of review and the intervenor, who were present at the hearing, presented the Property Tax Appeal Board a facsimile transmitted on September 18, 2006, at 4:41 P.M. from the appellant's counsel. The facsimile was addressed to counsel for the intervenor. The facsimile states: "My client, . . . has instructed me to

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withdrawal from the 2003 and 2004 above-captioned Property Tax Appeal Board cases, set for hearing on Tuesday, September 19, 2006. Therefore, we hereby withdraw from these cases. I have also faxed this withdrawal to Mr. . . . of the DuPage County Board of Review." The Property Tax Appeal Board finds the facsimile tendered at the hearing by the board of review and intervenor from the appellant's counsel to be somewhat ambiguous. From a review of the plain language contained in the text of the facsimile, it is unclear as to whether appellant's counsel was attempting to withdraw the pending appeals prior to the scheduled hearing date and time or whether the appellant's counsel was attempting to withdraw from his representation.

Section 1910.77 of the Official Rules of the Property Tax Appeal Board sets forth the procedures an attorney must follow to withdraw from representation by providing:

An attorney of record who wishes to withdraw from representation **must file a notice of withdrawal with the Clerk of the Board**, together with proof of service and notice of filing on all parties in the appeal. (86 Ill.Adm.Code §1910.77(a)).

Any attorney who substitutes for an attorney of record must file a written appearance identifying the attorney for whom the substitution is made. However, **no attorney will be considered withdrawn from an appeal until a formal withdrawal is filed in accordance with subsection (a) of this Section.** (86 Ill.Adm.Code §1910.77(b)).

Furthermore, section 1910.50(k) of the Official Rules of the Property Tax Appeal Board sets forth the procedure a party must follow to withdraw an appeal. This section provides:

The contesting party may, at any time before the hearing begins, upon notice to the parties to the appeal, move to dismiss the appeal, **by written request filed with the Board.** However, **where a party to the appeal has filed substantive evidence in response to the contesting party's petition, a dismissal will only be granted if no objections are made by any party to the appeal.** (86 Ill.Adm.Code §1910.50(k)).



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The Property Tax Appeal Board finds the appellant's counsel did not properly notify the Board requesting to either withdraw the appeals or his representation.

At the hearing, the board of review filed a written objection to the appellant's request to withdraw the appeals pursuant to Section 1910.50(k). The board of review argued it submitted substantive evidence that demonstrates the subject property is undervalued. Therefore, the board of review requested the Property Tax Appeal Board conduct a hearing on the matter and render a decision based on the evidence presented. Although the intervenor's counsel explained he spoke with the appellant's counsel the previous day by telephone and indicated the school district would not object to the appellant withdrawing these appeals. However, in light of the fact the proceeding was moving forward to hearing, the school district would present its case and evidence for the Board's consideration.

Based on these facts, the Property Tax Appeal Board finds the appellant's counsel did not provide the Property Tax Appeal Board written notification of his request to either withdraw the appeal or withdraw from representation as required by the Board's rules. The Board also finds the appellant's counsel failed to appear at the scheduled hearing without being granted leave to withdrawal the appeal, granted the request to withdraw from representation, or being granted a continuance as allowed by section 1910.67(i) of the Board's rules (86 Ill.Adm.Code 1910.67(i)). Under these circumstances, the Property Tax Appeal Board finds the appellant to be in default pursuant to section 1910.69(b) of the Board's rules (86 Ill.Adm.Code 1910.69(b)). The Board further denies the appellant's request to withdraw the appeal and denies the request to withdraw from representation. The Board will proceed to issue a decision in accordance with the evidence submitted by the parties and elicited at the hearing.

As previously mentioned, the evidence submitted by the appellant is comprised of an appraisal of the subject property estimating its fair market value to be \$1,600,000 as of January 1, 2000, using the three traditional approaches to value. Under the cost approach, the appraiser estimated the subject's fair market value to be \$1,650,000. Under the income approach, the appraiser estimated the subject's market value to be \$1,590,000. Under the sales comparison approach, the appraiser estimated the subject's market value to be \$1,600,000. In reconciliation, the appraiser concluded the subject property has a fair market value of \$1,600,000 as of January 1, 2000. Based on this appraisal, the appellant's counsel, in his brief, requested the subject's assessment be reduced to \$533,280.

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The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessments of \$873,960 for 2003 and \$947,370 for 2004 were disclosed. The subject's assessments reflect estimated market values of \$2,622,142 and \$2,843,247 using DuPage County's 2003 and 2004 three-year median level of assessments of 33.33% and 33.32%, respectively.

In support of an increase in the subject's assessment, the board of review submitted four suggested comparable sales and developed an income approach to value that was prepared by the Milton Township Assessor's Office. The Deputy Township Assessor was present at the hearing and provided testimony in connection with the evidence. The assessor was accepted as an expert valuation witness to present testimony in this appeal.

The four comparable sales submitted consist of multi-tenant retail commercial buildings located in Naperville, Glendale Heights, and Wood Dale, Illinois. The buildings were constructed between 1984 and 1999 and range in size from 13,195 to 22,206 square feet of building area. The buildings are situated on lots that range in size from 73,766 to 129,809 square feet of land area. Land to building ratios ranged from 2.82:1 to 7.97:1. They sold from November 2001 to July 2004 for prices ranging from \$2,700,000 to \$4,350,000 or from \$182.78 to \$209.45 per square foot of building area including land. After considering adjustments to these comparables for differences when compared to the subject, the deputy township assessor concluded the subject property has a market value of \$3,569,580 or \$210.00 per square foot of building area including land.

Under the income approach, the deputy township assessor estimated the subject's potential gross income to be \$24.00 per square foot of net building area or \$407,952. Deducting 10% or \$40,795 for vacancy allowance, the deputy assessor calculated the subject property has an effective gross income of \$367,157. After deducting \$36,342 for expenses, the witness determined the subject had a net operating income of \$330,815. Capitalizing the subject's net operating income by 9%, the deputy assessor concluded the subject property had a fair market value of \$3,675,718 or \$212.79 per square foot of building area including land. The board of review's evidence contained no underlying market data to support the subject's potential gross income, vacancy allowance, expense amounts, or calculation of the capitalization rate.

In correlating the value conclusion, the board of review's witness was of the opinion the subject property has a fair market value of \$3,600,000 or \$208.41 per

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square foot of building area including land. Based on the market value contained in this record, the assessor opined the subject property was undervalued.

The board of review also argued the appellant had appealed the subjects' assessment for the 2000 assessment year and used the same appraisal that was submitted for these 2003 and 2004 assessment year appeals. In the 2000 appeal after hearing (Docket Number 00-01192.001-C-3), the Property Tax Appeal Board gave diminished weight to the appellant's appraisal and value conclusion due to gross errors regarding the descriptions of the comparables, sale prices, and dissimilar physical characteristics of the suggested comparables when compared to the subject. Based on this evidence, the board of review requested the Property Tax Appeal Board increase the subject's assessments.

The intervenor, Wheaton-Warrenville Community Unit School District No. 200, next presented a brief in response to the appeal and a letter report estimating the subject's fair market value to be \$4,400,000 as of January 1, 2003, fee simple interest. The letter report was prepared by a state licensed appraiser. The appraiser was present at the hearing and provided testimony in support of his final value conclusion regarding the subject property. He was accepted as an expert witness to present testimony in this appeal. The appraiser's letter report references and incorporates his appraisal of the Town Square of Wheaton, in which a value of \$43,000,000 was estimated as of January 1, 2003. This appraisal was timely submitted into the record. (Exhibit A) The Town Square of Wheaton property is also the subject matter of separate appeals before the Property Tax Appeal Board. These 2003 and 2004 appeals were scheduled for hearing on September 20, 2006 at 9:00 A.M. However, the appellant's counsel filed a notice to postpone the hearings to the Board by facsimile indicating the appellant's appraiser was unable to attend the hearings due to illness.

The appraiser testified he inspected the subject property in October 2005 with several additional interior and exterior inspections. For the subject matter of this appeal, the appraiser developed the income approach to value using some of the data contained in the larger appraisal. The appraisal letter report and the appraiser's testimony reported the subject property was 84% occupied with three tenants in January 2000, with rental rates ranging from \$26.00 to \$32.00 per square foot of building area on a net basis. A fourth potential tenant was in negotiations to lease the remaining space at that time. He next discussed the appraisal methodology used to estimate the subject's fair market value. The appraiser estimated the subject's potential gross income to be \$27.50 per square foot of leaseable building area or \$467,583 on a net basis. The appraiser calculated this amount using the

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rental rates from the subject's shopping complex and a study of 29 rental comparables located throughout suburban Chicago. (Pages 38 to 42 of the appraisal, Exhibit A) Recoverable expenses were estimated to be \$91,476, resulting in stabilized potential gross income of \$559,059. The witness testified that as of the date of inspection, the subject was 100% occupied. Therefore, the witness estimated a market vacancy rate of 7.5% or \$41,929, resulting in an effective gross income of \$517,130. After deducting \$111,476 for recoverable and non-recoverable expenses, the appraiser calculated the subject property had a stabilized net operating income of \$405,654.

The appraiser next calculated an overall capitalization rate using the comparable sales contained in the market approach. (Pages 49 and 66 of the appraisal, Exhibit A). These sales produced capitalization rates ranging from 7% to 9.73%. The appraiser also consulted Korpacz Real Estate Investor Survey (4<sup>th</sup> Quarter, 2002) indicating capitalization rates for investment grade commercial properties ranged from 8% to 12%, with an average rate of 9.89%. Based on this data, the witness concluded an appropriate capitalization rate of 9%. Adding a tax load factor of .16% results in an overall capitalization rate of 9.16%. Capitalizing the subject's net operating income of \$405,654 by 9.16%, the appraiser concluded the subject property has a fair market value under the income approach of \$4,400,000, rounded. Based on this evidence, the intervenor requested an increase in the subject's assessment to reflect a fair market value of \$4,400,000.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds an increase in the subject's assessments are warranted.

The appellant submitted an appraisal claiming the subject's assessment was not reflective of its fair market value. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the preponderance of the evidence indicates the subject property's assessments reflect estimated market values far less than its fair market value and overwhelmingly support increases in the subject's assessed valuation.

First, the Board gave no weight to the appraisal submitted by the appellant. The Board finds the appellant's appraiser and counsel, who filed the assessment complaint, failed to appear before the Property Tax Appeal Board at the designated

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place and time to present its case in chief, provide direct testimony and be cross-examined regarding the appraisal methodology and final value conclusion. Additionally, the Property Tax Appeal Board takes official notice of its decision under Docket Number 00-01192.001-C-3 pursuant to section 1910.90(i) of the Official Rules of the Property Tax Appeal Board. (86 Ill.Adm.Code §1910.90(i)). In that decision, the same appraisal was submitted by the appellant to support an overvaluation claim as in this appeal. In that appeal, the Property Tax Appeal Board gave diminished weight to the appellant's appraisal and value conclusion due to gross errors regarding the descriptions of the comparables, sale prices, and dissimilar physical characteristics of the suggested comparables when compared to the subject. More importantly, the Board finds the effective valuation date of the appraisal submitted by the appellant was January 1, 2000, which is three and four years prior to the subject's January 1, 2003 and 2004 assessment dates at issue in this appeal. As a result, the Board finds the appellant's appraisal and the data contained within the appraisal to be dated and less indicative of the subject's fair market value as of January 1, 2003 and 2004.

The Property Tax Appeal Board further finds the board of review submitted four comparable sales and an income approach to value estimating the subject's value to be \$3,600,000 as of its January 1, 2003 assessment date. The intervenor presented the testimony of an appraiser who prepared an income approach to value estimating the subject's fair market value to be \$4,400,000 as of January 1, 2003. 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 (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. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (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. The Board finds there are credible market sales contained in this record. Thus, the Board placed most weight on this evidence.

The board of review submitted four comparable sales and testimony from the deputy township assessor to demonstrate the subject property was under-valued. The Board finds these comparable sales to be similar to the subject in many aspects. They sold from November 2001 to July 2004 for prices ranging from \$2,700,000 to \$4,350,000 or from \$182.78 to \$209.45 per square foot of building area including land. The Board finds the subject's assessments reflect estimated market values of \$2,622,142 for 2003 and \$2,843,247 for 2004 or \$154.11 and

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\$164.60 per square foot of building area including land, respectively, which is considerably less than the similar comparable sales submitted by the board of review. After considering adjustments to these comparables for differences when compared to the subject, the Board finds the township assessor's value conclusion of \$3,600,000 or \$208.41 per square foot of building area including land to be well supported. Therefore, the Board finds increases in the subject's assessments for tax years 2003 and 2004 are warranted.

In summary, the Board finds the appellant has not demonstrated the subject property was overvalued by a preponderance of the evidence. The Board further finds the preponderance of the evidence supports an increase in the subject's assessment. Since fair market value has been established, the 2003 and 2004 three-year median level of assessments for DuPage County of 33.33% and 33.32%, respectively, shall apply.

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<b>APPELLANT:</b>	<u>Andrew Starck</u>
<b>DOCKET NUMBER:</b>	<u>01-25596.001-C-1 and 01-25596.002-C-1</u>
<b>DATE DECIDED:</b>	<u>October 27, 2006</u>
<b>COUNTY:</b>	<u>Cook</u>
<b>RESULT:</b>	<u>Reduction Warranted</u>

The subject property consists of two land parcels consisting of 40,449 square feet and containing a 9,458 square feet, two-story, masonry, commercial building. The appellant argued that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of this argument, the appellant submitted an appraisal of the subject property with an effective date of August 26, 1998. The appraiser used all three traditional approaches to value to separately appraise each parcel to arrive at market value of \$420,000 for the parcel of land containing the commercial building and \$60,000 for the parcel of vacant land. This develops a total market value for the subject's property at \$480,000.

The appraiser determined that the highest and best use of parcel I, the parcel containing the commercial building to be its current use and the highest and best use of parcel II, the vacant parcel, to be residential development.

The appraiser then valued the land using direct sales comparables. For the commercial parcel, the appraiser analyzed the sale of five suggested comparables. These land comparables range in size from 8,712 to 40,668 square feet and sold from June 1996 to July 1998 for prices ranging from \$117,500 to \$480,000 or from \$9.54 to \$13.49 per square foot. After making adjustments for location, size and zoning, the appraiser determined the land value for parcel I to be \$265,000. For the residential parcel, parcel II, the appraiser analyzed four vacant parcels. These parcels are all located in the subject's town and range in size from 9,856 to 20,076 square feet. These properties sold from July 1996 to October 1997, with one property being offered for \$59,900, or \$5.20 per square foot. The properties sold for prices ranging from \$67,500 or \$99,500 or from \$4.25 to \$10.10 per square foot. After making adjustments for location, size, and condition of property, the appraiser determined parcel II's land value to be \$60,000.

In the cost approach to value, the appraiser used the land value for parcel I and applied the replacement cost new to the improvement using the *Marshall and Swift*

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cost manual. The appraiser determined a replacement cost new of \$913,453. Depreciation was calculated at \$730,762 using a market analysis. For a final opinion of value using the cost approach for \$480,000 once the land value for parcel I is added.

Under the sales comparison approach to value, the appraiser utilized eight suggested comparable sales located in the same market as the subject. The comparables consist of single or multi-tenant, masonry, commercial buildings between 20 and 52 years old. The buildings range in size from 9,116 to 45,000 square feet of building area and in land to building ratios from .96 to 3.43. The properties sold from March 1996 to May 1998 for prices ranging from \$500,000 to \$2,760,000 or from \$40.49 to \$69.82 per square foot of building area. The appraiser made several adjustments to the comparables for differences location and building size and analyzed the income producing capabilities of the properties. Based on this, the appraiser determined the subject property's value using the sales comparison approach to be \$440,000, rounded.

