FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Nordstrom,Inc.
DOCKET NO.: 13-32847.001-C-3
PARCEL NO.: 10-09-411-077-0000

The parties of record before the Property Tax Appeal Board are Nordstrom,Inc., the appellant(s), by attorneys Michael B. Andre and Terrance J. Griffin, of Eugene L. Griffin & Associates, Ltd. in Chicago; the Cook County Board of Review by Cook County Assistant State's Attorneys Cristin Duffy and John Carey; and Niles Twp. H.S.D. #219, the intervenor, by attorney Michael J. Hernandez of Franczek Radelet P.C. in Chicago.

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

LAND:	$522,818
IMPR.:	$2,852,182
TOTAL:	$3,375,000

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of a 134,921 square foot parcel of land improved with a 19-year old, two-story, masonry, single-tenant, owner-occupied department store containing a stipulated size of 199,280 square feet of building area located within a super-regional mall.

The appellant, through counsel, appeared before the Property Tax Appeal Board (the Board) arguing that 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, 2013. The appellant presented the testimony of the appraisal's author, John C. Mundie with Mundie & Company. Mr. Mundie testified he is the owner of Mundie & Company, is an Illinois certified general real estate appraiser, and holds the MAI designation from the

Appraisal Institute. He testified he has been an appraiser for 42 years. He stated he has been qualified as an expert previously in several courts and administrative agencies, including the Illinois Property Tax Appeal Board. The parties then stipulated to Mundie as an expert witness in the valuation of real estate and anchor department stores and was accepted as such by the Board.

The appraisal prepared by Mundie was marked as *Appellant's Exhibit #1*. Mundie briefly described the improvement and the land. He testified that the subject is situated on a pad site of approximately 132,313 square feet or 3.038 acres. Mundie testified that the subject is located within a mall with three other anchor tenants and approximately 1,600,000 square feet of selling space. He testified he has appraised the property several other times and, for this appraisal, inspected the interior and exterior of the subject on October 8, 2013.

Mundie testified that the subject is part of a super-regional, open-air market facility. He described a super-regional mall as above 800,000 square feet in total size. He again described the improvement and testified that the interior is high quality with adequate land area for patrons. He further described how the land is a pad site, but that there are cross-easements with the mall owner for adequate parking. He opined that there would be no negative adjustments for the pad site or lack of parking. Mundie testified he assumed a land to building ratio of 3:1 or 600,000 square feet.

Mundie testified that the subject suffers from functional obsolescence based on the floor plan and size of the subject. He opined that the market for this type of facility is very limited and has been for a long time. Mundie opined the highest and best for the subject as vacant is to hold for future commercial retail development and the highest and best use as improved is an anchor department store.

Mundie developed the three traditional approaches to value in estimating the subject's market value. The cost approach indicated a value of $12,600,000, rounded, while the income approach indicated a value of $12,250,000, rounded. The sales comparison approach indicated a value of $11,950,000, rounded. The appraiser concluded a market value of $12,100,000 for the subject property as of January 1, 2013.

Mundie testified that a mall owner, when putting together a mall, requires anchor department stores as these stores draw in the small tenants within the mall. He opined that because of this the mall owners are not concerned with the land value that is associated with the anchor tenant. He testified that some mall owners will give the land to the anchor tenant for free. He then testified that there are very few land sales for anchor department stores.

In determining the subject's land value, Mundie testified he analyzed the surrounding market and tried to ascertain as many large land sites as available. He testified he was not able to find any land sales of anchor department stores. Mundie testified he analyzed four land sales within the subject's immediate market sector and made adjustments for differences to the subject. He described each sale and the adjustments made to arrive at a value for the subject's land of $13.00 per square foot or $7,800,000 using the assumed size of 600,000 square feet.

Using the Marshall Valuation Service, the appraiser estimated the reproduction cost new to be $23,948,240. Mundie testified he utilized the parameters of a A/B average, anchor, department store as this best reflected the subject within the description. He testified in detail as to how he arrived at his reproduction cost new value.

In establishing a rate of depreciation, Mundie testified he analyzed four sales of properties included in the sales comparison approach. He testified the sales indicate an annual rate of depreciation between 2.72% and 3.28%. Mundie testified he applied an annual rate of depreciation to the subject of 3.25% or 65%. The appraisal estimates an additional 15% of depreciation for external obsolescence from the economic climate for a total depreciation of 80%. He testified this depreciation rate was then applied to the reproduction cost new for a depreciated cost of $4,789,648. The land was then added back in which resulted in a final value estimate of $12,600,000, rounded, under the cost approach.

