FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Community Consolidated School Dist # 93
DOCKET NO.: 15-05646.001-I-3
PARCEL NO.: 02-29-200-012

The parties of record before the Property Tax Appeal Board are Community Consolidated School Dist # 93, the appellant, by attorney Joel R. DeTella, of Hauser, Izzo, Petrarca, Gleason & Stillman, LLC in Flossmoor; the DuPage County Board of Review; and the Liberty Property Ltd. Partners, intervenor, by attorney Michael B. Andre of Eugene L. Griffin & Associates, Ltd. in Chicago.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds ***No Change*** in the assessment of the property as established by the **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$1,033,490
IMPR.:	$2,430,370
TOTAL:	$3,463,860

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2015 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 one-story, tilt-up concrete panel constructed two-tenant industrial building. The gross building area is 334,718 square feet. The improvements were constructed in approximately 1998. The subject features approximately 34,906 square feet of finished office space, an open bullpen layout, conference rooms, a lunchroom and four sets of washrooms. In addition, the subject features locker rooms, mechanical rooms and warehouse/loading space. The subject has a ceiling clearance of 30 feet in the warehouse. Other features include 57 exterior docks and 4 drive-in doors. The property is situated on a 694,723 square foot or a 15.95 acre site with 75 feet of frontage and an overall land-to-building ratio of

2.08:1.[1] The subject is located in Carol Point Business Park in Carol Stream, Bloomingdale Township, DuPage County.

The appellant, Community Consolidated School District #93, appeared before the Property Tax Appeal Board through counsel contending undervaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of $15,060,000 as of January 1, 2015.

Dale J. Kleszynski, MAI, SRA, was called as a witness. Kleszynski is an Illinois State Certified General Real Estate Appraiser and has attained the MAI and SRA designations from the Appraisal Institute. Kleszynski has appraised various types of real estate since 1979 and is licensed in Illinois and Indiana. He is the President and Chief Appraiser for Associated Property Counselors, Ltd.[2]

Kleszynski identified himself as the preparer of an appraisal report. (Appellant's Exhibit 1). He testified that the appraisal report was prepared in a manner consistent with the Uniform Standards of Appraisal Practice ("USPAP"). Kleszynski then testified that he found errors within the appraisal report he prepared and therefore prepared necessary corrections which he brought to the hearing in order to be compliant with the USPAP. He stated that USPAP's ethical requirements required him set the record straight relative to anything within the appraisal report that can be identified or considered possibly misleading. Kleszynski then identified Appellant's Exhibit #2 (accepted as an offer of proof), as a page taken from USPAP as the ethics rule.[3] Upon questioning, Kleszynski testified that given the fact that the identification of the potential misleading information within the body of the report occurred in 2018, he opined that the 2018 and 2019 edition of the USPAP would be applicable. Kleszynski then testified that in order to clarify the record and clarify that within the body of his appraisal report, a typographical error was made that an intended user of the appraisal report might or could construe as being potentially misleading. Therefore, he amended the pages that were impacted by the typographical error.

Kleszynski stated that he has taught classes regarding ethics as a qualified instructor for the Appraisal Institute. He testified that the USPAP ethics rules remained the same in 2015, 2016, 2017 and 2018. Kleszynski then testified that the mistakes he was able to identify within his appraisal report were because of data entry errors from his database material. He stated that he identified incorrect information in regard to the subject's date of sale, the grantor, the grant and grantee along with the document number were not presented correctly in his database system.

[1] The parties differed as to the description of the subject property. The description of the subject property for this appeal was derived from various sources of information provided by all parties along with the subject's property record card which was ordered to be produced into the record.
[2] Kleszynski was accepted as an expert valuation witness by stipulation and without objection.
[3] The USPAP ethics rule page was taken from an 2018/2019 edition of USPAP. The Board finds that the appraisal report was for a 2015 valuation. Therefore, the hearing officer denied entry of the document into the record. The appellant was then allowed to make an offer of proof. Appellant's counsel argued the ethics rule had not changed from 2015 to 2018 and was still applicable.

Counsel for the appellant then attempted to introduce into the record Appellant's Exhibit #3.[4] Kleszynski then testified that pages 57, 59, 60 and 62 of the appraisal report (Appellant's Exhibit #1) should be changed and replaced with the corrected pages. He then testified that the corrected information did not change his opinion of value for the subject because his conclusion of value for the subject was based on the property located at 700 to 710 Kimberly with a stated sale price of $17,500,000, which was correct. He stated this property sold on multiple occasions with a substantial increase in pricing between the beginning of 2014 and the end of 2014. They merely picked up the wrong public record information from the early 2014 appraisal and put it into the database used.

Kleszynski testified that he personally performed an exterior inspection of the subject property in preparation of his appraisal report with the most recent inspection occurring on September 24, 2016. He viewed the common areas of the subject site in order to gain an understanding of the physical components and identify the condition and location as part of his physical inspection. Kleszynski testified that he did not perform an interior inspection of the subject property, because he was not allowed by the taxpayer.

Appellant's counsel then attempted to introduce into the record Appellant's Exhibit #4, a letter requesting access to the subject property.[5] Kleszynski testified that he was not provided with any financial documents of the subject property after his request for same. He stated that since he was denied an interior inspection he relied on his exterior inspection of the property and information available from public records and on information available related to the physical characteristics and operation of the subject property available from databases and realtor sources. Kleszynski testified that this required him to make assumptions in preparation of his appraisal report. He stated his assumptions were tied specifically to the condition and physical characteristics of the property for such things as size, ceiling heights, condition and operation of the property.

