FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Con-Way Freight, Inc.
DOCKET NO.: 11-01387.001-I-3
PARCEL NO.: 19-05-103-000

The parties of record before the Property Tax Appeal Board are Con-Way Freight, Inc., the appellant, by attorney John P. Fitzgerald of Fitzgerald Law Group, P.C. in Chicago; the LaSalle County Board of Review; and Waltham Comm. Consol. S. D. #185, intervenor, by attorney Scott L. Ginsburg of Robbins, Schwartz, Nicholas, Lifton, & Taylor, Ltd. in Chicago.

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

LAND:	$628,950
IMPR.:	$2,676,050
TOTAL:	$3,305,000

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the LaSalle County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2011 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

Pursuant to Property Tax Appeal Board rule §1910.78 (86 Ill.Admin.Code §1910.78) due to the common issues of law and fact, Docket No. 10-02185.001-I-3 was consolidated with Docket No. 11-01387.001-I-3 for purposes of a single oral hearing. The Property Tax Appeal Board shall issue separate decisions for each docket number.

The subject property is improved with a 223 door truck terminal complex that includes a free standing maintenance truck repair building and a two story office section in the truck terminal. The total building area is 128,842 square feet that includes the terminal, terminal office and truck repair building. The site is improved with approximately 1,370,000 square feet of asphalt paving, 460,000 square feet of concrete paving, 60 foot by 48 foot metal fuel island canopy, a 100 square foot guard hose shed and approximately 5,300 lineal feet of chain link fencing.

The first building is the terminal building and is comprised of the 91,070 square foot terminal and the 15,200 square foot terminal office. The building is a part one-story and part two-story structure having a total of 106,270 square feet of building area and was completed in 2008. The terminal building has an 8" concrete foundation walls, spread footings, 4"-5" reinforced concrete elevated slab substructure and steel columns and beams framing. The roof is pre-fabricated steel beams and roof purlins with a corrugated metal panel roof cover. The terminal building has non-insulated metal panel exterior walls and part decorative concrete block on two-story office building. The terminal building has typical service and plumbing fixtures, dry pipe sprinkling system, 200-400 amp electrical service in rigid conduit and high intensity lighting fixtures and fluorescent fixtures. The building has a clear ceiling height of 16' and is in average condition for its age. The office area has painted or papered drywall on metal studs, wood interior doors, 2 foot by 4 foot fiberglass board on exposed grid ceiling and a vinyl tile floor. Only the office area has gas-fired forced air heat.

The second building is a truck repair building consisting of 22,572 square feet of building area. The building is a one-story concrete block industrial building with pre-fabricated steel framing. The building has 22 foot clear ceilings, gas heat, wet sprinkler system and approximately 2,000 square feet of office/locker room/lunchroom/washroom area. The roof is an insulated metal panel. The building has 9 truck bays including a truck wash bay. The building contains 19 drive-through truck doors. There is a mezzanine area above the office area. This building was completed in 2008. The property's site is approximately 59.90 acres resulting in a land-to-building ratio of 20.25:1. The property is located at 750 Progress Parkway, LaSalle, Utica Township, LaSalle County.

The appellant appeared before the Property Tax Appeal Board by counsel contending overvaluation as the basis of the appeal. In support of its request for a reduction in the assessment of the subject property to $3,330,000, the appellant submitted a 132-page appraisal of the subject property prepared by Michael J. Kelly and Daniel Kelly with an estimated market value of $10,000,000 as of January 1, 2010. (Appellant's Exhibit #1).

Michael J. Kelly was called as the appellant's sole witness in this proceeding. Kelly is president of Real Estate Analysis Corporation of Chicago, Illinois, and has been engaged in the appraisal of real estate since 1975. He is an Illinois Certified General Real Estate Appraiser and holds the Member of the

Appraisal Institute (MAI) designation and the Member of the Society of Real Estate Appraisers (SRPA) designation.

Kelly testified that he prepared a summary appraisal of the subject property. The purpose of the appraisal was to estimate the market value of the subject property as of January 1, 2010.