Under the income approach, Mundie testified he reviewed the leases of four anchor department stores. He described each rental comparable and testified that he has appraised these stores. These properties ranged in size from 80,535 to 179,860. Mundie described the rental rates for each comparable and how a department stores rental rate is based on the percentage of projected gross sales. He testified that a department store anticipates an amount of gross sales which is termed the "break point" and the base rent is based on this anticipated sales amount. He testified that anything above this break point would have additional rent applied. He opined that this was a common rental structure for anchor department stores. He testified that he also consulted The Dollars & Cents of Shopping Centers which also speaks to percentage numbers. Mundie testified that, based on the comparables and the information gathered from The Dollars & Cents of Shopping Centers, the subject's estimated rent was 2.25% of projected gross sales.

Mundie testified he analyzed: the subject's actual gross sales, gross sales within the immediate market area, and gross sale ranges of the other anchor department stores within the subject's mall. He estimated the subject's stabilized gross sales at $265.00 per square foot of building area. Mundie testified this stabilized figure is below the subject's actual sales and that he was analyzing the subject in terms of the marketplace and not as a Nordstrom store. He opined that any anchor department store that comes into the subject's space would not generate the same sales as Nordstrom. Mundie arrived at an estimated annual income of $1,188,000 or $6.00 per square foot of building area which is an application of a 2.25% gross sales factor.

Mundie testified that he applied a 3% vacancy and collection rate because normally when these types of properties lease, it is on a long-term basis. This yields an effective net income of $1,152,360. Mundie testified he deducted a minimal amount for management and reserves for replacement for total expenses of $48,737. He testified the estimated stabilized net income was $1,103,623.

In determining the appropriate capitalization (CAP) rate, Mundie testified he utilized the band of investment technique as well as the market extraction method which analyzes the four sales used in the sales comparison approach. He testified he reviewed the four sales comparables and analyzed them relative to what projected gross sales could be anticipated for those stores given their respective market sectors, age, and date of sale. He testified that dividing the estimated net rental by the purchase price yields the overall CAP rate. He testified these sales indicated an overall range from 7.8% to 15.6%. Mundie testified that the band of investment method yielded a rate of 9%. He testified he applied an overall CAP rate of 9% to the stabilized net income to estimate the market value for the subject under this approach at $12,250,000, rounded.

The final method developed was the sales comparison approach. Mundie testified he used sales of similar two-story, anchor department stores within a regional or super-regional mall. Mundie described each of the four comparables. The properties range in building size from 138,651 to 254,720 square feet and sold from January 2003 and January 2012 for prices ranging from $2,400,000 to $9,000,000, or from $17.31 to $43.69 per square foot of building area, including land. The properties ranged in age from 25 to 35 years and in land to building ratio from 2.88:1 to 3.16:1.

Mundie testified to the adjustments made to the comparables for pertinent factors. He testified he made a downward adjustment to comparable #2 as it was a leased fee sale. He estimated a value for the subject of $60.00 per square foot of building area, including land, which yields a value for the subject property under the sales comparison approach of $11,950,000, rounded.

In reconciling the various approaches, Mundie testified he gave equal weight to the sales comparison and income approaches and not much credence to the cost approach. After reconciliation, the appraisal estimated the value for the subject property as of January 1, 2013 to be $12,100,000.

Under cross examination by the board of review, Mundie testified he has appraised the subject three times, once before this appraisal and once after. He testified as to the subject's location and agreed that the subject is located near highway access. He testified the mall services the entire Chicago metropolitan area and the subject is a very nice facility. He acknowledged the subject has a full-service restaurant, an espresso bar, and is attached to a five-story, parking garage via a skyway. He testified the other anchor department stores in the mall are Bloomingdale's, Macy's, and Lord & Taylor and agreed these are high end retail stores.

As to the land sales, Mundie opined that land sale #1 was a reasonable example of a land sale for utilization as compared to the subject given the market, date and lack of anchor department store sales. Mundie did acknowledge that the same property as the subject, assuming a 3:1 building to land ratio, could not be built on these comparables and that there are no anchor mall stores in their immediate vicinities.

In developing the reproduction cost new, Mundie testified that the price per square foot would include all the subject's upgrades based on the class and type that was used in the Marshall Valuation Services. He testified that the elevators, the restaurant, and the various features were embedded within the $95.76 base price. However, he could not testify to what specifically was included in that price. He testified that the sprinkler system was priced out separately. He opined that the class A/B is indicative of a high-quality facility.