Kleszynski described the subject as being located in the Village of Carol Stream generally within the industrial district. He described the subject as having approximately 89.03 feet of frontage with a total site area of 694,723 square feet or 15.95 acres of land. He stated the subject's site is paved with parking area for approximately 284 vehicles. The subject was also improved with service walks and pads, concrete service walks, light standards, signage and landscaping. Kleszynski testified that to the best of his knowledge the subject is a one-story industrial and

[4] Taxpayer's counsel and the board of review objected to the admission of Appellant's Exhibit #3 as not containing scrivener's errors, but rather, as additional and newly discovered evidence of an entirely new comparable sale of the subject. It was argued that the subject sold in January 1, 2014 and again in December 2014. The hearing officer, having found that Appellant's Exhibit #3 contained more than just technical typographical errors and in fact contained substantive changes such as grantor, grantee, sale date and document number. Therefore, Appellant's Exhibit #3 was denied entry into the record, however counsel for the appellant was allowed to make an offer of proof.

[5] Appellant's Exhibit #4 consists of a certified return receipt request and correspondence that was sent to Terrence J. Griffin Esq. requesting access to the subject property as well as additional information regarding historical financial statements, rent rolls, floor plans, survey and information related to capital investments done at the property as well as any information pertaining to recent offering listings. Taxpayer's counsel argued that the letter was sent to his law firm at a time prior to his firm being retained to represent the taxpayer and prior to his entry of appearance in this appeal. The letter was dated August 5, 2016. Appellant's Exhibit #4 was denied entry into the record as being untimely filed.

manufacturing building occupied by multiple tenants that was constructed in 1998 with an estimated or reported size of 334,718 square feet of building area, of which approximately 10% is finished office space. He considered the design of the subject property to be a modern multi-tenant design with ceiling heights ranging from 30 to 35.5 feet. He further described the subject as having 57 loading docks, 4 overhead doors and appeared to be in average condition as of the date of his inspection. The subject also contained a sprinkler system along with roof mounted climate control. He stated the industrial areas were assumed to be heated by ceiling suspended gas fired units. The office space for the subject was approximately 34,900 square feet of building area. He found the ceiling heights of 30 to 35.5 feet to be an adequate height for a distribution warehouse.

Kleszynski testified that he appraised the fee simple rights of the subject for his 2015 appraisal report. He found the highest and best use of the subject as vacant would be for development with an industrial distribution center that was consistent with the zoning classification of I-industrial district in the Village of Carol Stream. The highest and best use of the subject property as improved was the existing improvements located on the site, being a multi-tenant industrial distribution building having approximately 334,718 square feet of building area.

In estimating the subject's market value fee simple interest, he applied several techniques in order to estimate the value of the land as vacant. He applied the direct sales comparison to value. In order to estimate the value of the property as improved, he applied the income approach to value as well as the sales comparison approach to value. He stated the sales comparison approach for land only was important because the land, given the intended use of the appraisal is important to understand so that the property can be assessed correctly and is also important as part of the analysis of highest and best use. Kleszynski testified that in this particular instance, the value of the property as improved is greater that the value of the property as vacant. He stated that this proved the highest and best use of the subject property is the current use of the improvements.

Kleszynski testified that he did not apply a cost approach to value in this instance because he did not get inside of the property and could not view the physical components and had to assume they were of average and typical design for this type of property. This would include such items as the location of the bay sizes or the various separations within the building, the location of the offices as well as the dock area in comparison to things like the warehouse storage area and overall utility of the property. Because of the many assumptions that would be required, he did not develop the cost approach to value for the subject.

In regard to his sales comparison approach for land only, Kleszynski testified that he tried to locate properties that were identified as similar highest and best use features to the subject property. Kleszynski utilized five land sales that were located in industrial districts in Bartlett, Bensenville and Franklin Park, Illinois. The land sales were adjusted for property rights conveyed, financing, condition of sale, elapsed time on the market, location, zoning, size and physical variations.

The appraisal report depicts the comparables ranged in size from 238,970 to 599,037 square feet of land area and sold from November 2012 to May 2015 for prices ranging from $837,005 to $5,300,000 or from $3.50 to $10.11 per square foot of land area. After making adjustments, Kleszynski selected a unit value for the subject of $4.50 per square foot of land area or $3,126,254 or $3,125,000, rounded. (694,723 x $4.50 = $3,126,254). (Appellant's Exhibit #1, page 37).

Kleszynski next developed the income approach to value. For market rental rates, he examined five rental properties located in the same general industrial district as the subject. His appraisal depicts the rental comparables as ranging in size from 42,350 to 196,644 square feet of leased area with 0% vacancy rates. The comparables were depicted as having rental rates ranging from $3.90 to $4.95 on a modified gross or net basis.