In the income approach, the appraiser reviewed the rent roll and expenses for the subject property to compare to the market. The appraiser established a range of \$11.08 to \$16.00 per square foot of net rentable area on a gross basis using six comparable rentals. After adjustments for location and condition, the appraiser determined a potential gross income for the subject of \$116,262. The appraiser then applied a 7% vacancy and collection loss factor for an effective gross income of \$108,124. Using the market, the appraiser extracted expenses to determine a net operating income of \$40,916. The appraiser applied a capitalization rate of 9% based on the market for a total value based on the income approach of \$420,000, rounded.

In reconciling the approaches to value, the appraiser gave primary consideration to the income approach for parcel I, the commercial parcel, and the sales comparison approach for parcel II, the vacant parcel for a final value for the subject as of August 26, 1998 of \$480,000.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$249,604. The subject's assessment reflects a market value of \$656,853 or \$69.45 per square foot of building area using the level of assessment of 38% for Class 5a property as contained in the Cook County Real Property Assessment Classification Ordinance. In support of this market value the board submitted comparable sale information for six properties suggested as comparable to the subject. These comparables are all located within the subject's



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market and are improved with one, one and one-half or two-story brick or concrete commercial buildings. These buildings ranged: in size from 7,150 to 15,000 square feet of building area; in land to building ratio from 0.56 to 4.36; and in age from 22 to 40 year, with the age of two properties unknown. The comparables sold from February 2000 to April 2002 for prices ranging from \$580,000 to \$1,100,000 or from \$65.53 to \$92.50 per square foot of building area. As a result of its analysis, the board requested confirmation of the subject's assessment.

After considering the evidence and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Adm.Code 1910.65(c).

Having considered the evidence presented, the PTAB concludes that the evidence indicates a reduction is warranted.

In determining the fair market value of the subject property, the PTAB examined both the appellant's appraisal and the board of review's comparable printouts. The appellant's appraisal utilized the three approaches to value in valuing the subject property, while the board's analysis included submission of printouts of suggested sales comparables.

The PTAB finds that the appellant's appraisal is the best evidence of the subject's market value. The appellant's appraiser utilized the traditional approaches to value in determining the subject's market value. The PTAB finds this appraisal to be persuasive for the appraiser: has experience in appraising; personally inspected the subject property and reviewed the property's history; estimated a highest and best use for both parcels in the subject property; utilized appropriate market data for each parcel in undertaking the three approaches to value; and lastly, used similar properties in the sales comparison approach while providing sufficient detail regarding each sale as well as adjustments that were necessary.

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Therefore, the PTAB finds that the subject property contained a market value of \$480,000 as of the January 1, 2001 assessment date. Since the market value of the subject has been established, the Cook County Real Property Classification Ordinance level of assessments for Cook County Class 5A property of 38% will apply. In applying this level of assessment to the subject, the total assessed value is \$182,400, while the subject's current total assessed value is above this amount at \$249,604. Therefore, the PTAB finds that a reduction is warranted.

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<b>APPELLANT:</b>	<b><u>Suburban Investments Associates of Zion, Inc.</u></b>
<b>DOCKET NUMBER:</b>	<b><u>04-00321.001-C-1 through 04-00321.004-C-1</u></b>
<b>DATE DECIDED:</b>	<b><u>December 12, 2006</u></b>
<b>COUNTY:</b>	<b><u>Lake</u></b>
<b>RESULT:</b>	<b><u>No Change</u></b>

The subject property consists of four parcels totaling approximately 25,000 square feet of land area that are improved with a 16 year-old car wash facility. The facility features 6 self-service bays, two automatic bays, vacuums, an office and a mechanical room.

Through his attorney, the appellant submitted evidence to the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. The appellant indicated on the appeal form that the basis of the appeal was assessment inequity. However, in his evidentiary submission, he relied on sales of three car washes submitted by the township assessor. The comparables were built between 1974 and 1997, range in size from 3,162 to 6,100 square feet of building area and feature both self-serve and automatic bays and vacuums. These properties sold between May 2001 and September 2003 for prices ranging from \$425,000 to \$918,000 or from \$119.99 to \$158.13 per square foot of building area including land. Based on this evidence, the appellant requested a reduction in the subject's assessment.

At the hearing, the appellant's attorney testified the board of review's comparable 1, which he also used to support the appellant's overvaluation argument, best represented the subject property because it was located on the same street as the subject.

During cross-examination, the board of review's representative questioned the appellant's attorney regarding who prepared the appellant's evidence. The attorney responded that he had prepared the evidence, that he had viewed only the subject property, but not the comparables, and that his evidence consisted of car wash sales used by the assessor in support of the subject's assessment. The attorney opined that he had difficulty finding sales of car washes, so that is why he adopted the assessor's sales.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$192,325 was disclosed. The subject has an estimated market value of \$580,867 or \$138.73 per square foot of living area including land,

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as reflected by its assessment and Lake County's 2004 three-year median level of assessments of 33.11%.

In support of the subject's estimated market value, the board of review submitted the sales of three car washes described in the appellant's evidence.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted. The appellant argued overvaluation as a basis of the appeal. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2<sup>nd</sup> 1256 (2<sup>nd</sup> Dist. 2000). After analyzing the market evidence submitted, the Board finds the appellant has failed to overcome this burden.

The Board finds both parties relied on the same three car wash sales to support their respective positions on this overvaluation appeal. The Board finds the comparables ranged from \$119.99 to \$158.49 per square feet of building area including land. The subject's estimated market value of \$138.73 falls within this range and further falls below two of the three sales. The Board thus finds the evidence in the record supports the subject's assessment.

In conclusion, the Board finds the appellant has failed to demonstrate overvaluation by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is warranted.

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<b>APPELLANT:</b>	<u>Richard Teglia</u>
<b>DOCKET NUMBER:</b>	<u>01-26459.001-C-1</u>
<b>DATE DECIDED:</b>	<u>October 5, 2006</u>
<b>COUNTY:</b>	<u>Cook</u>
<b>RESULT:</b>	<u>No Change</u>

The subject property consists of a 8,050 square foot parcel of land containing a three-story, masonry, apartment building containing 20,526 square feet. The appellant argued that the market value of the subject property is not accurately reflected in the property's assessed valuation.

In support of this argument, the appellant submitted documents in relation to the subject property. These documents are; a letter stating the property is a 22 unit apartment that is being converted into 16 units; colored photographs of the subject property; and an affidavit stating the property is vacant and under a full restoration. Based upon this analysis, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$63,744. The subject's assessment reflects a market value of \$193,164 or \$9.41 per square foot of building area using the 2001 level of assessment of 33% for Class 3 property as contained in the Cook County Real Property Assessment Classification Ordinance. As evidence to establish the correctness of the subject's assessment, the board also submitted information on seven comparable sales. The comparables consisted of three-story, masonry, apartment buildings that ranged: in size from 16,200 to 24,650 square feet of building area; in age from 35 to 112 years; and in number of apartments from 14 to 27 units, with one comparable not disclosing the number of units. The comparables sold from January 2000 to March 2002 from prices ranging from \$255,000 to \$480,000 or from \$11.69 to \$26.84 per square foot of building area.

After considering the evidence and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist.

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2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Property Tax Appeal Board Rule* 1910.65(c). Having considered the evidence presented, the PTAB concludes that the appellant has not met this burden and that a reduction is not warranted.

To support the argument that the subject's assessment is not reflective of the property's market value, the appellant submitted documentation stating the property was vacant for the assessment year in question. The PTAB gives the appellant's argument little weight. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[I]t is the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value".

Many factors may prevent a property owner from realizing an income from property that accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual expenses and income based on vacancy can be useful when shown that they are reflective of the market. The appellant did not demonstrate through an expert in real estate valuation that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income through vacancy, one must establish through the use of market data the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. The appellant did not provide such evidence and, therefore, the PTAB gives this argument no little weight.

The PTAB also finds that the board of review submitted information of seven comparable sales that had prices ranging from \$255,000 to \$480,000 or from

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\$11.69 to \$26.84 per square foot of building area. The subject's assessment of \$63,744 reflects a market value of \$193,164 or \$9.41 per square foot of building area using the 2001 level of assessment of 33% for Class 5a property as contained in the Cook County Real Property Assessment Classification Ordinance. The PTAB finds this evidence supports the market value reflected in the subject's assessment and no reduction is warranted.

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<b>APPELLANT:</b>	<b>V &amp; G Partnership</b>
<b>DOCKET NUMBER:</b>	<b>03-00472.001-C-2</b>
<b>DATE DECIDED:</b>	<b>September 28, 2006</b>
<b>COUNTY:</b>	<b>Madison</b>
<b>RESULT:</b>	<b>No Change</b>

The subject property is improved with five, three-story masonry constructed, apartment buildings. Each of the buildings contains 12, 2-bedroom apartments and has a total building area of 13,104 square feet resulting in an average unit size of 1,092 square feet of living area. Each apartment building also has attached garages containing a total area of 2,668 square feet that can accommodate 12 cars. The improvements are relatively new being constructed in 2001 and 2002. The subject parcel contains 4.34 acres and is located in Edwardsville, Edwardsville Township, Madison County.

Appearing on behalf of the appellant was one of the partners. The intervenors objected to the partner's representation of the partnership due to the fact that he is not an attorney licensed to practice law in Illinois. The Property Tax Appeal Board overrules the objection finding that at the time the appeal was filed the Property Tax Appeal Board's rules allowed any party to be represented at a hearing by an authorized officer, employee or attorney. (86 Ill.Adm.Code 1910.70(b)). The Board finds that as a partner the witness is an authorized employee that can appear in a representative capacity.

The appellant contends assessment inequity as the basis of the appeal. In support of this argument the appellant called as its witness. The witness described himself as a property tax consultant and as a "real estate tax reduction specialist". The witness testified that he is a Certified Real Estate Broker in the State of Missouri. The witness has no appraisal or assessment designations given by the State of Illinois. Furthermore, the witness testified that the appellant is responsible for certain costs incurred and that his remaining fee is contingent on the tax savings brought about by the appeal.

The witness testified that the subject property consists of five separate three-story apartment buildings each containing 12 two-bedroom units. He explained that the total number of apartments should be 60 units but the property was not complete as of January 1, 2003. He testified that three of the buildings were complete as of the assessment date, one building was 75% complete as of the assessment date, and



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one building was 50% complete as of the assessment date resulting in a total number of 51 completed apartments as of the assessment date. Therefore, the witness used 51 units in his equity comparison analysis table as opposed to 60 units.

In his analysis the appellant's witness divided the subject's pre-equalized total assessment of \$851,820 by 51 units to arrive at a unit assessment of \$16,702, including land. The witness then used an average unit size of 1,066 square feet to arrive at an indicated market value of \$47.00 per square foot of living area. Excluding the land assessment the subject had a pre-equalized improvement assessment of \$804,280 or \$15,770 per unit reflecting a market value of approximately \$44.38 per square foot of living area.

To demonstrate the subject property was being inequitably assessed the appellant listed 18 comparables by address and parcel number. The witness testified he limited his comparables to those located within one and one-half miles of the subject property along the route 157 corridor in Edwardsville Township. The witness' analysis listed the pre-equalized assessments of the comparables, the average apartment size, an assessment per apartment, a valuation per unit including land and a brief building description. Attached to his analysis were copies of the property record cards for the comparables. According to his analysis each comparable was improved with one apartment building containing from 8 to 12 two-bedroom units. One comparable was improved with a one-story building, six were improved with two-story buildings, and eleven were improved with three-story buildings. The apartments were reported to range in size from 1,024 to 1,498 square feet. The analysis also indicated the subject property had an average rent of \$650 per month with twelve of the comparables having an average rent ranging from \$500 to \$750 per month. However, in his written narrative the witness stated the subject property had a monthly rent of \$700 per unit. According to the witness' analysis these comparables had pre-equalized total assessments ranging from \$61,480 to \$145,440 or from \$7,685 to \$17,107 per unit reflecting market values ranging from \$21.83 to \$37.34 per square foot, land included. The appellant's analysis indicated the comparables had pre-equalized improvement assessments ranging from \$53,330 to \$136,580 or reflecting market values ranging from \$19.83 to \$33.07 per square foot of living area.

The witness testified the first comparable is located directly across the street from the subject property and is also run by the partnership. The property record card on this property indicated it had an effective age of 1996. This property had an improvement assessment reflecting a market value of \$27.43 per square foot. The

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witness also explained that the apartments at the South Point Apartments are townhouses that are more attractive than the subject's apartments but assessed at \$14,089 per unit compared to the subject's \$16,702 per apartment. The appellant's witness noted that the Club Center Apartments comparable property was similar to the subject with the exception it had no garage.

The witness explained the subject's assessment is 40% to 50% higher than the assessments on similar properties in the immediate neighborhood. Based on this data the appellant requested the subject's assessment be reduced to \$681,810 to reflect a market value of \$35 per square foot.

Under cross-examination the witness was questioned about his knowledge that comparable number 13 located at 200 Harmony Drive had an improvement assessment prior to equalization of \$55,840 and not \$53,330 as reported in his analysis. The witness was further questioned about comparable number 14 located at 809 Lankashire Drive having an improvement assessment prior to equalization of \$137,820 and not \$133,100 as reported in his analysis. The witness was questioned about comparable number 17 located at 815 Lankashire Drive having an improvement assessment prior to equalization of \$139,900 and not \$127,720 as reported in his analysis. The witness was also questioned about comparable number 18 located at 817 Lankashire Drive having an improvement assessment prior to equalization of \$137,810 and not \$125,810 as reported in his analysis.

The appellant's witness was also questioned about the fact that his grid analysis did not list the ages of the various properties. He testified that ages of the properties were not taken into consideration. He also agreed that his grid analysis made no reference to garages. He also stated he saw no reason to adjust the comparables to the subject for being two-story as opposed to three-story buildings, that was not important in his analysis.

He also testified that his first comparable was 90% above grade and 10% below grade. The witness did not know whether the county makes any adjustment for that configuration. The witness agreed that 90% of the comparables used in the instant appeal were also used by the appellant in the 2002 appeal of the same property before the Property Tax Appeal Board under docket number 02-00416.001-C-2. Counsel requested the Property Tax Appeal Board take notice of its decision issued in the aforementioned 2002 appeal on January 20, 2004.

Under cross-examination the witness explained that he did consider the differences between the subject and the comparables in his overall analysis. It was also

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pointed out that his analysis of the subject makes reference to the subject as having 54 units and not 51 units. With respect to rental rates quoted in his analysis he indicated that he either spoke with a property representative or viewed the websites. The witness also indicated that the age difference between the subject property and the comparable located on Harmony Drive is 5 years and the age difference with the property located on South Point is 9 years.

The next witness called on behalf of the appellant was a witness who was proffered as the person who constructed both the subject property and the comparable located at 250 Harmony Drive. The witness compared the cost to build the subject property verses the cost to construct the property at 250 Harmony Drive. He explained the subject property is a three-story building that is completely above grade while the property on Harmony Drive is a two and one-half story building, with a portion below grade. He testified the subject property would cost approximately \$2,000 more to construct, assuming they were constructed at the same time. The witness agreed that the property at 250 Harmony was constructed around 1996.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final equalized assessment of the subject property totaling \$887,510 was disclosed. The subject property had an equalized improvement assessment of \$837,980. The board of review submitted copies of the property record card on the subject property disclosing each building had a ground floor area of 4,368 square feet and a total building living area of 13,104 square feet.

Appearing on behalf of the board of review was its chairman. The chairman explained that the 2002 hearing before the Property Tax Appeal Board on the subject property was for three buildings. He also explained that the assessment of the subject property in 2003 was \$1,263,120, which reflects the subject being 100% complete. However, during the 2003 board of review hearing it agreed that the newer buildings on the subject property should be prorated based on their level of completion. The board of review ultimately reduced the subject's improvement assessment to \$851,820.