As to the rental comparables, Mundie was questioned as to the location of the comparables and the population of those cities. Mundie testified that in terms of market, the comparables' locations may be similar to the subject. He acknowledged that the average median income in Bradley, IL is less than the surrounding North Shore suburbs. But he did testify that all these malls attract individual shoppers.

Mundie testified that The Dollars & Cents of Shopping Centers no longer publishes data regarding anchor department stores and acknowledged that the data used in the appraisal is from the last year of data which may be 2008. He clarified that the data used to establish the rental rates of the comparable rental properties was actual data from each property. He testified that comparable #1's lease was initiated in 2003 for a 20 year term, comparable #2 in 2003 for a 15 year term, comparable #3 was initiated in 1998, and comparable #4 was initiated in 1995. He agreed that none of the leases began within two to three years of the valuation date.

Mundie testified that the chart that references the subject's yearly sales from 2005 to 2012 was provided to him by the appellant. He acknowledged the appraisal includes a range of gross sales data for the other anchors in the subject's mall as well as gross sales per square foot on four other anchor department stores. Mundie testified that the grid of the four other anchor stores are not stores located within a super-regional mall. He opined that these properties are comparable to the subject as two-story, anchor department stores and that they are all nice stores, but agreed that they do not have the exact details of the subject. He acknowledged they do not have restaurants or a connected five-story parking garage. As to the other anchor stores within the subject's mall, Mundie testified that he received the actual sales information in a range format, but does not recall who exactly provided him with the information, either the appellant or the appellant's attorney.

Mundie testified that the subject's stabilized gross sales of $265.00 per square foot of building area were based on the analysis of all the data to arrive at a knowledgeable, formulative estimate of gross sales potential in the marketplace. Mundie was then questioned on the use of the subject's actual income as opposed to market data.

As to the sales comparables, Mundie agreed that all the comparables were purchased by the mall owners of the respective comparable. He testified that he looked into the marketing of these properties and that they were not marketed to the public. He acknowledged that the comparables were considerably older than the subject and did not service the same geographical area as the subject. Mundie acknowledged that he made no adjustments for sale date even though comparable #2 sold seven years prior to the valuation date and comparables #3 and #4 sold 10 years prior to the valuation date. He testified that the owner of comparables #3 and #4 went through bankruptcy, but that the sales were not distressed sales as they were the second sales after bankruptcy. He agreed that the adjustments were subjective amounts and he cannot give an actual figure for each adjustment made. He acknowledged that his final valuation conclusion under the sales comparison approach was subjective and that another appraiser may estimate a different value.

On re-direct, Mundie opined that, regarding a two-story, single-tenant, anchor department store, restaurants and espresso bars do not add value to the property. He testified that it is a nice feature, but that it doesn't add value. He opined that these things would go towards the business value or method of marketing the brand.

As to the land sales, Mundie testified that there were no sales of anchor department store parcels. He testified that it's not as much the size of the land, although he would like larger parcels that sold, but that comparability goes more towards zoning and general classification of retailers looking for retail land. Mundie clarified the use of the assumed land size to account for adequate parking.

Mundie described the difference between a regional and a super-regional mall. He opined that the differences do not affect the anchor department stores associated with those malls. He testified that the most important factor of the rental comparables is that they are anchor department stores and that the leases are based on a formula of projected sales. Mundie opined that the date the leases commenced does not affect them as comparables because the formula is the same. He testified that he would never use the actual gross sales of the subject as a stabilized gross sale figure for market rent because there needs to be a representation of the marketplace.

As to the sales comparables, Mundie opined that the sales were all arm's length transactions between unrelated parties. He testified that it is common to see the mall ownership purchase an anchor store because there is not much of a market for these types of stores. Mundie clarified that the sale for comparable #3 was the second sale out of bankruptcy and the seller was the winner of the bidding process out of bankruptcy. He testified that the sale for comparable #4 was also the second sale after bankruptcy. Mundie testified that he did not make adjustments to the comparables for date of sale because it was equal. He opined that mall anchor department stores do not appreciate at any great rate and many times not at all and that the date of valuation was on the heels of coming out of the recession in which the prior three years was like a reverse bell curve. He testified that there was a value in 2008 and that it slid down in 2008 through 2011 and was coming back up in 2012 and 2013.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $4,222,244 was disclosed. This assessment reflects a fair market value of $16,888,976 or $84.75 per square foot of building area, land included, when the Cook County Real Property Assessment Classification Ordinance level of assessments of 25% for Class 5 commercial property is applied.

In support of this market value, the board of review submitted a copy of the property record card for the subject. At the hearing, the board of review did not call any witnesses and rested its case upon its written evidence submissions.