Kleszynski testified that he estimated the subject's market rent on a net basis. He explained that in a net lease situation, the owner of the property controls a consistent dollar amount that they receive. Operating expenses such as real estate taxes, insurance and common area maintenance are passed through to the tenant on a pro rata basis. He stated the owner pays expenses associated with the estimated vacancy. To verify the rental data, he used database services such as *CoStar Comps* and *Loop Net*. In addition, he had data available from his relationships with brokers and was able to generally verify some of the terms of the leases or were derived from the data sources. Kleszynski testified that he was unable verify the lease rates for the subject because that information was unavailable to him. Kleszynski stated only minor adjustments were needed as of the date of lease were reasonably consistent with his examination of the market. Kleszynski took into consideration the various variations for location, size and amount of industrial/office space. Kleszynski concluded an estimated market rental rate of $4.00 per square foot on a net basis was appropriate.

For vacancy rates, Kleszynski examined the comparables he used as well as the survey conducted using *CoStar* database system, which included approximately 19,100,000 square feet of general industrial space in the Village of Carol Stream. After analyzing the data, it was indicated that vacancy rates between 2012 and 2016 had essentially dropped, but in 2015 they ranged from 4.3% to 7.1%. He then elected to apply a vacancy and collection loss of 8% in the evaluation of the subject property. He stated that in Carol Stream the average vacancy rate was 6.4% from 2012 to 2016. Kleszynski applied the 2015 real estate taxes as they were presented from public records. He then also applied an estimate of insurance and common area expenses that ranged from $0.13 cents per square foot for the insurance and $0.65 cents per square foot for the common area maintenance. He estimated management expense associated with the subject property to be approximately 4% of the effective gross income. Reserve for replacements was approximately $12,318 or 1% of the effective gross income. He then applied 0.5% to cover unforeseen items.

The appraisal report depicts potential gross income for the subject of $1,338,872 which added estimated tenant reimbursements of $619,056 to arrive at total rental income of $1,957,928. Kleszynski then subtracted vacancy and collection losses of 8% total rental income ($156,634) to arrive at an effective gross income for the subject of $1,801,294. He then subtracted real estate taxes ($357,976), insurance ($43,513), common area maintenance ($217,567), management fees ($49,270), reserves for replacements ($12,318) and miscellaneous ($6,159) which indicated total expenses of $686,803. After these calculations, the subject's net income was estimated to be $1,114,491. (Appellant's Exhibit 1, page 49).

Kleszynski estimated the capitalization rate by reviewing his personal data base as well as sales. He also reviewed the *Korpacz* or *Price Waterhouse Cooper's National Investor's Survey* for the first quarter of 2015, which indicated that overall capitalization rates for investment quality properties ranged from 4.5% to 7.0% with an average of 5.77%. He elected to additionally apply a simple band of investment technique in which the mortgage interest rate and the appropriate rate of return or expected rate on the equity position would be calculated. He stated it was basically a weighted average system. He found the estimated value that the applicable overall capitalization rate for the subject property was 7.4%, which was consistent with the overall capitalization rates presented in the national investor survey over a five-year period. Dividing the subject's estimated net income ($1,114,491) by 7.4% indicated a value for the subject using the income approach to value of $15,060,000, rounded.

Kleszynski then developed his sales comparison approach to value using information from database services as well as private files from *CoStar*, *Loop Net* and various realtor services that he utilized in the completion of work as an appraiser, that he keeps in his office. He elected to utilize five comparable sales in the analysis of the subject property. Two of the comparable sales he used were located in Carol Stream, similar to the subject. Three comparables were located in Aurora and all were located in DuPage County. He stated they were located from a few blocks to approximately 10 miles from the subject property. All of the comparables were selected because of their location within industrial districts that he considered similar to the subject. In addition, all of the sales were industrial warehouses like the subject.

Kleszynski verified the sales through personal interviews with the grantor or grantee or preparers of the documents. In addition, he stated they were able to utilize deeds and property tax or PTAX documents to identify sale prices as well as the condition of the sale transaction that was presented. The comparables were built from 1986 to 2000 and were situated on lots ranging from 13.55 acres to 26.12 acres. The one-story or one and one-half-story industrial buildings had land-to-building ratios ranging from 1.94:1 to 3.01:1. The comparables ranged in size from 252,946 to 378,443 square feet of building area and sold from April 2012 to December 2014 for prices ranging from $9,158,440 to $17,500,000 or from $36.96 to $52.50 per square foot of building area. Comparable #1 was chosen for its location, size and other physical characteristics and Kleszynski's ability to verify the transaction as being a legitimate arm's-length transaction. Kleszynski testified that the capitalization rate for comparable sale #1 was approximately 7%. Comparable sale #2 was selected based on its physical similarity to the subject. He stated it was similarly zoned like the subject and represented what the typical purchaser would pay for a property like the subject. Comparable #2 was partially leased at time of sale. Kleszynski testified that information he had indicated that a tenant occupied part of the building, but he was unable to determine if the tenant left prior to the closing or contemporaneous with the closing in the purchase of the property. So, he elected to present the property as being partially leased. Improved sale #3 was selected because of its location in Aurora. He found the property to be similar to the subject with respect to land-to-building ratio, docks, as well as the amount of office space.

In regard to sale #4 the sale price was depicted as $17,500,000. The building area of 348,443 was correct which indicated a sale price of $46.24 per square foot of building area. He stated the characteristics were correctly reported. Improved sale #5 was selected for its date of sale, building size and land size along with its physical characteristics with respect to ceiling height and his observation of the property as being a warehouse distribution center that operates in an area that would be considered similar to the subject.