To demonstrate the subject property was being equitably assessed the board of review submitted a report by a real estate appraiser. The appraiser testified that he has been a real estate appraiser for 28 years and has been employed part time as an appraiser with Madison County for 17 years. He is a State of Illinois Certified General Real Estate Appraiser and also has the Senior Residential Appraiser (SRA) designation from the Appraisal Institute.

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The appraiser testified he was requested to review the evidence submitted by the appellant in the instant appeal and to do an analysis of the subject property. On pages 11 through 13 of his report the appraiser listed the comparables utilized by the other appraiser and made qualitative adjustments to the comparables using pluses and minuses for features that were superior or inferior to the subject. Items considered included age, condition, size, basements, and garages. He noted the main difference between the other comparables and the subject property was age in that they were from 5 to 33 years older than the subject buildings. In his report he noted that the assessments on four of the other comparables were incorrect. Using this process the appraiser calculated that the appellant's comparables had unadjusted improvement assessments ranging from \$6,980 to \$11,658 per unit and further determined that these all need to be adjusted upward to bring them in line with the subject property.

Because of these adjustments the appraiser was of the opinion that the properties used by the appellant's appraiser were not the best comparables. He then searched for comparables that were more similar to the subject property. The appraiser located 24 comparables in Edwardsville Township that were improved with two-story multi-family apartment buildings. These comparables contained from seven to 36 units and ranged in age from new to 23 years old. These comparables had assessments per unit ranging from \$9,442 to \$27,363. In arraying the assessments and noting the qualitative adjustments that needed to be made to make the comparables equivalent to the subject the appraiser explained the subject's improvement assessment prior to equalization reflecting an assessment per unit of \$15,770, fell within the range established by the comparables. Based on his analysis of the appellant's and his own comparables, the appraiser was of the opinion the subject's total assessment prior to equalization should be \$851,819.

He agreed that the subject property is improved with garden apartments and as part of the rental each unit has one car space. He testified that based on his experience an apartment with a garage will command more rent as compared to a comparable apartment without a garage. The witness agreed that if you compare an apartment with a garage and one without a garage some sort of adjustment must be made.

Under cross-examination the appraiser testified that he also made some quantitative adjustments to the other appraiser's comparables for such factors as age, garage, basement, size, exterior wall construction and story height using the Computer Assisted Mass Appraisal (CAMA) system that is used to compute assessments in Madison County. The adjusted assessments for the comparables

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ranged from \$10,987 to \$19,351 per unit. He also explained that on page 28 of his report is a comparison of the rental of similar units with the exception that one has a garage and another does not. The townhouse with the garage had a monthly rental \$130 greater than the townhouse without the garage. The witness also indicated that his analysis was prior to equalization and all the comparables he used were impacted by the same equalization factor as the subject of 1.04190.

The chairman questioned the appraiser about his comparables contending that comparable number 6 was an 8 unit building and not a 7-unit building. The chairman also questioned the appraiser about whether his comparable number 8 had 48 units as opposed to 36 units as contained in his analysis. The appraiser asserted that he obtained the description from the comparable's property record card. The chairman asserted that the appraiser's comparable number 11 was an 8-unit building not a 7-unit building as contained in the appraiser's analysis. The chairman also contends that comparables 13, 14, 15 and 16 are all under appeal to the State of Illinois for 2003. The chairman also questioned the appraiser about his use of comparables that are townhouses. The appraiser was also questioned about the location of his comparables 19 through 24 that are located on Route 159 in Glen Carbon.

At the conclusion of the hearing the board of review tendered copies of the subject's property record card and a copy of the Property Tax Appeal Board's decision issued in the 2002 appeal of the subject property under docket number 02-00416.001-C-2.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

The appellant contends assessment inequity as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data the Board finds a reduction is not warranted.

Initially, the Property Tax Appeal Board finds the subject property was the subject matter of an appeal before the Property Tax Appeal Board the previous assessment

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year under Docket No. 02-00416.001-C-2. The primary difference in the property was that in 2002 the subject was improved with three, three-story apartment buildings with a total of 36 units. The Board takes notice that in the 2002 appeal the appellant also presented an assessment equity analysis and the testimony of an appraiser. In comparing the assessment comparables used by the appraiser in the instant 2003 appeal with those used in 2002, the Board finds the first 15 comparables were also used in the 2002 appeal. By decision issued on January 20, 2004, the Board confirmed the board of review's assessment of the subject property finding the appellant did not support the claim of unequal treatment by clear and convincing evidence.

The Board again finds, based on this substantially similar evidence, the appellant did not support its claim of unequal treatment by clear and convincing evidence. The Board finds the appellant's comparables varied from the subject property in style, age, story-height, number of units, garages, basements and location. The Board finds that the appraiser did not provide any in-depth analysis comparing, contrasting and adjusting the comparables to the subject property for the differing characteristics. The Board finds the subject property was superior to the comparables in age and in features, namely the attached garages, which were not adequately analyzed in the appraiser's submission.

The Board finds that the three different comparables submitted by the appraiser in the instant appeal are 13 years older than the subject property. This difference in age justifies the subject's greater assessment on a per unit basis.

Furthermore, the Board finds that the appraiser did not demonstrate that the comparable properties and the subject property had similar income earning capacities and similar fair cash values but were assessed at inconsistent levels.

The court in Kankakee County explained that:

The principle of uniformity requires that similar properties within the same district be assessed on a similar basis. (*Citation omitted*) The cornerstone of uniform assessment is the fair cash value of the property in question. . . [A] property's income-earning capacity is an important factor in determining its fair cash value. (*Citation omitted*) Thus, uniformity is achieved only when all property with the same income-earning capacity and fair cash value is assessed at a consistent level. Kankakee County, 131 Ill.2d at 21.

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The appellant did not present any evidence that the subject property was being valued and assessed at a substantially greater proportion of its fair cash value than similar property within the assessment district.

The Board further finds that the appraiser's fee is in part contingent on the outcome of the appeal. The Board finds this fee arrangement undermines and calls into question the credibility and objectivity of the appellant's opinion witness.

The Board further finds that the board of review's appraiser's analysis better compared the subject property and the comparables submitted by the appellant's appraiser. In his written submission the board of review's appraiser made both qualitative and quantitative adjustments to the comparables to account for the differing characteristics. The appraiser also provided an analysis of additional comparables to demonstrate the subject property was being assessed in a uniform manner.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the parties disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity, which appears to exist on the basis of the evidence.

In conclusion, the Property Tax Appeal Board finds that the appellant failed to demonstrate the subject property was being inequitably assessed with clear and convincing evidence. The Board finds that the appraiser's analysis, submitted by the board of review, demonstrated the subject property was being equitably assessed. For these reasons the Board finds that a reduction in the subject's assessment is not warranted.

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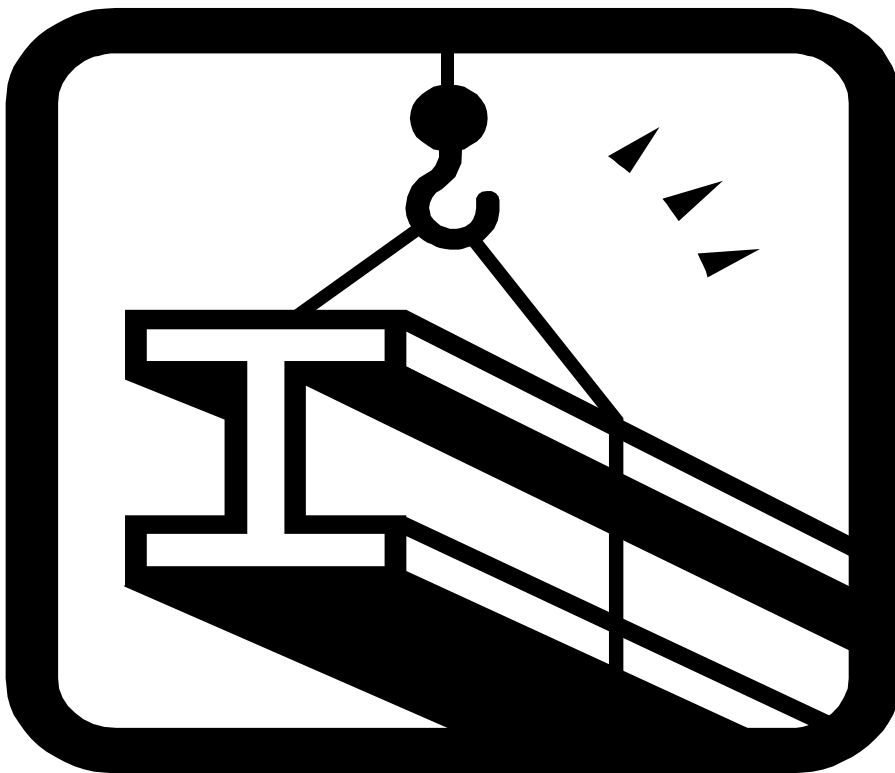
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<b>APPELLANT:</b>	<b><u>B-Way Corporation</u></b>
<b>DOCKET NUMBER:</b>	<b><u>01-22286.001-I-3 and 01-22286.002-I-3</u></b>
<b>DATE DECIDED:</b>	<b><u>June 28, 2006</u></b>
<b>COUNTY:</b>	<b><u>Cook</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

At the hearing, the parties agreed to consolidate for hearing purposes the three-year triennial appeals of 2001, 2002 and 2003 for the subject currently before the Property Tax Appeal Board.

The subject property consists of a 264,092 square foot parcel improved with a one-story light manufacturing/industrial building containing 115,770 square feet. The subject has a 2.28:1 land to building ratio. The improvement was constructed in three stages; the northern section in 1948; the middle portion in 1968; and the southern area in 1985. The improvement is steel framed, with its exterior walls constructed of concrete block with a face and common brick façade. The office area represents 7.4% of the improvement while the plant area contains 92.6% of the building area. The improvement has two drive-in doors, six truck height docks, one former rail dock and four old rail doors. The plant area has clear ceiling heights ranging from 12 to 22 feet. Other improvements include 60,000 square feet of asphalt parking areas, driveways and concrete walks. The subject is located in Leyden Township, Cook County.

Appearing before the Property Tax Appeal Board on behalf of the appellant were its attorneys arguing the fair market value of the subject was not accurately reflected in its assessed value. In support of the market value argument, the appellant submitted a summary appraisal report with a valuation date of January 1, 2001 (Appellant's Exhibit No. 1) and the testimony of its author. The appraiser is a State of Illinois certified general real estate appraiser with a Member of the Appraisal Institute (MAI) designation. After a brief discussion of the appraiser's experience, he was tendered and accepted as an expert witness.

The appraiser testified that he made a full interior and exterior inspection of the subject on September 12, 2001 and again on September 23, 2004. He described the subject as being located in an industrial area with buildings in the age range of 30 to 50 years old. The subject is approximately two blocks east of the boundary line between Cook and DuPage counties. The appraiser testified that the subject was appraised as a fee simple estate for *ad valorem* tax purposes. It was the

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appraiser's opinion that the subject's highest and best use as vacant would be for industrial use and its highest and best use as improved is its current use. The appraiser estimated the subject's average weighted age as 35 years old.

In his investigation of the subject property, the appraiser found two recorded transfers of the subject property within three years of the date of value. The first in 1998, the appraiser explained, was between the subject's current occupant as grantor and a large real estate investment company as grantee. The appraiser's research revealed the 1998 transfer was a sale-leaseback arrangement. The appraiser testified that the recorded amount for the transfer was \$8,388,500. This type of transfer, the appraiser clarified, is a financial arrangement whereby the owner-user sells the property and simultaneously leases the property from the buyer. Typically, the seller uses a sale-leaseback arrangement to raise capital. He testified that he reviewed another transfer of the subject, through a quitclaim deed in April 2000 for a consideration of \$3,996,000. This, he explained, was an internal transfer from the owner/investment company to a related financial entity. The appraiser testified the property was not exposed to the market for sale in either transaction.

To estimate a total market value of \$2,400,000 for the subject as of January 1, 2001, the appraiser employed the three traditional approaches to value.

The first approach to value employed by the appraiser was the cost approach. To estimate a land value for the subject the appraiser examined the sales of five vacant properties in the subject's market area. The appraiser selected parcels with the highest and best use as vacant similar to that of the subject. The parcels range in size from 48,785 to 1,013,307 square feet. The parcels sold between June 1998 and January 2000 for prices ranging from \$205,000 to \$3,110,983, or from \$3.07 to \$4.25 per square foot of land area. After adjustments for property rights conveyed, market conditions, location, zoning, size, and configuration, he estimated \$3.75 per square foot as a unit of value for the subject land, resulting in a projected land value of \$991,000, rounded.

Reproduction cost new was employed to estimate the cost new of the subject's improvements. The appraiser utilized *Boeckh's Automated Cost Estimator* to estimate a total reproduction cost for the subject's improvement of \$5,585,726. Site improvements such as the parking areas driveways and walks were added to the principal improvement resulting in a total reproduction cost of \$5,685,726, rounded. He testified that total depreciation from all causes, based on the market extraction method, was estimated to be 70%, or \$3,980,008. Deducting



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depreciation and adding the land value resulted in an estimated value by the cost approach for the subject of \$2,700,000, rounded, as of January 1, 2001.

The income approach to value was the next technique utilized by the appraiser. Six, one-story steel framed and masonry constructed manufacturing type industrial properties located in the subject's general area were analyzed. The comparables contain rented spaces between 16,286 and 155,000 square feet of building area. The rents range from an asking rent of \$2.38 per square foot to an in place rent of \$3.40 per square foot. All the leases are on a triple net basis. Generally, the appraiser testified, asking rents set the upper limit of value with the final rental rate usually being somewhat lower. After adjusting the comparables for size, location, clear ceiling heights, market conditions, age, and land to building ratios, the appraiser estimated that \$2.50 per square foot of building area on a triple net basis, or \$289,425, was a reasonable rent for the subject. The appraiser testified that he estimated vacancy and collection loss to be 10% resulting in an effective gross income (EGI) of \$260,482. Reserves for replacement and management fees were estimated at 2% each of the EGI. These calculations resulted in an estimated net operating income (NOI) of \$250,062.

To establish a capitalization rate applicable to the subject's NOI, the appraiser testified he utilized the band of investment method and an analysis of the comparables sales included in the appraisal. From this information, he selected a capitalization rate of 11% to apply to the subject's NOI. His value estimate for the subject via the income approach was \$2,270,000, rounded.

In the sales comparison approach, he examined the sales of six single-user, manufacturing type industrial properties in the subject's general area. Containing between 39,864 and 150,000 square feet of building area, the buildings ranged from 35 to 40 years old. With clear ceiling heights ranging from 13 to 18 feet, the buildings contain from 4% to 19% office space. The comparables have land sizes ranging from 72,600 to 296,391 square feet and land to building ratios ranging from 1.82:1 to 2.19:1. The sales took place between December 1998 and September 2000 for prices ranging from \$890,000 to \$2,483,250, or from \$20.69 to \$22.33 per square foot of building area including land. The appraiser testified that one of the sales included \$71,250 of personal property. The appraiser testified that he made adjustments based on the quality of each of the comparables followed by adjustments for market conditions, location, building size, land to building ratios, clear ceiling heights and percentage of office space. The appraiser testified that from this information he selected a unit of value for the subject of \$21.00 per square foot of building area including land. His estimate of value for the subject

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using the sales comparison approach, as of January 1, 2001, was \$2,400,000, rounded.

In his reconciliation of the three methods of estimating value, the appraiser placed primary weight on the sales comparison approach indicating that the income approach lent support to the sales comparison approach. Because of the subject's age he placed the least weight on the cost approach. His final opinion of value for the subject was \$2,400,000, as of January 1, 2001.