In support of the interveners' position, the intervenors submitted a summary appraisal of the subject prepared by Eric Dost with Dost Valuation Group. Ltd (Dost Appraisal). Dost testified he is president of Dost Valuation Group Ltd. and has been qualified as an expert previously in several courts and administrative agencies, including the Illinois Property Tax Appeal Board. The parties then stipulated to Dost's qualifications as an expert in the valuation of real estate and anchor department stores and was accepted as such by the Board.

The appraisal utilized the three traditional approaches to value to estimate the value of the subject property at $19,000,000 as of January 1, 2013. This appraisal was marked as *Intervenor's Exhibit #1*.

Dost testified he performed an inspection of the public areas of the subject on May 29, 2015. He described the property and its environs. He testified that the subject is surrounded by very dense commercial and retail and that it is a primary employment center. He testified that Skokie is within the north suburban Chicago retail submarket. Dost testified that the subject's highest and best use as vacant would be for retail development and that the continuation of its current use is its highest and best use as improved.

Dost did not perform a full cost approach, but did value the land. Dost made corrections to land sale #4 and then described the land sales analyzed to estimate a land value for the subject. These five sales sold from October 2011 to October 2013 for prices ranging from $17.92 to $45.59 per square foot. After adjustments, Dost estimated a value for the land at $25.00 per square foot or $3,400,000, rounded.

To estimate a value for the subject through the sales comparison approach, Dost testified that he searched the market for large, single-tenant, retail buildings. He testified he analyzed five sales from the Chicago area and one from a suburb of Minneapolis. He described each property. The properties range in building size from 100,773 to 144,000 square feet and sold from April 2006 to March 2013 for prices ranging from $2,400,000 to $12,830,000, or from $17.89 to $126.60 per square foot of building area, including land. The properties ranged in age from 19 to 42 years and in land to building ratio from .44:1 to 5.00:1.

Dost testified that sale #1 is located across the street from a town center, sale #2 is located a few blocks from a regional mall, sales #3, #4, and #5 are anchor stores within malls, and sale #6 is located a few blocks from a regional mall. He testified that sale #2 was leased at the time of sale, but opined that a review of the rents in place and the cap rate show that the sale was at market and equivalent to a fee simple sale. He opined that sale #4, which was leased at the time of sale and was also at market levels. Dost testified comparable #5 was the sale of a leasehold interest and the land was not included in the sale. He testified he made upward adjustments to this comparable for the exclusion of the land. He testified that sale #6 was also leased at the time of sale.

Dost testified he made adjustments to the comparables for pertinent factors. He estimated a value for the subject of $95.00 per square foot of building area, including land which yields a value for the subject property under the sales comparison approach of $18,900,000, rounded.

Under the income approach, Dost testified he analyzed six actual rents with one being a actual renewal option. He described the rental comparables. These properties range in rental size from 66,393 to 109,200 square feet of rentable area for rental rates from $8.90 to $23.22 per square foot of rentable area. Dost testified he made adjustments to these comparables for pertinent factors and concluded a rent for the subject at $9.00 per square foot of building area for a potential gross rental income of $1,793,520. The appraisal then expenses the recovery of real estate taxes for a potential gross income (PGI) $3,083,520.

As to both the rental and sales comparables, Dost testified that he analyzes the area population. He stated he reviews the demographic in terms of density, population and number of households to compare market areas. He opined this shows how much demand there is for retail in an area.

Dost testified that he is familiar with the concept of gross retail sales per square foot for a building, but opined that this formula looks to a value in use to the tenant and not necessarily a market value. Dost included the subject's actual retail sales per square foot that he obtained from the appellant's appraisal.

Dost testified he estimated vacancy and collection loss (V&C) at 8% based on north suburban Chicago retail submarket trends which resulted in an effective gross income (EGI) of $2,836,838 for the subject. Dost testified he deducted real estate taxes, management expenses, and reserves for replacement which resulted in a net operating income (NOI) of $1,426,097 for the subject.

To estimate the capitalization rate, Dost testified he had income data for four of his sales comparables for a market extraction method, relied upon investor surveys, and applied the band of investment technique. He testified he concluded an overall rate of 7.5% which resulted in an indicated value for the subject under the income approach at $19,000,000, rounded.

In reconciling the approaches to value, Dost testified he placed some emphasis on each of the approaches to estimate a value for the subject of $19,000,000 as of January 1, 2013.

Under cross-examination by the appellant, Dost agreed that the subject is not a big box tenant or a discount store. He was not aware of the assessment of the other anchor stores in the subject's mall or that they were 50% lower than the subject. He opined that the highest and best use of the subject as improved was a single-tenant retail building attached to a super-regional mall.