Kelly provided direct testimony regarding the appraisal methodology and final value conclusion. Kelly testified that he incorporated the sales comparison approach and income capitalization approach to value and relied principally on the sales comparison approach in estimating the market value of the subject property. Kelly testified that he arrived at a market value of $10,000,000 as of January 1, 2010.

Kelly determined the highest and best use of the property as improved was its current use. In estimating the market value of the subject property two of the three approaches to value; income capitalization and the sales comparison, were developed.

Kelly testified that there are a total of 11 sales of which seven are struck terminals and four are industrial warehouse buildings. Kelly stated that the truck terminal comparables are analyzed on the basis of "price per door, including land".

Kelly testified that three sales were located in Atlanta, Phoenix and a suburb of Detroit and four comparables were located in Northern Illinois in the cities of Alsip, Peru, University Park and Glenview. These properties were improved with truck terminal buildings that ranged in size from 10,250 to 95,800 square feet of building area and were constructed from 1973 to 2003. The comparables have from 32 to 148 doors and a land to door ratio from 3,160:1 to 8,535:1. Each comparable has office space ranging in size from approximately 562 to 10,538 square feet of building area. The comparables had sites that ranged in size from 126,401 to 1,263,240 square feet of land area. The comparables sold/listed from May 2005 to November 2010 for prices ranging from $1,200,000 to $4,730,000[1] or from $21.36 to $160.98 per square foot of building area, including land or from $30,000 to $51,627 price per door including land. The appraiser compared the comparables to the subject property and made adjustments for such items as date of sale, location, building size, chronological age, number of doors, land-to-door ratio and land-to-building ratio. After adjustments, the appraiser was of the opinion that the subject would be best represented by the unit value of $47,500 per truck door or $10,592,000. (223 (doors) x $47,500 (per door) = $10,592,000).

Kelly testified that one of the characteristics of truck terminals that is a little different than warehouses is the very

[1] $4,730,000 represents the adjusted asking price. The total asking price was $5,500,000 which included 25.75 acres of excess unimproved land. The value of the excess land was $770,000 ($30,000 per acre) which was deducted from the total asking price.

high land-to-building ratios because of the need for trucks to maneuver on-site. Kelly stated that there is a wide variance in the amount of land area per door and land values because there are not a lot of truck terminal sales. Kelly testified that he included all the sales that he could find at that point in time that sold as the fee simple interest. Kelly stated that he included the three sales located in Atlanta, Phoenix and a suburb of Detroit because of the scarcity of truck terminal sales.

Kelly testified that he also included four sales of modern warehouse buildings because there are not as many sales of truck terminal buildings as there are typical warehouse buildings and warehouse buildings share a lot of characteristics with truck terminals. Kelly testified that the main difference between the regular warehouse buildings and the subject is the lower land-to-building ratio on these sales and the quality of construction. Kelly stated that warehouse buildings are precast construction, fully heated with 30 foot ceilings whereas, a truck terminal building does not have any heat in the terminal area but does have heat in the office area.

The appraiser reported that typical warehouse industrial buildings have land-to-building ratios that range from 1.5:1 to 3.5:1. Therefore, to facilitate comparison of the subject to the warehouse data, the subject's land to building ratio was adjusted to 2.5:1 which indicated excess land in the amount of 2,287,139 square feet or 52.51 acres. The appraiser also reported that none of the warehouse sales have extensive paving on the excess land like the subject. The appraiser then reported that the value of the excess land is $1,575,000 and the depreciated value of the excess paving is $3,744,000. These values were added to the final value in the sales comparison approach.