Kleszynski testified that appraisers use leased fee sales which is a common element in terms of the evaluation of property in the marketplace. He stated they are regularly used by appraisers in order to estimate the market value of the fee simple interest if that is what their assignment requires them to do. Kleszynski identified that his sales #1, #2 and #3 were leased fee sales. This would mean that the buyer acquired the leased fee interest in the property if the property were leased. He testified that there is nothing that prohibits his use of leased fee sales. Kleszynski testified that buying a leased fee property interest does not mean it is a bad indicator of value to determine fee simple interest because the purchaser of the property acquires all of the rights that are associated with the real estate, and surrenders only one of the sticks in the bundle, which is the right to occupancy in exchange for the terms of the lease. Kleszynski testified that the issue is that the leased fee and fee simple interest is determined by whether or not the lease that encumbers the property that is being sold reflects market activity.

Kleszynski further testified that the sales presented within his appraisal report are a mixture of leased fee and fee simple transactions with a reasonably tight range of unit prices paid on a per square foot basis. Therefore, he opined that it was demonstrable evidence of how the market operates. He then testified that he agreed that the interests being sold were different, but that does not necessarily mean that the prices paid include either a discount or a premium for the existence of the leased fee interest.

To the best of his knowledge, Kleszynski determined that the leased fee sales he used for comparables #1, #2 and #3 were market supported and seemed to be consistent. In addition, the prices paid appeared to be reasonably consistent which reflected the market activity given that all three sales occurred in 2012. Therefore, he determined that an adjustment was not appropriate for leased fee versus fee simple interest. Based on his corrections, Kleszynski felt that because of the change in the date of sale for comparable #4, no adjustment for time of sale would be required. The **c**omparables were then adjusted for property rights, financing, conditions of sale, elapsed time on the market, location, land to building ratio, size and physical variations. Based on the adjustments, Kleszynski estimated the subject's value of $45.00 per square foot of building area or $15,060,000, rounded.

In reconciliation, Kleszynski place most reliance for the estimate of land value on the market value approach, which indicated a land value of $3,125,000. He also placed greatest weight on the sales comparison approach to value for the subject as improved to conclude a value of $15,060,000 as of January 1, 2015.

On cross examination, in regard to sale #4, Kleszynski realized that there were two sales of this property in the same year. However, he was not able to determine why there was an increase in value from one sale to the other. Kleszynski agreed that he used a land sale that was in Franklin Park located in Cook County, however he did not make any adjustment for the level of assessment between Cook County and DuPage County because the sale numbers appeared to be consistent with the other properties being sold. The subject was indicated by its assessment to have a land value of $4.46 per square foot of land area, which Kleszynski found to be consistent with his estimate of $4.50 per square foot of land area.

Kleszynski testified that when you are doing a leased fee analysis the optimum set of circumstances is to have a copy of the lease and be able to analyze the specifics of the lease. However, he stated that it rarely occurs because of the proprietary nature of the leases. He then stated that does not mean you operate in a vacuum either. Because of the database services that they belong to and the brochure and things of that character, when the properties are advertised or adjacent properties are advertised, an appraiser is able to extract from the marketplace a general level of leasing for that type of real estate. In terms of his interviews with brokers over time and the database he used, he was comfortable with the adjustments that they made for that issue.

He stated the listing brochures typically identify asking rents. Other services such a *CoStar* and *Loop Net* will identify an asking rent, an effective rent, a sign rent and a signed date. He testified that it has been his experience that all of the data presented in *CoStar* was not 100% accurate, so it was more of a lead sheet from which to start out. He felt *CoStar's* leasing information was much more accurate because they cater to the brokers and use broker-inputted information. Kleszynski acknowledged that he had his son help him with the appraisal report. He agreed that his appraisal report was prepared for ad valorem real estate tax purposes. He was assigned to complete the estimate of market value of the fee simple interest of the subject property as of January 1, 2015. He agreed that none of his land sale comparables were larger than the subject. He admitted that land sale #2 was purchased by an adjacent property owner and that no adjustment was made for this fact. He was not aware of any motivations that may have been present in the transaction. He admitted that sale #2 which occurred in January 2014 was adjusted for date of sale to the assessment date of January 1, 2015 while sale #3 which occurred in March 2014 was also adjusted for date of sale.[6] His testimony was then corrected to reflect land sale #2 was adjusted upwards for elapsed date of sale and land sale #3 required no adjustment for this issue. He agreed that land sale #3 was an improved property that had to be razed in order to develop the site. He stated that it could possibly affect the value of the land or could possibly not affect the value. He agreed that it was not discussed within his appraisal report. Kleszynski agreed that the current assessment on the land as placed on it by the assessor and the board of review was correct.

Kleszynski then examined Intervenor's Exhibit "A" which is a PTAX 203 Transfer Declaration sheet for regarding improved comparable sale #1. Kleszynski agreed that the document indicated the sale was not advertised for sale and that it was a leased fee sale. Kleszynski admitted that he did not know the terms of the lease. He could not answer what the rental rates were for this property. Kleszynski agreed with the statement that "[I]ncome producing real estate is often subject to an existing lease or leases encumbering the title. By definition, the owner of real property that is subject to a lease no longer controls the complete bundle of rights, i.e. the fee simple estate. If the sale of a leased property is to be used as a comparable sale in the valuation of the fee simple interest in another property, the comparable sale can only be used if a reasonable and supportable market adjustment for the difference in rights can be made." The quote was taken from Intervenor's Exhibit "B" which is page 323 of the *Appraisal of Real Estate*. Kleszynski then agreed that the exhibit also stated "[T]o compare the lease fee interest to the fee simple interest in the subject property, the appraiser must determine if the contract rents

[6] The appraisal report depicts land sale #3 required no adjustment for date of sale. (Appellant's Exhibit #1, page 36)

of the comparable property was above, below or equal to market rent." Kleszynski then admitted he did not have the specific contract rent as it relates to improved comparable sale #1. However, he stated there are other sources of data that give indication as to what the approximate rents were. Further, since the market does not operate at a specific market level, and there is always ranges of rental rates that reflect the market, the existence of this property [improved sale #1] within that range gives an indication as to whether or not an adjustment can be made.