Dost agreed that he did not find any land sales of anchor department stores or land sales that were later developed into anchor department stores. He testified that all the land sales were purchased for retail developments and, for four of the five sales, as single-tenant retail buildings. He acknowledged that he did not include the names of the buyers and sellers of the transactions to the land sales. He agreed that he made adjustments to land sale #3 for condition of sale, but did not include information on what that condition of sale was. He testified that the adjustment was for an assemblage of two adjacent sites. Dost acknowledged an error to land sale #4 in describing the price per square foot and that land sale #4 sold for $23.91 and would change the range of his land sales to $17.92 to $23.91 per square foot. He testified that four of the five land sales required upward adjustments which would reconcile the subject at $25.00 per square foot as listed in the appraisal. Dost agreed that none of the land sales were improved with a single-tenant, multi-story, department store in a super-regional mall.

As to sales comparable #1, Dost acknowledged this property was a free standing, single-story, discount store. He clarified that the property was purchased for conversion to a grocery store and acknowledged that there would be additional retail tenants for this building, but that the project was not yet completed. He testified that at the time of sale, this comparable was a single tenant so he did not make any adjustments for its conversion to a multi-tenant building.

Dost agreed that sale comparable #2 was a multi-tenant property that is not a two-story, anchor department store in a regional or super-regional mall. He was questioned as to the population and make-up of the area surrounding this comparable and how he analyzed this data for all the comparables. He testified that he concluded a capitalization (CAP) rate for this comparable of 7.57% and that he did not remember the CAP rate as listed in CoStar Comps. He acknowledged that this sale was a leased fee sale and the CAP rate was for a leased fee.

Dost agreed sale comparables #3 and #4 were sales of two-story, anchor department stores in super-regional mall. Comparable #4 sold in 2006 and Dost testified that he made a downward adjustment to this comparable for date of sale as the 2006 market was slightly superior. He testified that comparable #4 contains 144, 000 square feet of building area which he established after reviewing CoStar Comps and the assessor's records. He testified that he has seen several different numbers for the size of this comparable and that he used the number verified by the assessor's office. He acknowledged that CoStar Comps lists this comparable as containing 153,368 square feet of building area.

As to sale comparable #5, Dost agreed that this property was a single-tenant, multi-level, anchor department store within a super-regional mall, but acknowledged that the sale did not include the land and was therefore, a partial interest sale. He testified that he made a qualitative adjustment for this. Dost testified that the CAP rate for this comparable is lower than that listed on the CoStar Comps report because he made adjustments.

Dost agreed that sale comparable #6 was the sale of a single-story, free standing building and not part of a mall. He acknowledged this was a leased fee sale and was not in the Chicago metropolitan area.

Dost testified that anchor department stores' rents typically have a lease structure with a percentage of gross sales component. He testified he presented the gross sales per square foot, but did not analyze that gross sale data to arrive at a net operating income and then factor that into a percentage of gross sales. He agreed that other appraisers may perform this type of analysis. He acknowledged that if he performed this analysis he would not use just the subject's actual gross sales data as it may pull in the value in use. He agreed you could consider retail sales of the other anchor stores at the mall. Dost testified that a simple average of the anchor stores' sales at the subject's mall may not necessarily reflect an accurate figure.

As to the rental comparables, Dost agreed that the comparables were not single-tenant buildings. He acknowledged that comparable #1 was a free standing, one-story, anchor store in a shopping center and that the rent was not based on a percentage of gross sales. He testified that comparable #2 was a single-story, free standing retail store located in Peoria and that if you have the proper information to analyze location adjustments can be made. Dost agreed that comparable #3 is a free-standing, retail building in a shopping center near a regional mall and that it may be a sale-leaseback. He acknowledged that the Appraisal of Real Estate indicates that sale-leasebacks should not be used in estimating market rents and that he did not make any adjustments to this sale-leaseback as the research indicated the rent was at market levels. Dost testified that comparable #4 was located in a large shopping center and that comparable #5 was a free-standing, grocery store that was not part of a mall. He agreed that comparable #6 was a free-standing, single-story, home improvement store not attached to a mall.

Dost testified that he included expense recoveries from real estate taxes in his income analysis. He testified this assumes the owner of the property pays the taxes out of their own pocket and then gets reimbursed by the tenant. He clarified that the reimbursement is shown on the top line under expense recoveries and the operating expenses are where they are paid. Dost testified that in an absolute net lease the tenant is responsible for the expenses, but that in this approach he assumed a leased property in which the landlord pays the taxes out of their own pocket and then recaptures or get reimbursed by the tenant. Dost did not know if the International Association of Assessing Officials (IAAO) taught this type of method. He clarified that the tax figure of $1,290,000 was a figure he estimated based on his own estimate of market value.