The appraiser used four typical warehouse buildings in his sales comparison approach. These four suggested comparable sales were located in Batavia, Streamwood, Crest Hill and Bolingbrook. The comparables consist of one-story warehouse buildings ranging in size from 106,532 to 283,630 square feet of building area and were constructed from 2002 to 2008. Each comparable contained 1 or 2 percent of office space in the building area. The comparables had clear ceiling heights of 30 or 32 lineal feet. The comparables had sites ranging in size from 285,318 to 707,850 square feet of land area. The comparables have land-to-building ratios ranging from 2.12:1 to 3.41:1. The comparables sold from March 2007 to April 2010 for prices ranging from $4,375,000 to $13,500,000[2] or from $22.88 to $52.75 per square foot of building area, including land. The appraiser compared the comparables to the subject property and made adjustments for such items as date of sale, building size, age, condition, clear ceiling heights, percent of office space and land-to-building ratio. After adjustments, the appraiser determined that the subject should be within the range from $22.88 to $41.07 per square foot. The

[2] Two comparables had no office space and one comparable had no floors at the time of the sale. These two comparables had adjusted sale prices.

appraiser determined a unit value of $35.00 per square foot of gross building area, including land value or $4,509,470. To this the appraiser added $1,575,000 for excess land and $3,744,000 for the depreciated value of excess paving to arrive at an indicated value of $9,828,470 or $9,830,000 rounded.

After reconciling the two units of comparison for the sales comparison approach, the appraiser's indicated value by the sales comparison approach was $10,500,000.

Kelly acknowledged that the subject property was a modern state-of-the-art truck terminal, in terms of design.

Under the income capitalization approach to value five industrial warehouses and five truck terminal leases were used. The appraiser considered the following leases comparable to the subject, though each possess varying degrees of similarity.

The appraiser first used five leases of industrial warehouse buildings in the income capitalization approach. These comparables were located in Bolingbrook, Joliet and Romeoville. Comparable #1 is a one-story industrial building containing 249,130 square feet of building area and was leased in June 2008. The property is 13 years old and the lease was for 102,500 square feet of space. The leased area has a clear ceiling height of 30 lineal feet and 5% of the leased portion is for office space. The building is situated on 487,000 square feet of land, 1 drive through truck door, 20 exterior truck height truck docks, 2000 AMP electric service, gas heat, an ESFR sprinkler system and on-site parking for 196 cars. The land-to-building ratio is 1.95:1. The space leased for 7.4 years at an initial net rental rate of $3.00 per square foot with an effective net rental rate of $3.18 per square foot over the 7.4 year term. Comparable #2 is a one-story industrial building containing 277,776 square feet of building area was leased in July 2010. The property is seven years old and the lease is for 100,060 square feet of space. The leased portion has a clear ceiling height of 30 lineal feet and 3% of the leased portion is for office space. The building includes 36 exterior truck height truck docks and two drive through truck doors, 1200 AMP electric service and an ESFR sprinkler system. The site contains 617,332 square feet of land area and includes parking for 133 cars. The land-to-building ratio is 2.22:1. The lease is for 5 years at an initial net rental rate of $1.13 per square foot in the first 3 months of the lease term and an effective net rental rate of $2.28 per square foot over the entire 5 year term. Comparable #3 is a one-story industrial building containing 658,060 square feet of building area was leased in July 2008. The property is 5 years old and the lease is for 230,081 square feet of space. The leased area has a clear ceiling height of 30 lineal feet and 3% of the leased portion is for office space. The building is situated on 1,452,290 square feet of land area. The building has 2 drive through truck doors, 32 exterior truck height truck docks, 1200 AMP electric service, gas heat, an ESFR sprinkler system and on-site parking for 109 cars. The land-to-building ratio is 2.21:1.