Kleszynski stated that the contract or the lease is not the only indication of whether or not a property is operating at market levels. There is other information available in the normal course of business that an appraiser is able to utilize in order to make the determination as to whether or not the property is leased at market rates. Kleszynski reiterated he could not state what the contract rent was for comparable sale #1 because he did not have the contract. In addition, he did not know who the tenant was. Kleszynski could not state when the lease(s) commenced, the length of the leases, the market conditions at the time the leases were signed, whether the leases were net leases, gross leases or some other type of lease. He could not state whether the leases included any free rent or reimbursement income, rental abatement, rental escalation or whether the leases allowed for the exercise of a renewal option. Kleszynski then agreed that he was accustomed to a certain level of uncertainty when it comes to investigating leases for leased fee sales.

Kleszynski testified that for improved sale comparables #1, #2 and #3, he did not have copy of the leases and could not answer the questions surrounding the terms of those leases. The witness was then presented with Intervenor's Exhibit "C" which is the PTAX-203 Transfer Declaration Sheet for improved sale comparable #4. Kleszynski agreed that the sale price as reported in his appraisal was incorrect. The corrected sale price was $12,125,000 and not $17,500,00 as reported which would change the sale price to $34.04 per square foot of building area, including land. A *CoStar* report, Intervenor's Exhibit "D" was presented to Kleszynski from which he agreed depicted that the property [improved sale #5] had been listed on the market for lease for approximately two years and *CoStar* was unsure as to how long the property was actually listed in the market for sale. He then agreed that the PTAX-203 Transfer Declaration Sheet (Intervenor's Exhibit E) for improved sale #5 indicated the property was not advertised for sale.

Kleszynski then agreed page 3 of his appraisal report indicates that market value is defined as the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale if a reasonable time is allowed for exposure on the open market. Kleszynski agreed that in his reconciliation on page 63 of his appraisal report depicts he placed greatest consideration on his sales comparison approach to value. Even though, improved sales #1 and #3 were leased fee sales with improved sale #2 being partially leased, sale information for improved sale #4 was incorrectly reported within the appraisal report and improved sale #5 not being advertised for sale.

In regard to his income approach analysis, Kleszynski admitted that there was no chart and no narrative in his appraisal report discussing the up or down adjustments that were made to the rental comparables. Kleszynski agreed that a reader of his appraisal report could not pinpoint the exact adjustments made to his rental comparables for location, utility, physical variation, building configuration, listing rental rates and contract rates. Kleszynski could not state what the reimbursement income was for rental comparables #2 through #5.

Based on this evidence, the appellant requested the subject's assessment be increased to reflect market value of $15,060,000 commensurate with Kleszynski's final value opinion as stated in his appraisal report.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total equalized assessment for the subject of $3,463,860. The subject's assessment reflects a market value of $10,401,981 or $31.08 per square foot of gross building area, land included, when using the 2015 three-year average median level of assessment for DuPage County of 33.30% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review called Korey Atkinson, Chief Deputy Commercial Assessor with the Bloomingdale Township Assessor's Office.[7] Atkinson has been practicing in assessment litigation since 2004 and has been with the Bloomingdale Township Assessor's Office since 2015. Atkinson testified that he did not prepare the evidence submitted by the DuPage County Board of Review, as it was prepared by the then Chief Deputy Assessor, Sharon Lee, who has since retired. He has reviewed the evidence submitted for accuracy. He testified that the board of review's submission of evidence is an income analysis that was used during the 2015 board of review hearing.

According to the information submitted to his office, the subject had two tenants in 2015 and they were also provided with actual rent rolls for the subject property that were used to develop their income analysis. Based on a review of the materials, his office concluded that the two leases at the subject property were classified as gross leases which is why they concluded a capitalization rate with a tax load was appropriate. He testified that one lease was for $5.51 per square foot of building area and the other was for $4.45 per square foot of building area. His office then used those figures to estimate the subject's potential gross income of $1,605,975. He then testified that since 2015 was a quadrennial reassessment year, his office developed ratios based on market evidence for vacancy and collection expenses and capitalization rates. Based on all industrial property in the township [Bloomingdale] they utilized a 7.5% vacancy and collection loss and a 12.5% expense ratio along with a 9% capitalization rate. His office then applied the ratios to the subject's potential gross income to conclude a net operating income for the subject of $1,299,836.

They then applied an unloaded capitalization rate of 9% and added a tax load of 2.51% to arrive at an overall capitalization rate of 12.51%. Capitalizing the net income indicated a market value for the subject of $10,391,570 or $31.05 per square foot of building area, including land. He testified that at that time, the subject's assessment was $4,057,480. The board of review then submitted the subject's property card into evidence without objection as Board of Review Exhibit "B(1)." Atkinson testified that his office measures property from the outside so the square footages would be gross building area, not net rentable area. Wall heights were a measure of the actual wall from the exterior. So, their reflected wall height of 35.5 feet was not indicative of ceiling heights.