Appellant's counsel questioned the appraiser with regard to his continuing involvement with the subject for the subsequent two years, 2002 and 2003. The appraiser testified that there were no significant physical changes to the subject property during that time span. He testified that, in his opinion, no significant change in the market subsequent to January 1, 2001 was evident. In addition, he testified that there would not be any significant difference in his estimate of market value for the subject as of January 1, 2001, January 1, 2002 and January 1, 2003.

During cross-examination, the appellant's appraiser was thoroughly questioned regarding information sources and methodologies used when preparing the appraisal and determining a value for the subject as well as his understanding of the components of market value and the appraisal techniques. The appraiser was questioned in detail regarding the rental comparables and the capitalization rate he utilized in the income approach to value. The witness replied to the inquiries with detailed, confident and comprehensive answers.

Further, The witness was questioned about each sale employed in the sales comparison approach to value and mortgages levied against the properties. The witness explained that when he researches this type of sale, the mortgages, the amounts and the terms are not typically germane to an arm's length sale. He testified that, based on his experience as an appraiser, often when a financial institution provides mortgage money to a client in excess of a purchase price the lender is mortgaging prospective changes. In general, the witness testified that in these instances the lender looks at two values; one as is and one as proposed.

At the conclusion of the appraiser's cross-examination, the intervenors' counsel entered into evidence five exhibits, marked as Intervenors Exhibits 4, 5, 6, 7, 8 and 9. These Exhibits are as follows:

Exhibit 4 – A recorded trust deed dated December 15, 1998 for Permanent Index Number 12-32-401-064-0000;

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Exhibit 5 – A recorded mortgage dated December 15, 1998 for Permanent Index Number 12-32-401-064-0000;

Exhibit 6 – A recorded quitclaim deed dated July 20, 2000 for Permanent Index Number 12-20-202-023-0000;

Exhibit 7 – A *CoStar Comps* sale sheet for Permanent Index Number 12-32-403-025 reflecting a sales price of \$1,300,000 on June 15, 1999 and the buyer, after purchase, upgraded the improvement;

Exhibit 8 – A recorded trustee's deed dated August 16, 2000 for Permanent Index Number 12-34-207-014-0000; and

Exhibit 9 - A recorded construction mortgage dated August 16, 2000 for Permanent Index Number 12-34-207-014-0000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$1,108,231 was disclosed. This assessment reflects a fair market value of \$3,078,419, or \$26.59 per square foot of building area, when the Cook County Real Property Assessment Ordinance level of assessments of 36% for Class 5b property, such as the subject, is applied. The board offered a memorandum to the board of review including the sales of five industrial type buildings as reported by *CoStar Comps*, a national sales reporting service. (Board of Review Exhibit 1) These properties are located in Franklin Park or Northlake. The improvements range in size from 89,000 to 134,600 gross square feet with parcels ranging from 159,032 to 360,898 square feet of land area. The improvements range from 26 to 47 years old. These properties sold from February 2000 to August 2002 for prices ranging from \$2,300,000 to \$3,500,000 or from \$24.58 to \$36.08 per square foot of building area including land. The sales sheets contain a disclaimer indicating that while the information *CoStar* reported is deemed reliable it is not guaranteed correct. The board of review did not present a witness. Based on its foregoing presentation the board requested confirmation of the subject's assessment.

Appearing before the Property Tax Appeal Board on behalf of the intervenors was its attorney arguing the fair market value of the subject is greater than the fair market value reflected by the current assessment. In support of this argument, the intervenors submitted an appraisal report with a valuation date of January 1, 2001 and the testimony of its author (Intervenors' Exhibit No. 1). The author of the report is a State of Illinois certified general real estate appraiser with a Member of the Appraisal Institute (MAI) designation. After describing his experience, this appraiser was tendered and accepted as an expert witness.

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The appraiser testified that although he was not permitted access to the interior of the subject's improvement, he inspected the exterior in February 2003 and April 2006. He testified that descriptive data included in his appraisal was gleaned from the appraisal prepared by the appellant's appraiser, which was presented in this appeal as Appellant's Exhibit No 1. This appraiser's opinion of the subject's highest and best use is similar to that of the appellant's appraiser's opinion.

Although, this appraiser was of the opinion that the cost approach was not applicable to the subject, he estimated a land value for the subject. The appraiser examined the sales of four vacant properties, one of which was included in the appellant's appraisal. The comparables are located in Franklin Park, Wheeling, Rolling Meadows and Arlington Heights and range in size from 66,444 to 268,330 square feet of land area. The parcels sold between December 1997 and November 1999 for prices ranging from \$345,000 to \$920,000, or from \$3.43 to \$6.12 per square foot of land area. After adjustments for location and size, the appraiser estimated \$3.60 per square foot as a unit of value for the subject land, resulting in an indicated land value of \$950,000, rounded.

In the sales comparison approach to value this appraiser's appraisal offered a grid analysis of five sales located in Franklin Park. The improvements were built between 1972 and 1980 and range in size from 68,888 to 162,436 gross square feet with land areas ranging from 136,700 to 217,800 square feet. The land to building ratios of the comparables range from 1.34:1 to 1.98:1. The improvements have clear ceiling heights from 21 to 27 feet and have between four and sixteen docks/drive-in doors. The comparables sold from October 1997 to April 2001 for prices ranging from \$2,000,000 to \$4,550,000, or from \$28.01 to \$36.08 per square foot of building area including land. He opined that the market improved between October 1997 and January 2001. The appraiser testified that the comparables were adjusted for market conditions, age, condition, size, location, land to building ratios, ceiling heights, loading facilities, and office percentage, thus estimating a fair market value for the subject of \$32.00 per square foot of building area including land, or \$3,700,000, rounded,

The income approach to value was the next technique utilized by the appraiser to estimate a fair market value for the subject. In his grid analysis, he presented four comparables. All four comparables are located in Franklin Park. The comparables consist of industrial type buildings ranging from 53,500 to 174,255 gross square feet. The space available to rent within these comparables ranges from 30,684 to 174,255 square feet and their dates of availability ranges from August 2002 to January 2003. One of the comparables is offered on the market at \$4.75 gross per

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square foot of building area, while the remaining three are offered on a net basis ranging from \$3.75 to \$3.95 per square foot of building area. After adjusting the comparables for conditions of rental, age/condition, size, location, percentage of office space and shape/configuration, the appraiser concluded that \$3.75 per square foot of building area, or \$434,138, was a realistic rent for the subject. Next, the appraiser added a total of \$294,558 for recoverable expenses such as cleaning, repair, maintenance, insurance, real estate taxes, utilities and management fees resulting in a potential gross income (PGI) of \$728,696. The appraiser testified he estimated vacancy and collection loss to be 8% based on the information from *CB Richard Ellis 2000 Market Index Brief* and the *Society of Industrial and Office Realtors'* 2001 statistics. After deducting the estimate of vacancy and collection loss from the PGI, the appraiser then deducted expenses such as cleaning, repair and maintenance, insurance, real estate taxes, utilities, management fees and replacement reserves. This calculation resulted in a net operating income (NOI) of \$352,688.

To ascertain a capitalization rate applicable to the subject's NOI, the appraiser utilized the 2001 *Korpacz Real Estate Investor Survey* and the band of investment method. From this information, he selected a capitalization rate of 9.80% to apply to the subject's NOI. His value estimate for the subject via the income approach was \$3,500,000, rounded.

The appraiser placed primary weight on the sales comparison approach to value with minimal emphasis placed on the income approach to value when reconciling the two approaches. His final estimate of value for the subject as of January 1, 2001 was \$3,700,000.

In addition, he testified that his estimate of market value for the subject as of January 1, 2001, would also be applicable as of January 1, 2002 and January 1, 2003.

At the conclusion of the appraiser's testimony, counsel entered as Intervenor's Exhibit 10, a copy of a *Sidwell* map depicting part of Leyden Township Section 19. The Exhibit reflects an outline in green of the subject property and an outline in blue of parcel 12-19-400-119-000.

Under cross-examination by the appellant's attorney, the intervenors' appraiser was questioned regarding the adjustments made to his sale comparables and their comparability to the subject. Moreover, he was questioned regarding appropriateness of using asking rents, which were marketed after the retrospective

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January 1, 2001 date of value, to estimate a rent for the subject. The appraiser responded that adjustments were made to estimate a rental figure for the subject. During additional questioning the witness was asked to explain why expenses appeared twice within his reconstructed operating statement for the subject. He explained that because the first itemization of expenses represents landlord recoverable expenses he considered additional rent to estimate the subject's PGI. The second itemization of expenses represents a deduction of the expenses after the 8% vacancy and collection loss.

When questioned regarding the individual sales used in the sales comparison approach to value, the appraiser was asked whether sale number three was offered on the open market, the witness testified that he did not know. Further, the witness testified that he was aware that sale number two was under a prior three-year option to buy at the time of sale.

In closing, the appellant's counsel argued that both appraisers agreed on several points such as highest and best use, environs and physical characteristics of the subject. Counsel pointed out that the land values estimated by the two appraisers for the subject were very close. Counsel asserted that appellant's appraiser's testimony and subsequent cross-examination demonstrated that he thoroughly analyzed and verified the data contained in the appellant's appraisal. Further, counsel asserted appellant's appraiser provided an appraisal based on the three traditional approaches to value. The appellant's counsel suggested that the intervenors' appraiser did not employ a complete cost approach; used asking rents instead of negotiated rents for properties in the income approach; and in the sales comparison approach used properties that are newer and have fewer similarities to the subject than those used by appellant's appraiser. The appellant's attorney requested that the Board determine \$2,400,000 as a fair market value for the subject and reduce its assessment to reflect this market value.

Counsel for the intervenors argued that the sales used by appellant's appraiser in the sales comparison approach to value were less similar to the subject than the sales used by intervenors' appraiser. Counsel suggested in the sales comparison approach the appellant's appraiser utilizes several sales that are flawed because the properties are mortgaged for more than the sales prices.

The board of review's counsel argued that the real question before the Board is the correctness of the subject's assessment. He further argued the appraisals submitted by both the appellant and the intervenors are flawed and as such requested confirmation of the subject's assessment.

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After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is the determination of the subject's market value for *ad valorem* tax purposes.

When market value is the basis of the appeal, the value of the subject property must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (86 Ill.Adm.Code §1910.65(c)).

The Board finds the content of the board of review's presentation weak and unpersuasive. Neither the memorandum nor the *CoStar* sales sheets contained any analysis. Moreover, the board of review did not present a witness to testify regarding credentials, appraisal methodologies, the validity of the sales data contained on the *CoStar* information sheets, or to undergo meaningful cross-examination. Rather, it simply presented a memorandum and *CoStar* reports to stand as its evidence. The Board, therefore, places no weight on the board of review's evidence.

The Property Tax Appeal Board finds that the best evidence to estimate the subject property's market value contained in the record is in testimony, data and analyses contained in the appraisal performed by the appellant's appraiser. Appellant's appraiser testified that he utilized the three traditional approaches to value. In all three approaches, his analysis and testimony was detailed and concise.

In the cost approach, the Board finds that appellant's appraiser used appropriate comparables to estimate a land value for the subject. The Board finds that his estimate of land value for the subject is also supported by intervenors' appraiser's estimate of the subject's land value utilizing three additional sales. When estimating a reproduction cost new for the subject, appellant's appraiser performed a thorough examination of the subject and based his estimate of costs on nationally known and respected cost and valuation sources as well as local cost indexes. When establishing the depreciation percentage, he testified that he used the market extraction method based on the sales comparables, which the Board finds support the estimated depreciation percentage employed. In contrast, the intervenors' appraiser did not employ a cost approach because he did not deem it relevant to estimate a value for the subject.

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Both appraisers placed much weight on their respective sales comparison approaches to value. The Board finds that the sales utilized by the appellant's appraiser to be more indicative of a fair market value for the subject than the sales utilized by intervenors' appraiser. The appellant's appraiser utilized six properties similar to the subject in age, improvement size, location and utility that sold within approximately two years before January 1, 2001, the date of value. The intervenors' appraiser utilized five comparables, two of which sold after January 1, 2001 and one of which sold in October 1997, approximately 39 months prior to the assessment date at issue. Additionally, the comparables cited by the intervenors' appraiser have improvements that are clearly superior to the subject in age and clear ceiling height. Further, two of the intervenors' sale comparables were not exposed to the market as one was under a three-year option to purchase and one was not listed on the open market. The Board finds that the adjustments made to the appellant's sales comparables by its appraiser were credible, clear and without equivocation while the adjustments made to intervenors' sales comparables were not as cogent in either the intervenors' appraiser's report or his testimony.

Next, the Board finds that in the income approach to value, the appellant's appraiser provided six rental comparables similar to the subject and located in the subject's market area. Five of these six properties have triple net negotiated rents in place. The Board finds that from this information, the appraiser developed a reasonable and well-documented estimate of economic rent for the subject to calculate a potential gross income based on a typical triple net basis. The deductions for vacancy and collection loss, reserves for replacement and management fees all appear to be based on representative expenses for properties such as the subject. Thus, the Board finds the appellant's appraiser's estimated net operating income supported by substantial market driven data. Turning to the development of a capitalization rate, the Board finds that appellant's appraiser's use of the band of investment technique and his conclusion well founded in his testimony and appraisal. To support the band of investment technique he tested his conclusion by developing capitalization rates using the six sales employed in his sales comparison approach. Therefore, the Board finds that appellant's appraiser's conversion of the subject's net income into an estimate of value using the estimated capitalization rate is market based and supported in the record.

Conversely, the market rent developed in the income approach presented in the intervenors' appraiser's appraisal was based on properties that were being offered on the market and not actual rents. Typically, as testified to by appellant's appraiser, offerings represent the highest end of market rents. The Board finds that



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any adjustments to the comparables from this point are without foundation and somewhat speculative. Next, the Board finds that intervenors' appraiser's inclusion of "Expense Recoveries" as additional rent are without foundation and artificially inflates the estimate of the subject's potential gross income, the deduction for vacancy and collection loss and, ultimately, artificially increases the estimated value for the subject. The Board further finds that the inclusion of real estate taxes as an expense item inappropriate when appraising property for *ad valorem* tax purposes.

In conclusion, the Board finds the appellant's appraiser presented the most credible testimony, appraisal and the most persuasive evidence of the subject's market value. Further, the Board finds that the intervenors' appraisal is not as well supported or convincing as the appellant's appraisal. Therefore, The Property Tax Appeal Board places very little weight on the intervenors' conclusion of value.

Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of \$2,400,000, as of January 1, 2001. Since the fair market value of the subject has been established, the Board finds that the Cook County Real Property Assessment Classification Ordinance level of assessments of 36% for Class 5b properties, such as the subject, shall apply and a reduction is accordingly warranted.

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<b>APPELLANT:</b>	<b><u>Ford Motor Company - Stamping Plant</u></b>
<b>DOCKET NUMBER:</b>	<b><u>03-22791.001-I-3</u></b>
<b>DATE DECIDED:</b>	<b><u>April 7, 2006</u></b>
<b>COUNTY:</b>	<b><u>Cook</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

The subject property consists of a 132.821-acre parcel improved with a 2,242,752 square foot industrial/heavy-manufacturing complex. The subject has a 2.58:1 land to building ratio. The office section is two-stories with a finished mezzanine containing 110,511 square feet of building area. The remaining 2,132,241 square feet is dedicated to the press area, the manufacturing area, walkways and auxiliary buildings. The majority of the complex was constructed between 1960 and 1964; other additions were constructed in 1979, 1992 and 1995. The buildings are primarily constructed of three to ten foot concrete sidewalls with metal panel construction above. Some of the main building also has corrugated fiberglass panels above. The office section has face brick exterior walls. There are 288,943 square feet of unfinished basement area housing portions of the presses and scrap containment. The improvements have 21 drive-in truck doors, two drive-in doors to the office garage, 8 exterior truck height docks and six rail doors. The main building also contains two interior rails spurs. The majority of the manufacturing area has a clear ceiling height of 22 feet and the press area has a clear ceiling height of 36 feet. The press area is also equipped with a number of crane-ways. Other improvements include 2,650,000 square feet of pavement, 16,000 linear feet of rail and 12,200 linear feet of chain-link fencing. The subject is located in Bloom Township, Cook County.