The space leased for 7 years at an initial net rental rate of $1.70 per square foot with an effective net rental rate of $2.54 per square foot over the term of the lease. The tenant received 5 months free rent and the space was on the market for approximately 5 years. Comparable #4 is a one-story industrial building containing 701,899 square feet of building area was leased in August 2008. The property is five years old and the lease is for 225,000 square feet of space. The leased portion has a clear ceiling height of 30 lineal feet and 1% of the leased portion is for office space. The leased space includes 2,815 square feet of office space, 18 exterior truck height truck docks and one drive through truck door. The building includes 400 AMP electric service, gas heat and an ESFR sprinkler system. The building is situated on 1,640,034 square feet of land area. The land-to-building ratio is 2.34:1. The lease is for 3 years at an initial net rental rate of $2.75 per square foot and an effective net rental rate of $2.75 per square foot over the term of the lease. Comparable #5 is a one-story industrial building containing 352,500 square feet of building area was leased in July 2009. The property is three years old and the lease is for 200,000 square feet of space. The leased portion has a clear ceiling height of 30 lineal feet and 1% of the leased portion is for office space. The building includes 130 exterior truck height truck docks, two drive through truck door, 400 watt metal halide lighting, gas ceiling mounted unit heat and a ESFR wet sprinkler system. The lease includes 100 trailer spots in the adjoining trailer lot and 217 car parking spaces. The building is situated on 825,000 square feet of land area. The land-to-building ratio is 2.34:1. The lease is for 5 years at an initial net rental rate of $2.00 per square foot with annual escalations of $0.10 or an effective net rental rate of $2.20 per square foot over the term of the lease. The appraiser then made adjustments for date, location, size, chronological age, clear ceiling heights, percentage of office space and land to building ratio. After adjustments, the comparable leases range from $2.20 to $3.18 per square foot of gross building area. It is the appraiser's opinion that the subject property, if vacant and available for lease, would rent at a rate of $3.00 per square foot of gross building area, triple net. $3.00 (net rental rate) x 128,842 (square feet of building area) equals $386,526 (nominal net rent).

To the estimated nominal rent the appraiser added the estimated market rent on the excess land and depreciated value of the excess paving based on a rate of return of 8%. $5,319,000 (excess land and paving value) x 8% (rate of return) equals $425,520 (total annual income attributable to the excess land and paving). The summary of total nominal rent including estimated excess land and paving rent is: $386,526 (total net rent) + $425,520 (total excess land and paving rent) equals $812,046 (total annual nominal net rent) or $810,000 rounded. Converted to rent per door, per month of $303 per truck door.

The appraiser did an analysis of truck terminal leases and asking leases as a check on the estimated net income of the subject property. These comparables were considered similar to the subject. These comparables were located in Peru, Markham, Chicago, Summit and Bedford Park. Comparables #1, #2 and #3 were available for lease and the rental rate per door per month was an asking price ranging from $299 to $400. Comparables #4 and #5 had rental rates of $161 and $281 per door per month.

Based on an analysis of the data, the appraiser's opinion that the subject property if vacant and available for lease would rent at a rate of $300 per door per month, triple net. $300 (net rental rate per door) x 223 (number of doors) equals $66,900 (total monthly nominal net rent) x 12 (number of months) equals $802,800 (total annual nominal net rent) rounded to $800,000.

The appraiser determined that similar conclusions of total nominal net rent based on leasing the property to a truck terminal user ($800,000) or a warehouse/manufacturing user ($810,000). In the appraiser's opinion, the subject's effective annual net rent was $800,000.

The appraisal report stated that at the time of valuation, Grubb & Ellis "Industrial Market Trends, Chicago Metro Report for the 1st Quarter of 2010 was consulted and based on its study; the market vacancy in LaSalle County at the time of valuation was estimated at 13.4% of total nominal net rent. The deduction is estimated to be 11.0% for vacancy, 1.0% for management fees and 1.0% for collection loss. The total deduction for management fee, vacancy and collection loss is 13.0%. The appraiser then deducted $104,000 resulted in an effective net rent of $696,000.

The next step in the income approach was to estimate the capitalization rate. The band of investment method, overall rates extracted from industrial properties leased at time of sale and published sources were used to estimate an overall capitalization rate of 8.5%. Capitalizing the net income of $696,000 resulted in an estimated value under the income capitalization approach of $8,200,000 rounded.

In reconciling the two approaches to value Kelly estimated the subject property had a market value of $10,000,000 as of January 1, 2010. Kelly acknowledged, based on his expert opinion that the market value of the subject property did not change from 2010 to 2011.