As to the capitalization (CAP) rate, he testified that he looked to one publication for published survey data. He testified that one data set looked to all national net lease markets which would include retail properties, industrial properties, and commercial properties that are on a triple net lease basis. He acknowledged the other data set includes overall CAP rates for all malls which includes more than just anchor stores. In the market extraction method, Dost testified that sale comparable #2 was a two-tenant retail building. He acknowledged that when he analyzed this comparable in the sales comparison approach he made an upward adjustment for its inferior location, but in the market extraction method he opined that this property was located in a dynamic retail area similar to the subject. He also acknowledged that the listed CAP rate for sale comparable #4 was 8.64%, but that he used 7.5%. He agreed that sale #5 was of a leasehold interest sale and sale #6 was a leased fee interest sale.

Dost acknowledged that he testified he placed emphasis on each approach to value when reconciling the approaches, but that the appraisal indicates that he placed significant emphasis on the sales comparison approach and some emphasis on the income capitalization approach. He clarified that he placed some emphasis on both approaches.

On redirect, Dost testified that sale comparable #5 was one of the most comparable properties to the subject because it is a two-story, single-tenant department store at a comparable mall. He opined that the use of this leasehold sale was appropriate with adjustments. He testified this was a partial interest sale and if it was a fee simple sale the price would be higher.

Dost testified that not many anchor department stores are leased and that most are leased for a very long time or owner-occupied and that is why he used the rental comparables he did.

In rebuttal, the appellant called Mr. Michael Kelly. Mr. Kelly testified he is president of Real Estate Analysis Corp. and has been an appraiser for 43 years. He testified he is a state certified general real estate appraiser in four states, including Illinois and holds the MAI and SPRA designations from the Appraisal Institute. Kelly testified he has prepared over 100 commercial, retail-type appraisals and over 50 appraisals for single-tenant, anchor department stores He testified he has performed over 50 review appraisals on all types of property with approximately 10 of those being for single-tenant, anchor-type department stores. Kelly testified he has appeared as an expert witness before courts and tribunals including the Property Tax Appeal Board. The PTAB admitted Mr. Kelly as an expert in appraisal valuation and review appraisals over the objections from the parties.

Kelly was shown a copy of *Appellant's Exhibit #4*, the Board's copy of Kelly's review appraisal. He testified he reviewed the Dost Appraisal to determine if the methodology and the conclusions of value were credible. He testified he inspected the subject on July 10, 2015. He confirmed he did not develop a second opinion of value. He testified that the appraisal complied with USPAP standards for reporting requirements. He opined that the appraisal does not sufficiently include the contributory value of the parking which is now part of the subject property and that the final estimate of value includes some of this value as part of the subject's value.

In regard to the sales comparables, Kelly testified that the subject is an anchor department store in a regional mall, but that three of the Dost Appraisal's comparables are a different design, different use, and different highest and best use. He clarified that sales #1 and #6 are free-standing, box stores and sale #2 is a multi-tenant, free-standing store. He opined that these stores operate in different markets with different market participants than the subject and are not economically or physically comparable to the subject. In addition, Kelly testified that sale #1 was purchased for redevelopment into a multi-tenant center and that sales #2 and #6 were leased fee sales.

Kelly testified that the remaining three comparables were anchor department stores. He testified that the Dost Appraisal did not include any retail sales per square foot data. He opined that this would be a pertinent factor for adjustments for location and economic differences. He testified sale #4 had retail sales per square foot of $168.00 which he opined was above average and an occupancy rate based on the owner's tax filings of 90.4% and not 62% as listed in the Dost Appraisal. He opined that this showed the mall was not as poorly performing as Dost claimed it was. Kelly also testified that the correct square footage for sale #4 is 153,368 square feet of building area as opposed to 144,000 as listed in the Dost Appraisal. He testified he has appraised this property previously.

Kelly testified that sale #5 is an anchor department store that is physically and economically comparable to the subject, but the sale is only for the building leasehold. He testified that the appraiser needs to make an adjustment for the assumed liability of taking on the long-term ground lease and that the Dost Appraisal does not do this.