Appearing before the Property Tax Appeal Board on behalf of the appellant were the appellant's attorneys arguing the fair market value of the subject was not accurately reflected in its assessed value. In support of the market value argument, the appellant submitted a complete appraisal summary report with a valuation date of January 1, 2002. The appellant called as its witness the appraiser who prepared the appraisal report. The witness is a State of Illinois certified general real estate appraiser who also has the Member of the Appraisal Institute (MAI) designation. After a brief discussion of the witness' experience, he was tendered and accepted as an expert witness. The appraiser testified that the subject was appraised as a fee simple estate for ad valorem tax purposes. The appraiser testified he made personal inspections of the subject on October 29, 2002, November 8, 2002 and November 19, 2002. The appraiser testified that the subject's highest and best use

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as vacant would be for industrial development. The witness was of the opinion the subject's highest and best use as improved is its current use. The appraiser estimated the subject's weighted age as 43 years old.

To estimate a total market value of \$11,000,000 for the subject as of January 1, 2002, the appraiser employed the cost approach and the sales comparison approach to value. While a thorough search for recent leases of industrial space similar to the subject was conducted, the appraiser found the market lacked sufficient comparable data. Consequently, the appraiser testified that in his opinion the income capitalization approach to value was not germane to estimate a value for the subject.

The first approach to value employed by the appraiser was the cost approach. To estimate a land value for the subject the appraiser examined the sales of five vacant properties in the subject's market area. While none of the comparables are as large as the subject, the appraiser selected parcels with highest and best use similar to the subject as vacant. The parcels range in size from 22.349 acres to 75.281 acres. The parcels sold between January 1998 and January 2000 for prices ranging from \$120,000 to \$828,091, or from \$4,386 to \$17,424 per acre. After adjustments for location, size, configuration, utility, market conditions at date of sale, and accessibility to major traffic arterials, the appraiser established \$10,000 per acre as a unit of value for the subject land, resulting in an indicated land value of \$1,330,000, rounded.

Reproduction cost new was employed to estimate the cost new of the subject's improvements. The appraiser testified that after isolating each of the subject's eleven improvement components and using Boeckh's Automated Cost Estimator, Marshall Valuation Service as well as a survey of local cost indexes, he determined a total reproduction cost for the subject's improvements of \$115,428,014. Site improvements such as the pavement, rail siding, and fencing were added to the principal improvements resulting in a total reproduction cost of \$121,000,000, rounded. The appraiser testified that depreciation, based on the market extraction method, was estimated to be 92%, or \$111,320,000. Deducting depreciation and adding the land value resulted in an indicated value by the cost approach for the subject of \$11,000,000, rounded, as of January 1, 2002.

In the sales comparison approach, the appraiser examined the sales of four large industrial complexes in Chicago Heights, Clinton, and North Silvis, Illinois and Bloomington, Indiana. He also considered two large industrial/heavy-manufacturing complexes offered for sale, as of November 2002, in Kalamazoo

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and Sturgis, Michigan. Containing between 547,679 and 2,075,022 square feet of building area, the buildings ranged from 21 to 45 years old. The four sales took place between January 1997 and August 2001 for prices ranging from \$1,645,000 to \$8,500,000, or from \$3.00 to \$5.57 per square foot of building area including land. The two offerings are marketed at \$877,355 and \$2,075,022, or \$9.00 and \$10.60 per square foot of building area including land. The appraiser testified that these two offerings would typically set the upper limit of value for that property. In addition to the foregoing, the appraiser examined a sale in Davenport, Iowa and a sale in McCook, Illinois. Both sales involved industrial/heavy-manufacturing buildings. Containing 2,479,000 square feet of building area on 203 acres of land, the Davenport property was on the market for approximately seven years with an original asking price of \$40,000,000. It sold in September 1995, with substantial seller financing, for a price of \$10,500,000, or \$4.24 per square foot of building area including land. The McCook property contained 1,700,000 square feet of building area on 130 acres of land and was offered for sale for an asking price of \$17,000,000. After four years on the market, the McCook property sold in October 1997, with sale-leaseback conditions, for a price of \$10,600,000, or \$6.24 per square foot of building area including land. The appraiser also examined each comparable for building size in relation to sale prices and determined that the sale prices were from 26% to 66% below the asking prices. After adjusting the comparables for building and land size, age, clear ceiling heights, percentage of office space, and market conditions, the appraiser determined a unit of value for the subject of \$5.00 per square foot of building area including land. The appraiser testified that he verified the terms and conditions of each sale and offering through the buyer, the seller or the attorney involved with preparing the transfer declarations and in some cases verified this information with multiple parties. The appraiser's estimate of value for the subject using the sales comparison approach, as of January 1, 2002, was \$11,200,000, rounded.

In his reconciliation of the two methods of estimating value, the witness placed primary weight on the sales comparison approach indicating that the cost approach lent support to the sales comparison approach. His final opinion of value for the subject was \$11,000,000, as of January 1, 2002.

Further, appellant's appraiser testified that between January 1, 2002 and January 1, 2003, there were no significant physical changes made to the subject property, there were no significant changes in the market conditions influencing the subject property; and none of the offerings described in the sales comparison to value were sold. The appraiser's final opinion of value for the subject was \$11,000,000 as of January 1, 2003.

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During cross-examination, appellant's appraiser was thoroughly questioned regarding information sources and methodologies used when preparing the appraisal and determining a value for the subject. He was also questioned in detail with regard to his understanding of the components of market value and appraisal techniques. The witness replied to the inquiries with credible, detailed, confident and comprehensive answers.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$7,301,019 was disclosed. This assessment reflects a fair market value of \$20,280,608, when the Cook County Real Property Assessment Classification Ordinance level of assessments of 36% for Class 5b industrial property, such as the subject, is applied. The board also offered a summary appraisal report prepared by an individual employed by the Cook County Assessor's Office. This individual is a State of Illinois certified general real estate appraiser. The valuation report was dated as of January 1, 2003, however, the prepared of the report was not present at the hearing to testify.

The report reflected two approaches to value, the income approach and the sales comparison approach. The report suggested that the cost approach was not included due to the age of the improvements, which results in a subjective estimation of the total accrued depreciation inherent in the calculation. The report disclosed that the preparer of the appraisal relied on data and information contained in a prior appraisal prepared by another appraisal firm and other sources that may be applicable. The appraiser suggested he made a personal inspection of the subject on January 12, 2005 and based the appraisal on a complete exterior but limited interior inspection of the subject. In a highest and best use analysis as vacant, the appraiser suggested that the site be improved with a use consistent with the subject's zoning and neighborhood; and as improved the subject's existing use. This appraiser's estimate of value for the subject was \$20,800,000 as of January 1, 2003.

In the income approach, the author of the report cited four rental comparables located in Will County, Cook County and Munster, Indiana. These properties ranged in size from 300,000 to 650,494 square feet of building area, however, no land sizes were indicated. The rentals ranged from \$1.16 to \$3.22 per square foot. Using \$1.25 per square foot of building area, the author determined a potential gross income (PGI) of \$2,803,440 for the subject. After deducting \$294,361 for vacancy and collection loss and \$523,823 for operating expenses, the resulting net operating income (NOI) was calculated to be \$1,985,256. The report indicated the

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appraiser used the survey method to estimate a capitalization rate. Relying on the 2003 2<sup>nd</sup> Quarter Korpacz Real Estate Investor Survey for the National Warehouse Market, the appraiser determined an overall capitalization rate of 9.5%. The appraiser also suggested that band of investment technique supports the survey method. The appraiser's estimate of value for the subject was \$26,830,000 through the income approach.

In the sales comparison approach, the appraiser's report reflected the sales of six properties located in Will, DuPage and Cook Counties ranging from 2 to 73 years old. The properties ranged in building size from 500,000 to 2,877,165 square feet with land areas ranging in size from 1,036,118 to 11,499,840 square feet resulting in land to build ratios ranging from 2.07:1 to 8.55:1. The sales took place between April 2000 and December 2003 for prices ranging from \$2,970,000 to \$78,267,672. After adjusting the comparables for market conditions, size, percentage of office area, age/condition, land to building ratios and clear ceiling heights. The appraiser estimated the subject has an indicated unit value of \$9.25 per square foot. Three of the sales represented in the sales comparison approach were also used as rental comparables in the income approach to value. As a result of these computations, his estimate of value for the subject was \$20,745,000 as of January 1, 2003 through the sales comparison approach.

In the reconciliation of the two approaches to value, the author of the report indicated primary consideration was given to the sales comparison approach, which was strongly supported by the income approach to value. The appraiser reported that his final opinion of value for the subject is \$20,800,000.

As noted earlier, this appraiser was not present at the hearing to be cross-examined by appellant's counsel and the Property Tax Appeal Board.

In rebuttal, the appellant's appraiser was questioned by the appellant's counsel regarding the sales used in the board of review's valuation report. Appellant's appraiser testified that he was familiar with these sales and that overall they were not comparable to the subject. He indicated they were, in general, different in usage when compared to the subject. He testified that the board of review's sale number one was a multiple tenant property purchased by one of the tenants. As to sales numbered two, three and four, he testified that these were also multiple tenant properties, one of which was sold with leaseback conditions and one of which is a new building. Appellant's appraiser testified that the board's sale number four was part of a multiple property transaction and the sale price listed for this comparable is an allocated portion of the overall purchase price.

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In closing, the appellant's counsel argued that appellant's appraiser's testimony illustrated that he meticulously analyzed and verified the data contained in the appellant's appraisal. Counsel also suggested that the appellant's appraisal clearly indicates the imbalance between excessive supply and low demand for properties of the subject's type. Counsel also argued that the board of review and its counsel was given the opportunity to exercise its right to thoroughly cross-examine appellant's appraiser regarding his appraisal and testimony. In contrast, the summary appraisal report presented by the board of review was not supported by any testimony nor was the author subject to any meaningful cross-examination. In conclusion, the appellant's counsel requested that the Board determine \$11,000,000 as the fair market value for the subject and reduce its assessment to reflect this market value.

Counsel for the board of review argued that the appellant's appraisal and testimony was not credible in its presentation of the cost approach to value nor were the sales used in the sales comparison approach to value appropriate for the subject. Counsel suggested that the basis used in the cost approach was actually replacement cost not reproduction cost and that the depreciation estimate was unsupported. In the sales comparison approach, counsel suggested that as the sales are not local they are not comparable. The board of review requested confirmation of its assessment.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is the determination of the subject's market value for ad valorem tax purposes.

When market value is the basis of the appeal, the value of the subject property must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (86 Ill.Adm.Code §1910.65(c)).

The Board finds the content of the board of review's summary appraisal report unconvincing and not persuasive. The Board places substantial weight on appellant's appraiser's rebuttal testimony. He was familiar with the sales presented in board of review's appraisal and provided details of these sales that were not disclosed in the board of review's appraisal. The details provided by appellant's

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appraiser correspond with the fact that three of the board of review's appraiser's sales were utilized in rental data of its report. Further, the board of review's report indicated that the appraiser relied on a prior appraisal prepared by another appraisal firm. This appraisal was not in the record nor was testimony provided to substantiate its validity. While the board of review's appraiser included some explanation of the methodologies used and some analysis without testimony and meaningful cross-examination, the Board finds the board of review's appraisal and resulting estimate of value unreliable. Moreover, the board of review did not present the author of the appraisal to testify regarding his credentials. The Board, therefore, places no weight on the board of review's evidence of value.

The Property Tax Appeal Board finds that the best evidence to estimate the subject property's market value contained in the record is the data and analyses contained in the appraisal performed by the appellant's appraiser together with the testimony of the appraiser. Appellant's appraiser testified that he examined all three traditional approaches to value. Although, the income approach was not utilized, he testified that he did examine the competitive market and found no reliable rental comparables. In the cost approach, the appraiser performed a thorough examination of the subject and its components and based his estimate of costs on each separate component. When establishing the depreciation percentage, he testified that he used market extraction based on the sales comparables, which the Board finds support the estimated depreciation percentage employed.

The Board finds appellant's appraiser's sales comparables the most compelling evidence of the subject's market value. These were large industrial/heavy-manufacturing complexes like the subject. As suggested by the appraiser, large industrial complexes like the subject appear to be a glut in the market and the marketing times as well as the asking prices verses sale prices of his comparables bear this premise out. Appellant's appraiser testified that the sales and offerings were verified through the parties to the transactions. The Board finds this a critical step in determining the validity of the sales and offerings. The Board finds that each comparable was appropriately adjusted and supports the appraiser's estimated unit value for the subject of \$5.00 per square foot of building area, including land. The Board also finds that appellant's appraiser testified that from 2002 to 2003 there were no significant physical changes made to the subject property; there were no significant changes in the market conditions influencing the subject property; and none of the offerings described in the sales comparison to value was sold. Appellant's appraiser's final opinion of value for the subject was \$11,000,000 as of January 1, 2003.



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Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of \$11,000,000, as of January 1, 2003. Since the fair market value of the subject has been established, the Board finds that the Cook County Real Property Assessment Classification Ordinance level of assessments of 36% for Class 5b properties, such as the subject, shall apply and a reduction is accordingly warranted.

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<b>APPELLANT:</b>	<b><u>Kaskaskia Properties</u></b>
<b>DOCKET NUMBER:</b>	<b><u>03-02678.001-I-2 through 03-02678.005-I-2</u></b>
<b>DATE DECIDED:</b>	<b><u>July 10, 2006</u></b>
<b>COUNTY:</b>	<b><u>Marion</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

The subject property consists of five parcels containing approximately 7.18 acres improved with a 72,000 square foot industrial building and a 1,500 square foot pole building. The larger building is a warehouse manufacturing building with approximately 12,000 square feet of office space. The larger building was built in stages in approximately 1920 and 1973. The property is located in Salem, Marion County.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant explained the subject property was purchased in December 2001 for a price of \$360,000. In support of this contention the appellant submitted a copy of a settlement statement wherein one of the owners of appellant was listed as the borrower and MAN Roland, Inc. of Westmont, Illinois, was listed as the seller. The settlement statement was dated December 28, 2001, and the contract sales price was listed as \$360,000. The appellant also submitted a copy of an Illinois Real Estate Transfer Declaration associated with the sale indicating a full actual consideration for the property of \$360,000. The transfer declaration indicated that the date of the deed was December 2001 and the property had been advertised for sale or sold using a real estate agent. The transfer declaration gave no indication that the parties to the transaction were related individuals or corporate affiliates. The document indicated the seller was MAN Roland, Inc. and the buyer was the named owner of the appellant. The appellant also submitted a copy of a Purchase and Sale Agreement wherein the seller was identified as MAN Roland, Inc. and the purchaser was Bettendorf-Stanford, Inc. The broker was listed as Somer GMAC Real Estate, of Salem, Illinois. The purchase price was again listed as \$360,000.

During the hearing appellant's witness testified that the property was marketed on behalf of MAN Roland, Inc. by a realtor. He testified the property was on the market for approximately three months. When the appellant learned the property was on the market he contacted a realtor and made an offer for the property. He indicated the asking price was \$750,000 and his initial offer was \$200,000. The initial offer was rejected and he countered with an offer of \$250,000. This offer

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was rejected and the seller countered with a price of \$475,000. The appellant then countered with an offer of \$300,000 and the seller countered with a price of \$425,000. The appellant then made a last offer of \$360,000, which was accepted.

The witness asserted that there is no relationship between his company, Bettendorf-Stanford, Inc, and the seller, MAN Roland, Inc. He further indicated that the property was exposed on the market approximately three months before he started bidding on the property. He also understood there were other offers to purchase the property while he was trying to purchase the subject. The appellant also indicated that subsequent to his purchase he sold a vacant portion of the subject property for a price of \$95,000 in April 2003.