Under cross-examination, Kelly acknowledged that Daniel Kelly did the original inspection of the subject property, but he re-inspected the subject property during the week prior to the hearing and confirmed all the sizes, ages and design of the buildings. Kelly stated, "So everything that's in here from the original inspection is accurate". Kelly acknowledged that he did not inspect the property prior to preparing the appraisal, Daniel Kelly did. When questioned about the size of the improvements being obtained from a drawing supplied by the owner, Kelly acknowledged that, "Yes. We also looked at some records". Kelly, best that he could recall, indicated that the owner provided them information on the ages and sizes of the buildings. Kelly stated that they also had county records displaying the size of the buildings. Kelly remarked that, "the rest of it we pretty much got on our inspection. There's no leases on the property that I'm aware of." Kelly stated that he did not request any information on the cost of construction of this facility and acknowledged that the facility was completed sometime in 2008.

At the hearing the appellant's attorney objected to the question asked of Kelly regarding an appraiser hired by an owner to request the cost of construction. The Board reserved ruling on the objection but had Kelly answer the question. The Board hereby overrules the objection.

Kelly responded, "It depends. In this case, we were not going to use the cost approach." Kelly then stated that the market had changed by the time the subject property was completed and the cost would not tell anything about the value as of January 1, 2010 because of the significant external obsolescence. Kelly stated that he did not know the cost of construction.

Kelly acknowledged that sale 3 from the sales comparison approach was not on the market at the time of the sale. Kelly also acknowledged that sale 3 re-sold in late 2011 for $6,900,000 or $80,000 per door and that was two years after his date of value. Kelly acknowledged that sale 4 was 20 years older than the subject. Kelly acknowledged that sale 4 was a bankruptcy sale after it was marketed extensively by Poldowsky and then approved by a trustee and a federal judge. Kelly also agreed that all but one of his comparables took place before the crash of the market. Kelly acknowledged that there were three truck terminal sales and one offering that took place in Illinois. Kelly also acknowledged that land-area-per-door ratio has been adjusted for excess land. Kelly then acknowledged that on the warehouse sales he adjusted the subject for excess land. Kelly acknowledged that on the warehouse sales if there wasn't any office area, he adjusted the price up to add the office space in. Kelly stated on sale 10, he also added in for a floor. Kelly testified that in his income approach he included warehouse leases and available truck terminal leases. Kelly testified that excess land is very important to a truck terminal.

Under re-direct, Kelly testified that the adjustments for age based on the subject and comparables is significant because when he selected the final value at $47,500 per door, it was at the top of the range. Kelly testified regarding the subsequent sale for comparable 3, he was not familiar with the conditions of the sale.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $4,088,333. The subject's assessment reflects a market value of $12,370,145 or $96.01 per square foot of building area, land included, or $55,472 per door, land included when using the 2011 three year average median level of assessment for LaSalle County of 33.05% as determined by the Illinois Department of Revenue. Judie McConville, member of the LaSalle County Board of Review, stated that the board of review would not be presenting any evidence.

In support of its contention of the correct assessment Waltham School District No. 185, intervenor, submitted a 59-page appraisal prepared by Dale J. Kleszynski, estimating the subject property had a market value of $14,000,000 as of January 1, 2010. The intervenor called Dale J. Kleszynski as its witness. Kleszynski is president of Associated Property Counselors, LTD. of Oak Forest, Illinois, and has been engaged in the appraisal of real estate since 1979. He is an Illinois Certified General Real Estate Appraiser and holds the Member of the Appraisal Institute (MAI) and Senior Residential Appraiser (SRA) designations.

Kleszynski provided direct testimony regarding the appraisal methodology and final value conclusion. Kleszynski testified that he arrived at a market value of $14,000,000 as of January 1, 2010.