[7] Atkinson was accepted as an expert valuation witness without objection.

On cross-examination, Atkinson testified that at the beginning of a quadrennial reassessment year they have hundreds of appeals every year. In 2015 they had 900 appeals. As part of the process and in reviewing sales as they are provided to their office through transfer declarations and other sources, they use the data in their files because they have income expense statements from properties in the township as well as other sources including appraisal reports prepared by either intervenors or property owners. He testified that after qualitative consideration of all the sources, a 9% unloaded capitalization rate was appropriate for industrial properties for the 2015 quadrennial reassessment period. He stated that sales were considered in setting the final assessment. Atkinson admitted that for this particular case, he does not have a sales comparison approach or an equity approach as part of the evidence.

The witness was then presented with Taxpayer/Intervenor's Exhibit #1, the LaSalle Appraisal Group appraisal. The estimate of value for the subject in that appraisal was indicated to be $10,500,000. Atkinson testified that he did not have the benefit of the LaSalle Appraisal Group appraisal at the time his income analysis was prepared, therefore it did not impact his conclusion of value. He then testified that having read the appraisal he believes that it was within a reasonable range of the value concluded by the Assessor's Office. He did not believe the two different values on a qualitative basis were in conflict. Atkinson stated that that the LaSalle Appraisal Group report indicated a value for the subject of $10,500,000 while his office concluded a value for the subject of $10,391,580. In formulating the subject's assessment, Atkinson stated they also considered uniformity comparables. He then indicated that the assessment of $3,463,860 was uniform with other properties they considered.

In regard to the ratios used for expenses, Atkinson testified that the subject property was treated identically with other properties in a uniform manner consistent with how they valued other industrial properties of same or similar property type and property size. Atkinson stated that as township sales come into his office along with the income expense statements, they are able to develop and extract capitalization rates. He stated they also rely on investor surveys and appraisal reports. They always look at rates over a three-year window.

The board of review then rested its case.

The taxpayer/intervenor called Bradley Braemer, MAI, AI-GRS as a witness.[8] Braemer is a Member of the Appraisal Institute (MAI) and is licensed to practice as a State Certified General Real Estate Appraiser in Illinois, Iowa and Michigan. He is employed by Real Estate Analysis Corporation (REAC). He has appraised various types of real estate including multi-family, industrial, commercial and special purpose properties. Industrial properties included warehouses and truck terminals. Commercial properties included hotels, motels, office buildings, department stores, multi-tenant shopping centers, single tenant commercial buildings, automobile dealerships and nursing homes.

Braemer testified that he was assigned to review the appraisal report prepared by Kleszynski (Appellant's Exhibit 1) for credibility. Braemer inspected the subject property on February 13, 2018. The review appraisal (Intervenor's Exhibit F) was entered into the record. He was not requested to develop a second opinion of value. His assignment included developing an opinion

[8] Braemer was accepted as an expert valuation witness without objection.

and conclusion about the work in the primary appraisal (Kleszynski appraisal) which would include any disagreements he may have had with the report. Braemer testified that he was to develop an opinion as a reviewer as to the completeness and accuracy of the appraisal, as to the accuracy and relevance of the market data and the adjustments made, as to the reasonableness of the appraisal methods and analysis used, and, as to whether the conclusions are credible final value conclusions of review pursuant to USPAP Standard 4-2(h). See (Intervenor's Exhibit F, page 15).

Braemer stated his report was written in 2018, so he reviewed Kleszynski's report based on what USPAP was available to Kleszynski when Kleszynski wrote his appraisal which would have been 2016 and 2017. Braemer testified that Kleszynski's appraisal met the reporting requirements as to completeness and accuracy. Braemer's review appraisal (Intervenor's Exhibit F) depicts the subject property is a multi-tenant property with two tenants as of January 1, 2015. The tenants were Pampered Chef and Start Sampling. His review appraisal, page 24, depicts the lease terms in the primary appraisal report (Kleszynski's report) were from the original Start Sampling lease, which was signed in 2008, prior to the crash of the real estate markets. In 2013, this tenant renewed their lease at a lower rate, due primarily to the crash of the real estate markets. The renewal term was from July 2013 to September 2018 (versus January 2009 start date in Kleszynski's report. Further, the lease size also contained a minor error, however, the actual effective net rent differs from the rent stated in Kleszynski's report. His review appraisal depicts the tenant received 3 months of free rent and when taking into account with the internal rate of return of 7.5% (based on discounts rates from the *PwC Real Estate Investor Survey*), the effective net rent is $3.71 per square foot versus the $4.45 per square foot as reported by Kleszynski. Braemer found this $.74 cent per square foot difference to be substantial. Braemer testified that this was a renewal lease in which the tenant has already established their business at the property and had their equipment and product there on the property. He stated the rental rate would have those conditions and factors figured into the rental rate. Therefore, a renewal tenant may pay a premium above the market rent.