As to the Dost Appraisal's sale comparable grid, Kelly testified that this grid lists the population and potential retail sales within a five-mile radius and compares them on a percentage basis. He opined that this data is macro level data as taught by the Appraisal Institute and is broad demographic data that gives an overview of a region or city. He testified that micro data is what an appraiser uses to determine how the subject property competes in that market and stated that for an anchor department store this would include retail sales per square foot. Kelly testified that he assumed the listed term construction characteristics address the differences in exterior wall, building quality, framing, and similar construction factors. He testified that the Dost Appraisal indicates the properties are all similar, but that the appraisal does not explain this factor and, therefore, the reader is left to assume this. He opined the more important factor would be an adjustment for the free-standing box stores as opposed to an anchor department store. Kelly testified to the history of how anchor department stores developed a different rent structure than other retail stores.

Kelly opined that there were two major deficiencies in the Dost Appraisal's income approach to value. He testified that none of the rental comparables are anchor stores in a mall. He testified that rental #3 is a lease resulting from a sale-leaseback transaction. He opined that these transactions are done for financing purposes and should not be used in estimating market rent. Kelly testified that the Dost Appraisal does not consider stabilized or weighted average sales of all the anchors in the mall to develop a rental rate. He opined that market participants look to retail sales in an anchor department stores in negotiating what a market rent should be. He testified that the methodology is to compare the stabilized and weighted average sales of the subject store and then apply a percentage, typically between 2% and 3%, to develop what the net rent would be on a market basis. He testified that the 2% to 3% figure comes from the industry and described what breakpoint sales are. Kelly was then asked questions on the data from his review that further showed how anchor stores utilize the 2% to 3% of sales per square foot method in developing rent and the sources that he used to opine that this was the best utilized methodology. Kelly opined that the best comparables would be the other anchor department stores in a subject's mall. He testified that an appraiser should consider the actual sales of a subject property, but use the weighted average for the whole mall.

Kelly testified that the Dost Appraisal used the appraisal's own conclusion of value to develop the projected real estate taxes in developing the net operating income for the subject. He opined that the approved method is to add a mathematical amount to the CAP rate for a loaded CAP rate. He also testified that the appraiser's own conclusion of value should not be used because the whole premise behind the appraisal is that the appraiser does not know the subject's value until the appraisal is done.

As to the CAP rate, Kelly testified that sales #2 and #6 were not anchor department stores in malls, but stores in strip centers. In addition, some are leased fee interests. He testified sale #4 had the wrong information. He also testified that sale #6 was a leasehold sale so it was only a partial interest sale. Kelly opined different CAP rates for sales #4 and #5 and explained how he arrived at a different rate. Kelly testified that the use of surveys for malls includes more than anchor department stores and that a better source would be power centers with added base points.

Kelly opined that the valuation methodology in the Dost Appraisal was not supported and the final opinion of value is not credible.

Under cross examination by the board of review, Kelly testified that he has performed over 50 review appraisals of property in the Chicagoland area in the last 10 years. He agreed that he did not perform a valuation appraisal for the subject. He testified that in the last year or two he has reviewed about three or four appraisals and has not found anything wrong with those appraisals. Kelly testified that another appraiser, Brad Braemer, did part of the work on this review appraisal as well. Kelly described the research portion of the review appraisal process.

Kelly testified that the Dost Appraisal's sales comparables #1, #2, and #6 were designed as retail, box stores and not anchor stores. He testified that sale #2 was multi-tenant and that sale #1 was being converted into multi-tenant. Kelly agreed that the Dost Appraisal found the occupancy rate for sale #4 at 62% for the in-line stores while he found the rate of the total mall at 90.4%.

Kelly acknowledged that he disclosed retail sales for sale #5 at $261.00 and testified that he included this information to show how the Dost Appraisal did not make an adjustment for the underlying ground lease that was part of this deal. He testified that any adjustment for the ground lease would be a significant one and more information should be included to explain the adjustment.

Kelly testified that the chart reflecting data on the other anchor department stores in the subject mall came from his work files. He acknowledged that the data was not published.

In the income approach to value, Kelly testified that the primary problem with the rental comparables is that they are not mall anchor stores. He opined that the method the Dost Appraisal uses for the real estate taxes was a violation of USPAP.

On cross examination by the intervenor, Kelly testified that he could not show in his report where it states that the Dost Appraisal violated USPAP in the use of the real estate taxes in the income approach. Kelly acknowledged that the Dost Appraisal does disclose the ground lease for sale #5, but opined that the information wasn't correct.

Kelly agreed the use of retail sales is recommended for a mall anchor department store. He reiterated that he was only doing a review appraisal of the January 1, 2013 Dost Appraisal.