Based on this evidence the appellant requested the subject's assessment be reduced to \$120,000 to reflect the December 2001 purchase price.

The Board of Review submitted its "Board of Review Notes on Appeal" wherein its final assessment for the subject property totaling \$272,365 was disclosed. The subject's assessment reflects a market value of approximately \$823,600 or \$11.21 per square foot of building area using the 2003 three year median level of assessments for Marion County of 33.07%.

In support of the assessment the board of review submitted sales information on three industrial properties located in Salem, Centralia and Breese, Illinois. The comparables ranged in age from 6 to 50 years old and in size from 9,840 to 115,350 square feet. The sales occurred from March 2003 to June 2004 for prices ranging from \$225,000 to \$767,000 or from \$6.66 to \$26.04 per square foot of building area.

To further support the assessment the board of review submitted an appraisal of the subject property with an effective date of March 10, 1999. The appraisal contained an estimate of value of \$930,000 as of March 10, 1999.

The board of review also submitted information on the transfer of corporate assets regarding MAN Roland, Inc. to demonstrate there was a relationship with Wood Newspaper Machinery Corporation, a corporate entity associated with appellant's witness' family. During the hearing the board of review did not challenge the arm's length nature of the sale based on a relationship of the parties but were concerned with the length of time the property was exposed on the open market.

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After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

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 (3<sup>rd</sup> Dist. 2002). Proof of the market value of the subject property may consist of a recent sale of the subject property. (86 Ill.Adm.Code 1910.65(c)(2)). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Property Tax Appeal Board finds the best evidence of market value in this record is the purchase of the subject property in December 2001 for a price of \$360,000. A contemporaneous sale between parties dealing at arm's length is not only relevant to the question of fair cash value but is practically conclusive on the issue of whether the property's assessment is reflective of fair cash value. People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158, 161, 226 N.E.2d 265, 265 (1967).

The appellant provided testimony and documentation disclosing the subject property was exposed for sale on the open market through a real estate agent and ultimately purchased in December 2001 for a price of \$360,000. The appellant testified to the circumstances surrounding the negotiations where the parties made offers and counter-offers to reach a negotiated sales price. The appellant also understood during the course of negotiations that other parties were interested in the subject property and had made offers to the seller. The appellant also provided credible testimony that there was no relationship between him and the seller, MAN Roland, Inc. The Property Tax Appeal Board finds these factors demonstrate the subject property was purchased in an arm's length transaction for \$360,000 or \$4.90 per square foot of total building area.

The Property Tax Appeals Board gives little weight to the evidence presented by the board of review to refute the arm's length nature of the sale or to demonstrate that the purchase price was not reflective of market value. First, the board of review did not establish with any credible evidence that the parties to the transaction were related. Second, the Property Tax Appeal Board finds that the board's contention that the subject property was not exposed on the open market

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for a sufficient amount of time was not supported by any citation to a statute, case law, or any authoritative source such as a treatise or textbook.

The Property Tax Appeal Board gives little weight to the appraisal of the subject property submitted by the board of review. The appraisal had an effective date of March 1999, approximately four years prior to the assessment date at issue, calling into question whether the opinion of value is reflective of market value as of January 1, 2003. Second, the appraisal was prepared to "assist *NATIONSBANK* in their decision-making process, credit analysis and investment underwriting." BOR Exhibit No. 1, pg. 3. The Board finds the appraisal was not prepared for ad valorem taxation purposes, which further undermines its relevance. Third, the board of review did not present any appraisal witness to provide testimony and be cross-examined concerning the appraisal techniques and conclusion of value contained within the report.

The board of review did provide information on three comparable sales to support its assessment of the subject property. The Property Tax Appeal Board gives this data less weight because the comparables were not particularly similar to the subject property in location, size and age. The comparable most similar to the subject in size and location was comparable sale number 1. This property was 26 years old and contained 115,350 square feet. This property sold in June 2004 for \$767,000 or \$6.66 per square foot of building area. The subject property was older, built in stages and sold in December 2001 for a price of \$4.90 per square foot of building area. Considering the differences between these properties in age and the time differential between the sales, the Board finds this sale tends to support the conclusion that the subject's sales price is representative of market value.

In conclusion the Property Tax Appeal Board finds the appellant has demonstrated that the subject's assessment reflecting a market value of approximately \$823,600 is excessive and a reduction commensurate with the appellant's request is appropriate.

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<b>APPELLANT:</b>	<u>Leo Kruss</u>
<b>DOCKET NUMBER:</b>	<u>01-28094.001-I-1 through 01-28094.003-I-1</u>
<b>DATE DECIDED:</b>	<u>April 11, 2006</u>
<b>COUNTY:</b>	<u>Cook</u>
<b>RESULT:</b>	<u>Reduction Warranted</u>

The subject property consists of a 23,760 square foot parcel improved with a one and part-two story masonry constructed industrial building with a 1.25:1 land to building ratio. The first floor is an open 18,859 square foot industrial area, while the 5,957 square foot second floor is used for storage. The subject is located in West Chicago Township, Cook County.

The appellant's petition presented before the Property Tax Appeal Board suggests the fair market value of the subject is not accurately reflected in its assessed value. In support of this argument, the appellant submitted a summary appraisal report with a valuation date of January 1, 2000. The author of the appraisal is a State of Illinois licensed real estate appraiser and an associate member of The Appraisal Institute. The report indicated that the subject was appraised as a fee simple estate for *ad valorem* tax purposes. The appraiser indicated a personal inspection of the subject was made on October 12, 2000. The appraiser opined that the subject's highest and best use, as improved, is its current use.

To estimate a total market value for the subject as of January 1, 2001, the appraiser employed the three traditional approaches to value.

The first approach to value employed by the appraiser was the cost approach. To estimate a land value for the subject, the appraiser reviewed sold land comparables in the subject's general area and adjusted the sales for differences in property rights, financing, conditions of sale market conditions, location, zoning and physical characteristics. It was the appraiser's opinion based on these adjusted sales that \$7.00 per square foot, or \$166,320 is indicative of the subject's land value as of January 1, 2000. Next, the appraiser utilized *Marshall Valuation Service* to estimate a reproduction cost new for the subject improvement of \$908,514. The appraiser deducted accrued depreciation of \$866,722, added a cost for other site improvements of \$250, and the estimated land value to determine an indicated value of \$195,000, rounded, for the subject via the cost approach, as of January 1, 2000.

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In the sales comparison approach, the appraiser examined the sales of five industrial buildings in the subject's general area. The buildings range in size from 12,500 to 39,000 square feet with land to building ratios ranging from .074:1 to 4.18:1. The comparables sold between March 1997 and March 2000 for prices ranging from \$135,000 to \$320,000, or from \$7.58 to \$12.00 per square foot including land, unadjusted. Adjustments were made to the comparables for location, size, age and other pertinent differences. The appraiser analyzed this information and determined \$7.00 per square foot as an estimated value for the subject, or \$175,000, rounded, as of January 1, 2000.

The income approach to value was the next approach employed by the appraiser. As sources to determine an income estimate for the subject, the appraiser relied on rental comparables located in the subject's general area. From this information, the appraiser estimated the subject would command \$4.50 per square foot for the first floor space and \$1.00 per square foot for the second floor storage area in the market place. These calculations determined \$90,822 as the subject's potential gross income (PGI.) Vacancy of \$13,623, and expenses totaling \$44,806 were then deducted, resulting in a net operating income (NOI) of \$32,393 for the subject. Utilizing a recent survey of investors, the appraiser determined a capitalization rate of 11%, to which 7.2947% was added as a tax load. After capitalization of the NOI, the appraiser indicated a value for the subject through the income approach of \$175,000, rounded, as of January 1, 2000.

In the reconciliation of the three approaches to value, the appraiser placed the most weight on the sales comparison approach. The appraiser indicated that the income and cost approaches to value supported the sales comparison approach. The appraiser's final estimate of value for the subject as of January 1, 2000 was \$175,000. Based on the foregoing evidence, the appellant requested an assessment reflective of this value as of January 1, 2001.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$80,400 was disclosed. This assessment reflects a fair market value of \$223,333, when the Cook County Real Property Ordinance level of assessments of 36% for Class 5b property, such as the subject, is applied. The board also offered an unsigned memorandum to the board of review's chief deputy and four *CoStar* Comps sales reports. *CoStar Comps* is a sales reporting service, which notes on its reports that it deems its sources reliable but does not guarantee the reliability or accuracy of its information. The sales were for multi-story industrial buildings ranging in size from 20,000 to 28,872 square feet. The sales took place between October 1998 and August 1999 for prices ranging from \$480,000 to

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\$599,000, or an unadjusted range of \$16.67 to \$27.50 per square foot of building area including land. No information or analysis was tendered regarding the comparability of these properties to the subject property. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is the determination of the subject's market value for *ad valorem* tax purposes.

When market value is the basis of the appeal, the value of the subject property must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (86 Ill.Adm.Code 1910.65(c)). The Board finds that the appellant has met this burden.

The Property Tax Appeal Board finds that the best evidence to estimate the subject property's market value contained in the record is the data and analyses contained in the appraisal performed by the appellant's appraiser. The appellant's appraiser employed the three traditional approaches to value to estimate a value for the subject. In contrast, the board of review only presented raw sales data without any analysis of the sales and their comparability to the subject. Further, not only did the board of review fail to present any credible evidence refuting the validity of the appraiser's conclusion of value as of January 1, 2000, the board of review failed to refute the appellant's claim that the appraiser's conclusion of value is applicable as of January 1, 2001. Therefore, the Property Tax Appeal Board finds that the subject's fair market value as of January 1, 2001 is \$175,000.

As the fair market value of the subject has been established, the Board finds that the Cook County Real Property level of assessments of 36% for Class 5b properties, such as the subject, shall apply and a reduction is warranted.



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<b>APPELLANT:</b>	<u>Elizabeth F. LeMay</u>
<b>DOCKET NUMBER:</b>	<u>01-28039.001-I-1 though 01-28039.004-I-1</u>
<b>DATE DECIDED:</b>	<u>April 7, 2006</u>
<b>COUNTY:</b>	<u>Cook</u>
<b>RESULT:</b>	<u>Reduction Warranted</u>

The subject property consists of an 180,626 square foot parcel improved with a one-story masonry constructed 161,370 square foot industrial building with a 1.12:1 land to building ratio. The subject is located in West Chicago Township, Cook County.

The appellant's petition presented before the Property Tax Appeal Board suggests the fair market value of the subject is not accurately reflected in its assessed value. In support of this argument, the appellant submitted an appraisal report with a valuation date of January 1, 2000. The author of the appraisal is a State of Illinois licensed real estate appraiser. The report indicated that the subject was appraised as a fee simple estate for *ad valorem* tax purposes. The appraiser opined the subject's weighted age at 63 years old and the subject's highest and best use, as improved, is its current use.

To estimate a total market value for the subject as of January 1, 2001, the appraiser employed the three traditional approaches to value.

The first approach to value employed by the appraiser was the cost approach. To estimate a land value for the subject, the appraiser reviewed five sold land comparables in the subject's general area and adjusted the sales for market conditions, size, location, and physical characteristics. It was the appraiser's opinion based on these adjusted sales that \$1.37 per square foot, or \$245,000, rounded, is indicative of the subject's land value as of January 1, 2000. Next, the appraiser utilized *Marshall Valuation Service* to estimate a replacement cost new for the subject improvement of \$8,016,862. The appraiser deducted total depreciation of \$6,734,164, added a cost for other site improvements of \$20,000 and the estimated land value to determine an indicated value of \$1,550,000, rounded, for the subject via the cost approach, as of January 1, 2000.

The income approach to value was the next approach employed by the appraiser. As sources to determine an income estimate for the subject, the appraiser relied on six rental comparables located in the subject's general area. From this information,

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the appraiser estimated the subject would command \$1.75 per square foot of building area in the market place. These calculations determined \$282,398 as the subject's potential gross income (PGI.) Vacancy of \$28,240, and expenses totaling \$66,816 were then deducted, resulting in a net operating income (NOI) of \$187,342 for the subject. The appraiser developed of an overall capitalization rate of 12.5%. After capitalization of the NOI, the appraiser indicated a value for the subject through the income approach of \$1,500,000, rounded, as of January 1, 2000.

In the sales comparison approach, the appraiser examined the sales of nine industrial buildings in the subject's general area. The buildings range in size from 78,000 to 273,500 square feet with land to building ratios ranging from .67:1 to 1.98:1. The comparables sold between July 1996 and December 1999 for prices ranging from \$4.17 to \$14.96 per square foot of building area including land, unadjusted. Adjustments were made to the comparables for market conditions, location, size, clear ceiling heights and other pertinent differences. The appraiser analyzed this information and determined \$9.25 per square foot of building area including land as an estimated value for the subject, or \$1,500,000, rounded, as of January 1, 2000.

In the reconciliation of the three approaches to value, the appraiser placed the most weight on the sales comparison approach. The appraiser indicated that the income and cost approaches to value supported the sales comparison approach. The appraiser's final estimate of value for the subject as of January 1, 2000 was \$1,500,000. Based on the foregoing evidence, the appellant requested an assessment reflective of this value as of January 1, 2001.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$643,995 was disclosed. This assessment reflects a fair market value of \$1,788,875, when the Cook County Real Property Ordinance level of assessments of 36% for Class 5b property, such as the subject, is applied. Based on this disclosure, the board of review requested confirmation of the subject property's assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is the determination of the subject's market value for *ad valorem* tax purposes.

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When market value is the basis of the appeal, the value of the subject property must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (86 Ill.Adm.Code §1910.65(c)). The Board finds that the appellant has met this burden.

The Property Tax Appeal Board finds that the best evidence and only evidence to estimate the subject property's market value contained in the record is the data and analyses contained in the appraisal performed by the appellant's appraiser. The appellant's appraiser employed the three traditional approaches to value to estimate a value for the subject. In contrast, the board of review only presented the subject's 2001 assessment. Further, not only did the board of review fail to present any credible evidence refuting the validity of the appraiser's conclusion of value as of January 1, 2000, the board of review failed to refute the appellant's claim that the appraiser's conclusion of value is applicable as of January 1, 2001. Therefore, the Property Tax Appeal Board finds that the subject's fair market value as of January 1, 2001 is \$1,500,000.

As the fair market value of the subject has been established, the Board finds that the Cook County Real Property level of assessments of 36% for Class 5b properties, such as the subject, shall apply and a reduction is warranted.

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<b>APPELLANT:</b>	<b><u>Woodward Governor Company</u></b>
<b>DOCKET NUMBER:</b>	<b><u>04-00455.001-I-3</u></b>
<b>DATE DECIDED:</b>	<b><u>January 17, 2006</u></b>
<b>COUNTY:</b>	<b><u>Winnebago</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

The subject property consists of 25.40-acre parcel improved with a part one and part two-story manufacturing facility with a basement that has a total building area of 364,883 square feet. The improvements were constructed in stages from 1941 to 1988. The basement contains 115,620 square feet, the ground floor contains 192,595 square feet, and the second floor contains 8,827 square feet. The complex also has eight outbuildings containing a total area of 47,841 square feet used for warehousing, storage, testing, offices and training. The ground floor and basement are sprinklered. The subject has two freight elevators, four 5-ton cranes, three interior dock doors, two steel drive-in doors and one exterior dock door. Site improvements include concrete and asphalt parking, exterior lighting, concrete sidewalks and a concrete circle drive.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted a narrative appraisal of the subject property prepared by a real estate appraiser who is a State Certified Real Estate Appraiser. The appraiser also has the Certified Illinois Assessing Officer (CIAO) designation awarded by the Illinois Property Assessment Institute and the Certified Assessment Evaluator (CAE) designation awarded by the International Association of Assessing Officers.