Braemer then testified that he reviewed the five improved sale comparables that Kleszynski used. He stated sale #1 and sale #3 were both leased fee sales. Braemer testified that he agreed with Kleszynski that leased fee sales could be used to determine fee simple interest. However, the key is being able to know what the actual leases are at for a particular property in order to make a determination as to whether or not any adjustments need to be made. Braemer stated that in order to be able to make adjustments, the appraiser would need the contract rent which could then be compared to market rent. Contract rent would be dependent upon a number of things, including who the tenant was, the length of the lease, the tenant's credit worthiness, whether the lease was renewable, free rent or rental abatement. Braemer testified that if the contract rent is not at market level an appraiser cannot assume simply because it is a leased fee sale that there are no adjustments that need to be made to that property. He stated that if the contract rent is not at market, then an adjustment had to be made. Further, an appraiser could not consider general lease rates in a market area in order to determine whether or not a particular subject was leased at market rates.

Braemer stated that he also agreed with Kleszynski in that *CoStar's* reporting of lease terms would only be a first step in development of the comparable. He stated it [*CoStar* report] would not be accepted without confirming it. Braemer found nothing in Kleszynski's report indicated what the contract rent rates were for comparable sale #1 and there was no discussion on whether any adjustments should have been made based on the contract rent. He found the report was silent on what the contract rent was for sale #1 and sale #3. Braemer testified that both sales #1 and #3 should not have been used in a fee simple evaluation without a determination of the actual contract rents at the time of sale. Braemer testified that it was his conclusion that within the Kleszynski appraisal report, the sales were not supported and not credible because there is no way to determine whether the leased fee sales were at market level or not at market level.

After reviewing Kleszynski's report, Braemer concluded that the final value for a fee simple interest was not supported by the methodology and not credible. (Intervenor's Exhibit F, page 30).

In regard to whether Braemer committed a violation of USPAP standards when he used data not available to Kleszynski to form an opinion as to the quality of work performed by Kleszynski, Appellant's Exhibit 6 was entered into the record. USPAP Standards for 2018 to 2019, lines 859 to 861 stated "[I]nformation that was not available to the original appraiser in the normal course of business may also be used by the reviewer. However, the reviewer must not use such information in the reviewer's development of an opinion as to the quality of the work under review." (Appellant's Exhibit 6). Braemer agreed that the USPAP standard previously quoted would apply to him, but not to Kleszynski.

Braemer testified that once Kleszynski put a rate in his report, he as a reviewer had a duty to say what the actual rate is. It was not included to critique the rates that Kleszynski puts in his appraisal. Braemer then testified that he used this data [actual lease rates] to determine whether the quality of Kleszynski 's work under review was credible. USPAP Standard 3(g) Line 859 was then interpreted as follows: "Information that was not available to Mr. Kleszynski in the normal course of business may also be used by Mr. Braemer. However, Mr. Braemer must not use such information in Mr. Braemer's development of an opinion as to the quality of work under review."

Joseph M. Ryan, MAI was next called as a witness on behalf of the taxpayer/intervenor.[9] Ryan is president of LaSalle Appraisal Group, Inc. which was founded in 1991 as a commercial real estate appraisal firm. He is a member of the Appraisal Institute and is a Certified General Real Estate Appraiser in the State of Illinois. He has appraised industrial properties, apartment buildings, department stores, banks, office buildings, nursing homes, office building hotels, mixed use properties and special use properties among others. Ryan prepared a retrospective appraisal report for the subject property dated March 5, 2018. (Intervenor's Exhibit G).

Ryan described the subject property as an industrial building located in Carol Stream, Illinois. The site was described as mostly rectangular in shape containing 695,000 square feet of land area with a land-to-building ratio of just over 2.0:1. He stated the building is an approximately 335,000 square foot one-story multi-tenant industrial building. Ryan testified that the purpose of his appraisal report was to estimate the fee simple market value of the subject property to establish an equitable assessment for the property as of January 1, 2015.

[9] Ryan was accepted as an expert in Real Estate valuation without objection.

He appraised the fee simple property rights, absolute ownership, unencumbered by any interest or estate, subject only to the governmental powers of taxation, escheat, police power and eminent domain. The scope of the appraisal report was to inspect the subject property, investigate market data and prepare a narrative appraisal report that conformed to USPAP, report on the environs surrounding the property, demographics and things of that sort to give a fee simple value of the property.

Ryan inspected the subject property a couple of times with the first inspection being in August 2017. He inspected both the interior and exterior of the subject. He was escorted through the subject property by another manager and the property manager during his interior inspection. Ryan testified that the subject property sold in November 2013 along with another property for $39,750,000. He stated the property was leased on the date of sale. Pampered Chef had occupied about 225,000 square feet of building area and a company called Start Sampling occupied approximately 110,000 square feet of building area. Ryan stated that right before the date of value (January 1, 2015) Start Sampling ceased paying rent and the lease was terminated in March 2015.

The subject's site was then described as a being a nearly rectangular-shaped site with one ingress and egress point, similar to a cul-de-sac. He stated the subject has limited exposure. The site is approximately 695,000 square feet of land area. The site had no drainage problems, was fairly level and was without limitations as it conformed to similar properties in the central DuPage County submarket. The subject was zoned I-industrial in the town of Carol Stream and seemed to conform to the zoning standard. The one-story industrial building has 30-foot ceiling heights, was built in 1998, has a flat metal deck roof with sash single glaze windows set in aluminum framing. The interior finish was typical of an industrial building. Warehouse areas were fairly unfinished. Offices had carpet over concrete, painted gypsum board walls, suspended acoustic ceiling panels with recessed florescent light fixtures with an adequate number of restrooms. The subject has 40 loading docks on the west side of the building and 17 docks on the east side of the building for a total of 57 loading docks. The overall condition of the building was good, well landscaped and conformed to the environs in which it was located.