On redirect, Kelly testified that an appraiser can obtain retail sales information on anchor department stores in several ways: by calling people in the industry; doing a FOIA for public documents when an anchor store's taxes are appealed; or calling a tax or real estate or mall manager. Kelly testified that the data presented in the Dost Appraisal does not support Dost's conclusion of using a 7.5% CAP rate. He also testified that his opinion that Dost violated USPAP was based on the fact that USPAP guides appraisers to use recognized methods and that Dost's technique is not a recognized method.

Conclusion of Law

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 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, 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 presented, the Board concludes that the appellant has met this burden and that a reduction is warranted.

In determining the fair market value of the subject property, the Board examined the appellant's and intervenors' appraisal reports and testimony, the board of review's submission, and the appellant's rebuttal documentation and testimony.

The Board finds the board of review's witness was not present or called as a witness to testify about their qualifications, identify their work, testify about the contents of the evidence, the conclusions or be cross-examined by the appellant, intervenor and the Property Tax Appeal Board. Without the ability to observe the demeanor of this individual during the course of testimony, the Property Tax Appeal Board gives the evidence from the board of review no weight.

The Board then reviewed the two appraisals and the testimony regarding these appraisals to determine the best evidence of the subject's market value as well as the review appraiser's work and testimony.

In the cost approach, the Board finds Dost only valued the land while Mundie performed a complete cost approach. However, Mundie valued the land as an assumed size of 600,000. In addition, under the reproduction cost new, Mundie used the parameters of an A/B average building, but could not fully explain what was included in those parameters as it relates to the subject's extensive amenities. However, the Board finds the subject property is significantly aged and the cost approach is not the most reliable indicator of value. Moreover, both appraisals indicate that this is not an approach that buyers and sellers in this market would utilize in determining a value for the subject.

In the income approach, the Board finds the Dost appraisal utilized comparables that were retail stores which have a different highest and best use as the subject: a two-story, single-tenant, anchor department store. In addition, Dost failed to look at the potential sales per square foot of these properties and compare them to the subject. The Board finds the review appraiser, Kelly, credible in testifying that macro data is important information, but it is the micro data that should be compared between the comparables and the subject. The Board finds the intervenor's appraisal insufficient in establishing a stabilized rental rate for the subject by not developing potential gross sales per square foot, a stabilized break point for the subject, and a stabilized percentage when developing the subject's rental rate. The Board finds the appellant's appraisal did perform this methodology and credibly testified that this was the typical rent structure for anchor department stores. Moreover, the Board finds the appellant's appraiser analyzed rental data of similar comparables. Although the leases were aged, Mundie's unrebutted testimony was that the market for anchor department stores reflects long term leases with minimal changes in the values and the same percentage of gross sales methodology for developing the rent. The Board finds Kelly's review appraisal and testimony support this methodology.

As to the sales comparison approach, the Board finds that three of Dost's sale comparables were not similar to the subject in that they were not single-tenant, anchor department stores. Of the remaining three comparables, two of these comparables were also utilized by Mundie in his sales comparison approach along with two additional anchor department store sales from 2003. The Board finds that Dost's comparable #4 and Mundie's comparable #2 are the same property, but that Dost incorrectly described this property's size. Therefore, the Board will look to Mundie for this comparable' s characteristics.

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. <u>Chrysler Corp. v. Illinois Property Tax Appeal Board</u>, 69 Ill.App.3d 207 (2nd Dist. 1979); <u>Willow Hill Grain, Inc. v. Property Tax Appeal Board</u>, 187 Ill.App.3d 9 (5th Dist. 1989). Therefore, the Board will give this approach more weight than the income approach.

The Board finds the five remaining anchor department store sales are the most similar to the subject and most reflective of the subject's market value. These comparables sold from January 2003 to January 2012 and have unadjusted sales prices ranging from $17.31 to $73.21 per square foot of building area, including land. The Board finds that Mundie testified the 2003 sales were not adjusted for sale date because the market was the same in 2012 while Dost testified that the market in 2006 was superior to the market in 2012. The subject property's assessed value equates to a market value of $84.75 per square foot of building area, including land which is above the unadjusted range of comparables. However, the Board finds the need for significant adjustments to Dost's comparable #5 due to its partial interest sale. Therefore, after considering all the evidence including the experts' testimony and submitted documentation as well as the adjustments necessary to the unadjusted sales values, the Board finds that the subject property had a market value of $13,500,000. Since market value has been determined, the Cook County Real Property Assessment Classification Ordinance level of assessments of 25% for Class 5 property shall apply and a reduction is warranted.

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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.

Chairman

Member | Member

Member | Member

DISSENTING: ______________ ______________

CERTIFICATION

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: September 18, 2018

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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

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