Kleszynski determined the highest and best use of the property as improved was its current use. In estimating the market value of the subject property two of the three approaches to value, the income capitalization approach and the sales comparison approach, were developed. Kleszynski testified that he did not use the cost approach because there was a lot of obsolescence that was built in against his opinion of value and it would be weakened by the amount of obsolescence that would be applied.

Under the income capitalization approach to value five truck terminals that were currently vacant and available for lease were used.[3] Kleszynski testified that the comparables were located in a more urban setting. One comparable was located in South Bend, Indiana and the other four comparables were located in Chicago, Chicago Ridge and Markham, Illinois. The comparables were improved truck terminal facilities that ranged in size from 14,832 to 109,075 square feet of building area. Features include office space ranging from 3,122 to 13,250 square feet and dock areas ranging from 11,710 to 131,250 square feet. Three comparables have shop areas and two comparables have truck trailer parking. One comparable has a 4,484 square foot basement along with an additional 33,567 square foot industrial building. The comparables have loading doors ranging from 30 to 119 doors. The asking rent for the comparables range from $3,986 to $5,700 per door with four comparables being a net basis and one comparable being a modified net basis.

The appraiser made adjustments to the comparables to reflect the variation between listing and rental prices, location and physical variations. The appraiser concluded the market rental

[3] Kleszynski testified that the property in South Bend, Indiana was not vacant as his report indicated, but currently leased by his recollection at $3,986 per door.

rate for the subject property is supported at $5,200 per door. The appraiser also estimated the applicable market vacancy rate for the subject property. The appraiser, based on additional information retained in his office/file, indicated that most special-use properties like the subject have a strong tenant base and lower vacancy rates than that found in traditional industrial properties. Based on the appraiser's analysis of the lease term for the subject property, past occupancy and tenant profile, a "frictional" vacancy rate of 5% as appropriate.

The appraiser explained that on a net basis, the tenants are responsible for a pro rata share of all expenses associated with the operation of the property. The owner typically is responsible for management fees and expenses associated with the projected vacancy. The appraiser included estimated real estate taxes for the subject property is $375,775.04[4], insurance expense stabilized at $45,100 or $0.35 per square foot of building area and common area maintenance at $96,650 or $0.75 per square foot of building area, including land. The expenses are passed along to the tenant on a pro rata basis. Management expense is estimated at 3% of effective gross income, miscellaneous expenses at 1% of effective gross income and replacement reserves are estimated at $25,750 or $0.20 per square foot of gross building area. These expenses are not passed along to the tenant on a pro rata basis.

Projected potential gross income is 223 (dock doors) x $5,200 (per door) equals $1,159,600 + $517,525 (estimated tenant reimbursements) equals $1,677,125 (total income all sources) - $83,856 (5% vacancy and collection loss) equals $1,593,269 (effective gross income all sources) - $587,339 (total expenses) equals $1,005,930 (net income).

The next step in the income approach was to estimate the capitalization rate. The appraiser considered published indices such as Korpacz and material published by the Appraisal Institute and also considered available financing terms and market data. The appraiser as a test applied a simple band of investment technique to estimate an applicable overall capitalization rate. The appraiser applied a mortgage interest rate of 5.50% with a 30-year amortization. A loan-to-value ratio of 75% was used. The appraiser selected an equity return of 10% as sufficient to attract investment capital. After completing the calculation, the results produce an overall capitalization rate of 7.61% rounded to 7.60%. The appraiser then capitalized the net income of $1,005,930 by .0760 to arrive at an estimated value of $13,235,921 rounded to $13,235,000.

The appraiser conducted an additional test of the previously presented analysis, by estimating the net income for the subject and excluded the real estate tax expense. To accommodate the inclusion of the real estate tax in the calculation of the net income the applied overall capitalization rate was adjusted or

[4] The taxes are the actual amount for 2010.

"loaded". The overall capitalization rate loaded to reflect real estate tax position was 10.64% rounded to 10.65%. The appraiser then capitalized the net income including real estate tax of $1,381,705 by .1065 to arrive at an estimated value of $12,973,755 rounded to $13,000,000.