The appraiser estimated the subject property had a market value of \$2,900,000 as of January 1, 2004. In estimating the subject's market value the appraiser developed the income approach to value and the sales comparison approach to value. The witness described the appraisal as a summary report of a limited appraisal. He indicated that the cost approach was not included in the appraisal since the Illinois Property Tax Appeal Board and the Illinois courts have repeatedly found that the cost approach to value holds no probative value when sufficient sales of comparable properties exist. He further stated that because the subject is an older facility it would be difficult to estimate depreciation, which reduces the reliability of the cost approach. The appraiser indicated that he found a number of comparable sales and rentals that allowed for a reliable estimate of value. He further indicated that the cost approach was analyzed and considered but

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found to contribute no meaningful conclusions with respect to the market value of the subject property.

The appraiser estimated the subject improvements had a weighted age of 43 years. He also concluded the highest and best use of the subject as improved is its continued industrial use.

Under the income approach the appraiser estimated the subject had an indicated value of \$3,200,000. Using the sales comparison approach the appraiser estimated the subject had an indicated market value of \$2,900,000. After reconciling both approaches to value the appraiser estimated the subject property had a market value of \$2,900,000 as of January 1, 2004.

Based on this evidence the appellant requested the subject's assessment be reduced to \$966,666 to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$1,733,333 was disclosed. The subject's assessment reflects a market value of approximately \$5,200,000. The board of review indicated that it would stipulate to a reduction in the subject's assessment. The board of review stated it would stipulate to an assessment of \$1,153,704 reflecting a market value of \$3,461,112 based on the appellant's appraisal and the Rockford Township Assessor's comments.

The board of review submitted a copy of the subject's property record card and comments from the Rockford Township Assessor indicating the subject's property record card reflects a market value of \$5,200,000. The board of review also submitted a copy of a decision issued by the Property Tax Appeal Board under docket number 01-00085.001-I-3 through 01-0085.007-I-3 wherein the subject property and an additional 10 acres was the subject matter of the 2001 appeal. In that decision the Property Tax Appeal Board found the property under appeal had a market value of \$3,470,000 as of January 1, 2001. The board of review submitted no other evidence.

After reviewing the record and considering the evidence the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

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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 (3<sup>rd</sup> Dist. 2002). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value in the record is the appraisal of the subject property submitted by the appellant. The appraiser developed the income and sales comparison approaches to value in estimating the property had a market value of \$2,900,000 as of January 1, 2004. The appraisal includes market data and an in depth analysis by the appraiser that gives credence to the final estimate of value. The only evidence of value presented by the board of review was the subject's property record card wherein subject property was estimated to have a market value of \$5,200,000. The Board finds, however, the property record card did not contain any data or calculations that could be analyzed to determine the validity and reliability of the value estimate.

In conclusion the Property Tax Appeal Board finds the subject property had a market value of \$2,900,000 as of the assessment date at issue. Based on this market value finding the Board finds a reduction in the subject's assessment commensurate with the appellant's request is justified.

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Section 16-190(a) of the Property Tax Code  
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### 2006 FARM CHAPTER

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<b>APPELLANT:</b>	<b><u>Jim Billimack</u></b>
<b>DOCKET NUMBER:</b>	<b><u>04-01267.001-F-1</u></b>
<b>DATE DECIDED:</b>	<b><u>April, 2006</u></b>
<b>COUNTY:</b>	<b><u>Woodford</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

The subject property consists of a 7.5-acre tract of land improved with a residential dwelling, attached garage and a barn.

The appellant submitted evidence before the Property Tax Appeal Board claiming the Woodford County Board of Review improperly classified and assessed the subject parcel as residential land. The appellant argued four acres are dedicated for a barn and pastureland to raise horses and cattle; 2.5 acres are contiguous woodland; and 1 acre is dedicated to the home site. Multiple photographs were also submitted depicting farm implements in the barn and fencing with cattle and horses. A plat of survey was also submitted depicting the location of the barn, dwelling, pasture ground, and wooded area. The appellant also cited three comparable properties located within  $\frac{3}{4}$  of a mile from the subject to demonstrate the board of review did not uniformly apply farmland classifications and assessment. The three comparables contain from 2.6 to 18.39 acres of land that receive farmland assessments. The appellant argued these properties are small farms like the subject that have horses, cattle, and farm buildings used for housing livestock and storing tractors and hay. These parcels have pasture ground or tillable farmland preferential assessments. Photographs of the comparable properties were also submitted. Based on this evidence, the appellant requested the farm building and 6.5-acres of the subject parcel be reclassified and assessed based on their agriculture use.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$126,900 was disclosed. In support of the subject's assessment, the board of review submitted a letter addressing the appeal. The board of review argued the subject property is located in a residential subdivision. Therefore, the board of review argued the subject's primary use is for residential purposes. The board of review also argued the subject parcel does not meet the statutory definition of a "farm" as detailed in section 1-60 of the Property Tax Code. (35 ILCS 200/1-60). The board of review relied on one sentence of this statute, which provides in part:

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For purposes of this Code, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. (35 ILCS 200/1-60).

The board of review also submitted farmland assessment guidelines issued by the Illinois Department of Revenue. The board of review relied upon two guidelines to support its assessment of the subject property. One guideline is identified as:

**PARCEL USES-INTENSIVE FARM/RESIDENTIAL**, which states:

The primary use of a parcel containing only intensive farm and residential uses is residential unless the intensively farmed portion of the parcel is larger than the residential portion.

The other guideline states as follows:

**PARCEL USES-CONVENTIONAL FARM/RESIDENTIAL**, which states:

The primary use of a parcel containing only conventional farm and residential uses is residential unless the conventionally farmed portion of the parcel meets both of the following requirements:

- (1) it is larger than the residential portion of the parcel; and,
- (2) is not less than 5 acres in area,

For parcels not meeting both requirements, the residential presumption is subject to rebuttal by evidence received by the assessor that the primary use of the parcel is not residential.

Finally, the board of review argued the comparables submitted by the appellant are not located in a residential subdivision like the subject. Based on this evidence, the board of review requested confirmation of the subject property's classification and assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds 6.5-acres of the subject parcel are entitled to a farmland classification and assessment. Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" in part as:

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any property used solely for the growing and harvesting of crops; **for the feeding, breeding and management of livestock**; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; **the keeping, raising and feeding of livestock** or poultry, including dairying, poultry, swine, sheep, **beef cattle**, ponies or **horses**, fur farming, bees, fish and wildlife farming. (35 ILCS 200/1-60)

The Property Tax Appeal Board finds the appellant submitted ample documentation and evidence clearly showing the subject property has been used for agricultural purposes. The evidence clearly shows four acres of the subject parcel is used for pasture ground with a farm building for the raising and feeding of horses and cattle. The Board further finds 2.5-acres is woodland contiguous to the farmland that is used for raising and feeding of horses and cattle. The Board finds this acreage should also receive a farmland classification and assessment as "other farmland" as provided in section 10-125 of the Property Tax Code. (35 ILCS 200/10-125). Therefore, the Property Tax Appeal Board finds 6.5-acres of the subject parcel are entitled to a farmland classification and assessment.

The Property Tax Appeal Board finds a portion of a parcel may be classified as farmland for tax purposes, provided those portions of property so classified are used solely agricultural purposes. Property that is used solely for agricultural purposes is properly classified as farmland for tax purposes, even if that farmland is part of a parcel that has other uses. Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill.App.3d 799 (3<sup>rd</sup> Dist. 1999). Santa Fe Land Improvement Co., 113 Ill.App.3d at 875, 69 Ill.Dec.708, 448 N.E. 2d at 6.

The Board finds board of review claimed the subject parcel is located in residential subdivision and therefore its primary use is residential based on the Illinois Department of Revenue's farmland assessment guidelines. The Illinois Department of Revenue issues guidelines and recommendations for the assessment of farmland to achieve equitable assessments within and between counties. The Board finds the Illinois Department of Revenue's guidelines indicate the assessor's judgment is primary in determining the classification of a parcel and they are only intended to supplement that judgment. However, the guidelines state the presumption may be rebutted with evidence, as in this appeal. The Property Tax Appeal Board recognizes assessors and board of review's duty in determining farmland

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classifications, however, the board of review in this appeal appears to ignore credible evidence of the subject's agricultural use. Most importantly, the Property Tax Appeal Board finds Illinois Department of Revenue guidelines are advisory in nature and have no statutory authority.

As a final point, although the controlling statutes do not require a minimum amount of acreage to receive an agricultural assessment, the Board finds the subject property meets the farmland assessment guidelines offered by the board of review. The Board finds the portion of the subject parcel used for agricultural purposes is larger than the portion used for residential purposes. Furthermore, the portion of the property use for agricultural purposes is larger than 5-acres in size. Thus, the Board finds the guidelines support a farmland assessment and classification for the subject parcel.

In conclusion, the Property Tax Appeal Board finds the board of review's assessment of the subject property is incorrect and a reduction is warranted. The Board hereby orders the Woodford County Board of Review to compute a farmland assessment for 6.5-acres of the subject parcel that is used for pasture ground and woodlands in accordance with this decision. The board of review is hereby ordered to submit the revised assessment to the Property Tax Appeal Board within 15 days from the date of this decision.

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<b>APPELLANT:</b>	<u>Geralyn Ehlen</u>
<b>DOCKET NUMBER:</b>	<u>04-02269.001-R-1</u>
<b>DATE DECIDED:</b>	<u>May 19, 2006</u>
<b>COUNTY:</b>	<u>Monroe</u>
<b>RESULT:</b>	<u>No Change</u>

*(Please note, the Property Tax Appeal Board recognizes this case was filed as a residential appeal, however the evidence and context of this decision primarily relates to farmland issues.)*

The subject property consists of a 4.88-acre parcel improved with a one-story single-family dwelling with 1,540 square feet of living area, a full basement, and an attached two-car garage. The property is also improved with two pole barns and two shade stands.

The appellant appeared before the Property Tax Appeal Board contesting the assessment of the subject's land. The appellant explained that she was not contesting the assessment placed on the subject's improvements. The appellant testified that the subject has a home site of approximately 1.5 acres with the remaining land area, approximately 3 acres, being devoted to farm buildings and fenced in pasture for the horses. The appellant explained that in 2002 through the present she has had horses grazing on the site. She testified that she has had horses on the parcel since approximately 1996. In 2002, 2003 and 2004 she had two horses on the subject property. She explained that acreage used as pasture was divided into three areas and the horses were rotated to the different areas to graze. The horses are used for recreational purposes such as riding on occasion.

The appellant contends the acreage should be classified and assessed as farmland because it is permanent fenced in pasture. The pasture is fenced in with woven wire and wooden posts with a wooden rail or electric fence on top. The appellant provided copies of photographs depicting the subject property. The photographs depict the fencing, the pole barns, and a horse grazing in the pasture.

The appellant also submitted information on eight comparables to further support her contention that the land was incorrectly assessed. Seven comparables were located within ½ mile of the subject while one comparable was located approximately 8 miles from the subject. According to the appellant's information these parcels ranged in size from 2.5 acres to 4.65 acres and had land assessments ranging from \$30 to \$9,670.

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Based on this evidence the appellant requested the subject receive a \$9,660 acre assessment for the subject's home-site and a \$40 assessment for the farmland.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$58,480 was disclosed. The subject property had a land assessment of \$17,790. The board of review explained that the appellant's comparables 4 through 8 were small tracts receiving farmland assessments. The board of review stated that the appellant's comparable number one, a 4.59-acre parcel, had a residential assessment of \$7,730 and a farmland assessment of \$160. The appellant's comparable number two, a 2.66-acre tract, had a farmland assessment of \$60. The appellant's comparable number three is a 3.810-acre tract improved with a residence receiving a residential site assessment of \$9,660 and a farmland assessment of \$10.

The board of review contends the subject property is located in a small residential subdivision. The board noted that there are four neighboring tracts ranging in size from 5 to 5.12 acres, which have been sold for residential use. These properties had assessed values ranging from \$18,200 to \$18,380. Based on this data the board of review contends the subject's land assessment is fair and equitable.

The board of review's witness explained that home sites in Monroe County typically are assigned 2.5 acres.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

Based on this record the Property Tax Appeal Board finds that the acreage used as pasture for the horses is entitled to a farmland classification and assessment. Section 1-60 of the Property Tax Code provides that:

Farm. When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the



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keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. The dwellings and parcels of property on which farm dwellings are immediately situated shall be assessed as a part of the farm. Improvements, other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm dwellings when such buildings contribute in whole or in part to the operation of the farm. For purposes of this Code, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. The ongoing removal of oil, gas, coal or any other mineral from property used for farming shall not cause that property to not be considered as used solely for farming. (35 ILCS 200/1-60.)

Furthermore, in order to qualify for a farmland assessment the parcel must be used as a farm for the two preceding years. (35 ILCS 200/10-110.) Additionally, it is the use of the real property that determines whether it is to be assessed at an agricultural valuation. Sante Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill.App.3d 872, 875 (3<sup>rd</sup> Dist. 1983). A parcel of property may be classified as partially farmland, provided the portion of property so classified is used for a farming purpose. Kankakee County Board of Review v. Property Tax Appeal Board, 305 Ill.App.3d 799, 802. (3<sup>rd</sup> Dist. 1999).

The evidence in this appeal is two pole barns, shade stands and approximately three-acres of the subject tract are used as pasture for the grazing of horses. Additionally, this area has been used for farming purposes from at least 2002 through the present time. The Board finds this portion of the subject property qualifies for an agricultural classification and a farmland assessment.

Based on this finding the Property Tax Appeal Board requests the Monroe County Board of Review compute a farmland assessment of the subject property consistent with the findings herein and submit the farmland assessment to the Property Tax Appeal Board within 21 days of the date of this decision.

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<b>APPELLANT:</b>	<u>David L. Schmidt</u>
<b>DOCKET NUMBER:</b>	<u>04-00493.001-F-1</u>
<b>DATE DECIDED:</b>	<u>July 14, 2006</u>
<b>COUNTY:</b>	<u>Jersey</u>
<b>RESULT:</b>	<u>No Change</u>

The subject property consists of a 46-acre parcel improved with a 1,664 square foot berm or earth-sheltered dwelling built in 1983. The home has a frame exterior on one side and a conventional roof. Features of the property also include a 1,215 square foot pole shed.

The appellant appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process regarding the subject's land and improvements as the basis of the appeal. The appellant did not contest the subject's farmland assessment. In support of this argument, the appellant submitted a grid analysis of three comparable properties located within ½ mile of the subject. The comparables consist of rural parcels of 15 to 160 acres, with home sites of approximately one acre. The comparables have land assessments ranging from \$3,755 to \$4,115 per acre. The subject's one-acre home site has an assessment of \$4,115.

Regarding the improvement inequity contention, the appellant submitted information on the same three comparable properties used to support the land inequity argument. The comparables consist of two, one and one-half-story style brick or frame dwellings; and one, two-story style frame dwelling. These homes range in age from 35 to 100 years and range in size from 1,025 to 1,800 square feet of living area. One comparable has a 1,440 square foot garage, while all three properties have one or more barns or other outbuildings. These properties have improvement assessments ranging from \$5.75 to \$15.06 per square foot of living area. The subject has an improvement assessment of \$12.16 per square foot of living area. Based on this evidence, the appellant requested a reduction in the subject's assessment.

During the hearing, the appellant testified the subject dwelling had not been well maintained and that its design caused it to have limited "curb appeal", making it more difficult to sell than homes of conventional construction. The appellant submitted no market evidence in support of this contention.

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The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$24,485 was disclosed. In support of the subject's home site assessment, the board of review submitted three comparable properties located from one to four miles from the subject. The comparables range in size from 1.0 acre to 1.14 acre and have land assessments ranging from \$3,440 to \$4,115.