The analysis of the subject property through the application of the income approach resulted in a value range of $13,000,000 to $13,235,000. The appraiser indicated that in this appraisal the upper portion of the range was applied. The estimated value by the income approach was estimated to be $13,235,000.

Under the sales comparison approach to value five comparable truck terminal sales were used. The comparables were located in Bolingbrook, Franklin Park, Elk Grove Village, Forest View and Elmhurst. These properties were improved with truck terminal buildings that ranged in size from 26,633 to 100,000 square feet of building area.[5] The comparables have from 67 to 134 doors. Each comparable has office space ranging from 2.5% to 15.6% of building area. The comparables had sites that ranged in size from 231,243 to 799,762 square feet of land area and have land-to-building ratios ranging from 7.25:1 to 11.80:1. The comparables sold from May 2010 to December 2010 for prices ranging from $4,700,000 to $12,850,000 or from $89.50 to $337.88 per square foot of building area, including land or from $57,317 to $122,388 price per door including land. The appraiser compared the comparables to the subject property and made adjustments for such items as property rights conveyed[6], financing, condition of sale, elapsed time, location, zoning, land-to-building ratio and building area. After adjustments, the appraiser was of the opinion that the subject would be best represented by the unit value of $63,000 per truck door or $14,049,000 rounded to $14,000,000. The estimate of value by the sales comparison approach was $14,000,000.

In the reconciliation, the appraiser considered the income capitalization and sales comparison approach to value as appropriate analytical tools. It was the appraiser's opinion that the market value, fee simple interest, of the subject property was $14,000,000 as of January 1, 2010.

Under cross-examination, Kleszynski acknowledged that his comparables sold after the January 1, 2010 lien date and that he had great leeway relative to the issue of performing a retrospective appraisal. Kleszynski testified that after reviewing his appraisal and reviewing additional information, that there was no substantial change in value of the property between January 1, 2010 and January 1, 2011. Kleszynski

[5] The intervenor's appraiser did not disclose the age or year built of the comparable sales.

[6] On page 43 of the intervenor's appraisal, the appraiser stated "Sale numbers 2, 3, 4 and 5 are reported to have sold as investment properties that are leased. Although the lease rates are not able to be confirmed, broker information suggests that **the lease rates exceed the rent level found in the subject market**".

testified that he did not include the age of the buildings in his appraisal because he did not believe it made a difference. Kleszynski stated that he had information associated with the age and took that into consideration when he made downward adjustments for the physical variations portion of the analysis. Kleszynski acknowledged that sale comparable 2 was not on the market at the time, but it was part of the same transaction as sale comparable 5 purchased by CenterPoint. Kleszynski further acknowledged that CenterPoint was a real estate investment trust. Kleszynski testified that four of the five rental rates in the income approach were asking rates and not consummated leases. Kleszynski acknowledged that in his sales comparison approach, comparables 2, 3 and 5 are in close proximity to O'Hare Airport. Kleszynski reiterated that the age of the comparables are not disclosed in the write-up for any of the comparables he used. When questioned about four of his five sales being leased fee interest, Kleszynski responded that he would have to answer "yes and no." Kleszynski stated, "Technically speaking, that is - because they are leased, a portion of what was sold was the leased fee interest, the difference being, however, is that they represented, in my opinion, the market value of the real estate because those particular leases were identified as being at market levels." Kleszynski acknowledged that he did not make any quantifiable adjustments for the fee simple interest comparables.

Under re-direct, Kleszynski stated that he did not use property listings in his appraisal for the sales comparison approach because he believed he had sufficient information.

The appellant called as its rebuttal witness real estate appraiser Thomas Grogan to discuss his review of the Kleszynski appraisal. The intervenor objected to Grogan giving testimony as a rebuttal witness because he had not previously submitted a review appraisal report. At the hearing the Administrative Law Judge reserved ruling on the objection and allowed Grogan to testify with the caveat that the intervenor had a standing objection to the testimony.

The Board sustains the objection and will not give any consideration or weight to the testimony provided by Grogan. A review of the record disclosed that by letter dated July 18, 2007, the appellant was provided a copy of the evidence submitted by the other parties to the appeal and further informed that it was granted a 30-day rebuttal period. Section 1910.66 of the rules of the Property Tax Appeal Board provides in part that:

Section 1910.66 Rebuttal Evidence

a) Upon receipt of the argument and accompanying documentation filed by a party, any other party may, within 30 days after the postmark date of the Board's notice, file written or documentary rebuttal evidence. Rebuttal evidence shall consist of written or documentary evidence submitted to explain, repel, counteract or disprove facts given in evidence by an adverse party and must tend to explain or contradict or disprove evidence offered by an adverse party. **Rebuttal evidence shall include a written factual critique based on applicable facts and law, a review appraisal, or an analysis of an adverse party's appraisal prepared by a person who is an expert in the appraisal of real estate. This written critique, review appraisal, or analysis must be submitted within the responding party's 30-day rebuttal period pursuant to this Section. (Emphasis added).**

b) In any appeal in which a change in assessed valuation of $100,000 or more is sought, the Board shall grant one 30-day extension of time to submit rebuttal evidence upon good cause shown in writing. Good cause shall include the complexity of the appeal, the volume of the evidence submitted by an opposing party, and the inability of a rebuttal appraiser to complete the review and written critique within the 30-day filing period. A request for an extension of time to submit rebuttal evidence shall be in writing, supported by affidavit, and served on the Board and other parties to the appeal. No further extensions of time to submit rebuttal evidence shall be granted.

86 Ill.Admin.Code 1910.66(a) & (b). In this appeal the appellant did not submit any written rebuttal evidence, review appraisal or written critique or an analysis of the Kleszynski appraisal prepared by an expert in the appraisal of real estate as required by section 1910.66 of the rules of the Property Tax Appeal Board. The Board finds that by allowing Thomas Grogan to testify to his review of the Kleszynski appraisal submitted by the intervening school district would be a violation of section 1910.66 of the Board's rules. In essence the appellant is attempting to circumvent the rule by providing oral appraisal review testimony without any written critique of the school district's appraisal as required by the rule in advance of the hearing. This violates both the intent and spirit of the rule which is to provide a limited form of discovery and to put the opponent on notice of potential flaws in his expert's analysis. For these reasons the Board sustains the intervenor's objection to the appraisal review testimony provided by Grogan. In reaching its determination of the correct assessment of the subject property, the Board will not give any weight or consideration to the testimony provided by Grogan during the course of the hearing.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The

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

The Board gave the appraisal submitted by the intervenor no weight. The value conclusion was based on the sales comparison approach and the income capitalization approach. The Board finds in the sales comparison approach, four of the five comparable sales were leased fee sales and on page 43 of the report it is stated in part, "that the lease rates exceed the rent level found in the subject market." The Board also finds that Kleszynski did not disclose the ages of the comparables in his report even though he testified that in his opinion the subject property is superior in age to all the comparables so an upward adjustment would be made. The Board finds that in the income capitalization approach, Kleszynski used asking rental rates and did not include comparables that had consummated leases. The Board finds Kleszynski's testimony and appraisal not credible in light of the use of leased fee sales in the sales comparison approach and vacant truck terminals currently available for lease under the income capitalization approach.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant prepared by Michael J. Kelly. The Board finds the appellant's appraiser provided competent testimony regarding the selection of the comparables, the adjustment process and final value conclusion. The Board finds the analysis and testimony provided by Kelly to be more credible than that provided by Kleszynski. The subject's assessment reflects a market value of $12,373,889, which is above the best evidence of market value in the record. The Board finds the subject property had a market value of $10,000,000 as of the assessment date at issue, as estimated by Kelly. Since market value has been established the 2011 three year average median level of assessments for LaSalle County of 33.05% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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

Chairman

Member

Member

Acting Member

Member

DISSENTING:

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

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

Date: April 22, 2016

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

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

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

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

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