In support of the subject's improvement assessment, the board of review submitted property characteristic sheets and a grid analysis of the same three comparable properties used to support the subject's land assessment. The comparables consist of one-story or one and one-half-story style berm or earth-sheltered homes that range in age from 11 to 35 years. The dwellings feature frame or brick exterior construction and range in size from 1,056 to 1,728 square feet of living area. All the comparables have various older sheds. Two comparables have central air-conditioning. These properties have improvement assessments ranging from \$8.02 to \$21.06 per square foot of living area. As additional support of the subject's assessment, the board of review submitted sales information on one of the comparables used to support the subject's assessment. The comparable sold in May 2001 for \$93,500 or \$54.11 per square foot of living area including land. Based on this evidence the board of review requested confirmation of the subject's total assessment.

During the hearing, the board of review's representative testified reassessment of some rural portions in Jersey County was ongoing, as some areas had not been reassessed for many years. The representative claimed this is reflected in slight differences in land assessments. The representative noted one of the appellant's comparables and one of the board of review's comparables had land assessments identical to the subject.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds that a reduction in the subject's assessment is not warranted. The appellant's argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not overcome this burden.

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Regarding the land inequity argument, the Board finds the parties submitted six comparables, two of which had land assessments of \$4,115, identical to the subject. The remaining comparables had slightly lower land assessments. However, the board of review's representative testified not all areas of the County had been reassessed, but that all land is being uniformly assessed as resources and time permit. The Board finds the comparables submitted by the board of review included berm or earth-sheltered homes like the subject and would logically have similar market appeal. The board of review's comparables have land assessments ranging from \$3,440 to \$4,210 per one-acre home site, with the subject at \$4,115. Therefore, the Board finds the evidence in the record supports the subject's land assessment.

Regarding the improvement assessment argument, the Board finds the parties submitted six comparables. The Board gave little weight to the comparables submitted by the appellant because they differed significantly in design when compared to the subject. Conversely, the Board finds the comparables submitted by the board of review were similar to the subject in design and features. These most representative comparables had improvement assessments ranging from \$8.02 to \$21.06 per square foot of living area. The subject's improvement assessment of \$12.16 per square foot of living area falls within this range. The Board further finds one of the board of review's comparables sold in May 2001 for \$93,500 or \$54.11 per square foot of living area including land. The subject's home site and residence have an estimated market value of \$73,138 or \$43.95 per square foot of living area including land as reflected by the subject's assessment is supported by this comparable. While the appellant had not argued overvaluation as a basis of the appeal, the Board finds this market evidence further supports the subject's assessment.

In conclusion, the Board finds the appellant failed to establish unequal treatment in the assessment process by clear and convincing evidence and the subject property's assessment as established by the board of review is correct and no reduction is warranted.

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<b>APPELLANT:</b>	<b><u>Ronald Schurr</u></b>
<b>DOCKET NUMBER:</b>	<b><u>04-00533.001-F-1</u></b>
<b>DATE DECIDED:</b>	<b><u>September 28, 2006</u></b>
<b>COUNTY:</b>	<b><u>Kankakee</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

The subject property consists of a 10.52 acre parcel improved with a split-level single-family owner occupied dwelling that contains 1,816 square feet of living area. The dwelling is approximately 26 years old with features that include central air conditioning, two fireplaces and a two-car attached garage. Other improvements on the property include a 1,620 square foot shed and a 1,200 square foot barn. The appellant indicated that 8 acres are tillable, 1.52 acres are in pasture and 1 acre is devoted to the home site. The property is located in Otto Township, Kankakee County.

The appellant contends assessment inequity as the basis of the appeal. The subject property is an owner occupied residence that was the subject matter of appeals before the Property Tax Appeal Board in the 2002 and 2003 assessment years under docket numbers 02-00931.001-F-1 and 03-00724.001-F-1. In those appeals the Property Tax Appeal Board rendered decisions lowering the assessments of the subject property to \$45,042 and \$44,991, respectively, based on the evidence submitted by the parties. The Property Tax Appeal Board's decision issued for 2003 was the subject matter of a complaint for administrative review filed by the Kankakee County Board of Review in the Circuit Court of the Twenty-First Judicial Circuit, Kankakee County, under Case No. 05 MR 687. On July 13, 2006, the circuit court issued an Order affirming the decision of the Property Tax Appeal Board.

The appellant asserted that 2004 falls within the same general assessment period as the 2002 and 2003 assessment years in Kankakee County. The appellant contends the assessments for the subject dwelling and home site as established by the Property Tax Appeal Board's decisions issued in 2002 and 2003 should be carried forward subject to equalization to 2004 as provided by section 16-185 of the Property Tax Code (35 ILCS 200/16-185). The assessment of the home site and house established by the Property Tax Appeal Board determined in the 2003 appeal totaled \$40,393. The appellant also submitted assessment information on four comparables to demonstrate the subject property was being inequitably assessed.

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The board of review submitted its "Board of Review Notes on Appeal" wherein the final assessment of the subject property totaling \$54,496 was disclosed. The subject's home site and house had an assessment of \$46,873. The board of review argued that section 16-185 of the Code was inapplicable. The board of review also submitted descriptions and assessment information on four comparables to demonstrate the subject was being assessed uniformly. During the hearing the board of review indicated that 2004 was within the same general assessment period as 2002 and 2003. Additionally, the board of review indicated that an equalization factor of 1.02 was applied in 2004.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. Pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185), the Board finds the prior year's decision should be carried forward to the subsequent year subject only to equalization.

Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

The record disclosed the Property Tax Appeal Board issued a decision reducing the subject's 2003 assessment, which was ultimately affirmed by the circuit court on administrative review. The record further indicates that the subject property is an owner occupied dwelling and that 2003 and 2004 are within the same general assessment period. The record contains no evidence indicating the subject property sold in an arm's length transaction subsequent to the Board's decision establishing a fair cash value that is different from the fair cash value on which the Board's assessment was based. For these reasons the Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted to reflect the Board's prior year's finding plus the application of the 1.02 equalization factor applied in 2004.

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<b>APPELLANT:</b>	<b><u>Roger Weiss, Jr.</u></b>
<b>DOCKET NUMBER:</b>	<b><u>03-02182.001-R-1</u></b>
<b>DATE DECIDED:</b>	<b><u>August 8, 2006</u></b>
<b>COUNTY:</b>	<b><u>Kendall</u></b>
<b>RESULT:</b>	<b><u>Reduction Warranted</u></b>

*(Please note, the Property Tax Appeal Board recognizes this case was filed as a residential appeal, however the evidence and context of this decision primarily relates to farmland issues.)*

The subject property consists of a parcel that contains approximately six acres that is improved with a two-story frame dwelling that contains 2,170 square feet of living area. The dwelling is approximately 106 years old with an attached garage and a basement. The property is also improved with a 1,200 square foot metal clad pole building. The property is located in Yorkville, Bristol Township, Kendall County.

The appellant appeared before the Property Tax Appeal Board contending that the improvements are overvalued for assessment purposes and that the subject property is entitled to a farmland classification and assessment. With respect to the dwelling the appellant contends the home is in poor condition. Additionally, the appellant submitted an appraisal to demonstrate that the improvements were overvalued. The appraiser was not present at the hearing.

The appraisal described the site as containing 6.4 acres. The appraiser indicated the dwelling was 100 years old with an effective age of 50 to 60 years. The report stated the home is in need of updating and repairs throughout, especially to the second floor, which has some water damage to the walls and ceilings. The report further indicated the 2<sup>nd</sup> floor bathroom is not useable due to the need for repairs and that the flooring throughout the home is worn and the floor has settled in some spots.

The letter of transmittal stated that the appraiser provided the cost approach to value on the building improvements only. The report stated that the costs were taken from the Marshall and Swift Cost Manual updated through April 2004. Depreciation estimates were based on a visual inspection and figures provided by

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Marshall and Swift. Using this methodology the appraiser estimated the total cost new for the dwelling, basement, enclosed porch, breezeway, deck and garage to be \$194,781.52. From this amount the appraiser deducted 64% for physical depreciation and 5% for functional depreciation. Total depreciation of \$134,399.25 was deducted from the cost new to arrive at a depreciated value of the improvements of \$60,382.27. To this amount the appraiser added \$5,646.72 for the depreciated value of the pole building to arrive at value for the building improvements of \$66,028.99 as of April 22, 2004. The appellant requested the subject's improvement assessment be reduced to \$22,000 to reflect the appraised value.

With respect to the farmland classification issue the appellant stated in his written submission that 80% of the land is a hay field or pasture for livestock. The appellant indicated that there was some confusion on the size of the parcel because when the property was transferred to him it was divided into two parcels. The Notice of Revised Assessment dated November 20, 2003, submitted by the appellant, indicated the parcel in question contained 5.97 acres. With respect to the land the appellant indicated the house and associated yard comprise 2.3 acres. He indicated the remaining approximate 4 acres are a hay field. He testified that this acreage was used as a hay field in 2001, 2002 and 2003. He testified that in 2004 the property produced 240 bales and in 2005 the property produced 180 bales. He explained that the property was mowed, seeded and baled during these years. He testified that two different individuals had mowed and baled the hay during this time frame. He also testified that the parties shared the bales in that the appellant's mother kept some bales for livestock and the party that baled the hay kept the remainder. He testified livestock maintained on the property from 2001 to 2003 included two horses and two pigs.

Under cross-examination, the appellant indicated that during 2003 the horses were grazing on the property including an area of the property that is now lawn and no longer pasture.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of \$57,451 was disclosed. The subject's assessment reflects a market value of approximately \$169,570 or \$78.14 per square foot of living area using the 2003 three year median level of assessments for Kendall County of 33.88%.

The board of review submitted a written statement prepared by the Kendall County Supervisor of Assessments and Clerk of the Kendall County Board of Review,



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outlining its position. This individual was called as a witness on behalf of the board of review.

In the statement the board of review noted the appellant's appraisal did not examine any land sales or sales of similar homes, which is accepted appraisal practice when valuing residential property. The board further contends that there was no evidence to support the conclusion that farming activity is occurring on the property. It also noted that land sales in Bristol Township range in value from \$50,000 to \$100,000 per acre for unimproved 80-acre tracts. The board of review also noted that residential lot sales in the subject's area that range in size from 8,000 to 12,000 feet have prices ranging from \$77,500 to \$86,000. The board contends the subject could be developed into 9 lots with a value totaling approximately \$700,000. In support of this argument the board of review submitted the Real Estate Transfer Declarations on four vacant lots located in Yorkville, Bristol Township that sold in 2004 for prices ranging from \$77,503 to \$79,000.

The board of review also submitted sales of improved parcels that are similar to the subject but with no excess land to demonstrate that the market value reflected by the subject's assessment is justified. The five comparables in the record included a one-story dwelling, a 1½-story dwelling, a two-story dwelling, and two bi-level dwellings. The dwellings were constructed from 1920 to 1973 and ranged in size from 1,450 to 1,888 square feet of living area. The comparables sold from May to December 2004 for prices ranging from \$180,000 to \$600,000 or from \$111.86 to \$317.80 per square foot of living area, land included. The sale at the high end of the range included 3.2 acres. Excluding the sale with the large land area the unit prices ranged from \$111.86 to \$145.49 per square foot of land area.

Under cross-examination the witness stated the subject property was not receiving a farmland assessment because the subject does not meet the acreage requirements and the activity was incidental in comparison to the primary use as a residence. He did state that he had observed horses on the subject property.

In rebuttal the appellant presented testimony and an assessment notice and tax bill disclosing the adjacent and adjoining two-acre parcel he owns that is used in conjunction with and in the same manner as the subject property is classified and assessed as farmland.

After hearing the testimony and considering the evidence the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this

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appeal. The Board further finds a reduction in the subject's assessment is warranted.

The appellant argued in part that the subject's improvement assessment was excessive and not reflective of its market value. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002). The Board finds the appellant has not met this burden of proof and a reduction in the subject's assessment is not warranted on this basis.

In support of the overvaluation issue the appellant submitted an appraisal. Using the cost approach the appraiser only estimated the value of the improvements and did not provide a market value estimate for the property as a whole. The appraiser estimated the improvements had a value of \$66,028.99. However, the appraiser was not present at the hearing to be cross-examined about his appraisal and the development of his estimate of value. The Property Tax Appeal Board finds there was no objective evidence in the record to support the appraiser's estimates of physical and functional depreciation. There is nothing in the appraisal report to indicate what aspects of the subject are functionally obsolete. Additionally, the appraiser did not explain the method by which he determined the subject suffered from 64% physical depreciation. Finally, the appraisal had an effective date of April 22, 2004. There was no testimony to support the conclusion that that value of the improvements would be the same as of January 1, 2003, the assessment date at issue. For these reasons the Board gives this aspect of the appellant's evidence and argument little weight.

Second, the record contains sales data from the board of review demonstrating the subject property is not overvalued. The board of review submitted the Real Estate Transfer Declarations on four vacant lots located in Yorkville, Bristol Township that sold in 2004 for prices ranging from \$77,503 to \$79,000. Additionally, the board of review submitted sales on five comparables improved with a one-story dwelling, a 1½-story dwelling, a two-story dwelling, and two bi-level dwellings. The dwellings were constructed from 1920 to 1973 and ranged in size from 1,450 to 1,888 square feet of living area. The comparables sold from May 2004 to December 2004 for prices ranging from \$180,000 to \$600,000 or from \$111.86 to \$317.80 per square foot of living area, land included. Excluding the sale with the large land area unit prices ranged from \$111.86 to \$145.49 per square foot of land area. The subject's total assessment of \$57,451 reflects a market value of approximately \$169,570 or \$78.14 per square foot of living area using the 2003

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three year median level of assessments for Kendall County of 33.88%. The Board finds the market data provided by the board of review demonstrates the subject is not overvalued for assessment purposes.

However, the appellant also argued the subject property is entitled to a farmland classification and assessment. Section 1-60 of the Property Tax Code governs the classification of the parcel at issue. This section defines farm for assessment purposes by stating in part:

Farm. When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops. . . The dwellings and parcels of property on which farm dwellings are immediately situated shall be assessed as a part of the farm. . . For purposes of this Code, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. 35 ILCS 100/1-60.

For tax assessment purposes the present use of the land determines whether it receives an agricultural or nonagricultural valuation. Kankakee County Board of Review v. Property Tax Appeal Board, 305 Ill.App.3d 799, 802, 715 N.E.2d 274, 276 (3<sup>rd</sup> Dist. 1999). Additionally, in order to be assessed as a farm the parcel must also have been used as a farm for the 2 preceding years. (35 ILCS 200/10-110). A parcel of property may properly be classified as partially farmland, provided the portion of the property so classified is used solely for the growing and harvesting of crops. Kankakee County Board of Review v. Property Tax Appeal Board, 305 Ill.App.3d 799, 802, 715 N.E.2d 274, 276 (3<sup>rd</sup> Dist. 1999).

In this appeal the unrebutted testimony from the appellant was that approximately 4 acres of the parcel under appeal, excluding the dwelling and associated yard, were used to grow and bale hay from 2001 through 2003. Additionally, two horses and two pigs were raised on the parcel. The Board finds of further significance the testimony that the adjacent two-acre parcel owned by the appellant and used in conjunction with the subject property is being classified, assessed and taxed as farmland. The Board finds that this activity qualifies as a farm use as set forth in section 1-60 of the Property Tax Code. Based on this record the Property Tax

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Appeal Board finds the subject property is entitled to a farmland assessment for the 4-acre portion used solely for the growing and harvesting of crops.

In conclusion the Property Tax Appeal Board requests the Kendall County Board of Review calculate and certify a farmland assessment for the subject property in accordance with the findings herein. The Board further requests the board of review submit the farmland assessment to the Property Tax Appeal Board within 30 days of the date of this decision.

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*[Items Contained in Brackets Indicate  
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