As vacant and improved, Ryan found the highest and best use was for industrial use because it met the test of physically possible, legally permissible, economically viable, and the maximally productive use of the site as an industrial building. He opined that the improvements contributed to the underlying site value, therefore, as improved was for continued use as an industrial building.

In regard to his developed sales comparison approach to value, Ryan testified that the underlying appraisal principle for the sales comparison approach is the principal of substitution, which states that no one would pay more for a property that they could find at a lower price with similar utility. Meaning that the market is competitive; that the property priced to the demands of the market is able to be sold, and that is what the competition in the market will pay for the property. Ryan testified that he utilized fee simple sales that he found in the marketplace. He then compared and contrasted them to the subject.

The six sales were located in Itasca, Aurora, McHenry, Romeoville, Bolingbrook and Libertyville, Illinois. The comparables ranged in size from 217,917 to 643,617 square feet of building area and were built from 1987 to 2005. They featured loading docks ranging from 8 to 39 with drive-in docks ranging from 1 to 4. The comparables had clear ceiling heights ranging from 24 to 38 square feet and were situated on sites ranging in size from 432,500 to 1,524,600 square feet of land area with land-to-building ratios ranging from 1.81:1 to 4.00:1. The properties sold from June 2012 to July 2015 for prices ranging from $5,992,887 to $13,500,000 or from $19.58 to $36.96 per square foot of building area, including land.[10] (Intervenor's Exhibit G, page 60). Ryan testified that all of the sale comparables he used were vacant at time of sale. Ryan then stated that comparable sale #2 was reported to have a short-term tenant leasing approximately 35% of the building when the property sold. In his conversations with the broker, he was told the seller considered the purchase to be of the fee simple interest.

Ryan testified that he inspected most of the sale comparables. He stated it is their procedure that when a sale is written up, the transfer document is printed and put in the file and the property is inspected and photographed and the marketing brochure is put in the file. Ryan testified that he independently verifies each sale with some party to the transaction such as the broker, seller or buyer. Ryan felt that all of his sales meet the principle of substitution testified to earlier. He felt each comparable had a similar highest and best use as the subject.

Ryan utilized qualitative adjustments and compared individual features of the building and market conditions. They considered the property rights, financing, conditions of sale, market conditions, location, land-to-building ratio, building size, age, clear ceiling heights, dock areas to arrive at the total adjustments needed. Ryan adjusted the price per square foot of the comparable sales when compared to the subject. After making various adjustments, Ryan concluded a value for the subject of $31.50 per square foot of building area or $10,550,000, including land.

Ryan next developed the income approach to value for the subject property. He examined four rental comparables. He explained that the first step is to determine market rent, analyze vacancy and collection loss and deduct that to determine the effective gross income. The appraiser then allows for market based operating costs to determine the net operating income. He then selects an appropriate capitalization rate to capitalize the net operating income into an estimate of value via the income approach.

On page 68 of his appraisal report, Ryan depicts the subject's contract rent as of the date of value. Pampered Chef leased about 225,000 square feet of building area at a net rent of $2.85 a square foot with common area maintenance (CAM) combined with real estate taxes of $1.60 a square foot, for a gross rental rate of $4.46 a square foot. The Start Sampling tenant leased approximately 110,000 square feet with rent of $4.94 per square foot and $1.66 in CAM and real estate reimbursements for a gross rental rate of $5.60 per square foot of building area. Ryan determined the gross rents by examination of the base rent rolls and pass-throughs of the CAM and real estate taxes. The gross rent is what the tenant pays out-of-pocket to occupy the property. Ryan stated that the out-of-pocket costs being disclosed was important for the tenants to know.

[10] The sale price of comparable #2 was corrected at hearing to $9,518,440. The sale price per square foot was not affected.

Ryan testified that his rental comparables represented what is actually going on in the market. The rental comparables, found on page 75 of his appraisal report ranged from $4.17 to $5.21 per square foot of building area on a gross rental rate.[11] The rental comparables were adjusted for location, size, age, lease commencement date, closed ceiling height and overall utility to arrive at an overall adjustment. Ryan testified that he inspected each rental comparable. After making the qualitative adjustments, Ryan concluded a gross rental rate of $4.75 per square foot of building area and applied this to the subject's 335,000 square feet of building area to conclude a potential gross income for the subject of $1,590,000. Ryan stated that vacancy in the central DuPage submarket had a decrease from 7.56% in the fourth quarter of 2013 to 7.35% in the fourth quarter of 2014. For the purposes of determining market vacancy, he applied 7.35% of potential gross income to represent the vacancy and collection loss for the subject property which came to approximately $117,000 for an effective gross income of just under $1,475,000.

In order to determine appropriate operating expenses, Ryan examined the operating expenses from all four rental comparables. He also used the *Building Owners and Managers Association* (BOMA) survey of customers as to their operating expenses for industrial type properties. Ryan testified that the BOMA survey is specific to the market for suburban Chicago warehouse and manufacturing buildings. The size amounts were for buildings in excess of 400,000 square feet, similar to the subject. Ryan stated that BOMA also reported individual expenses. He used $0.02 cents for administration, repair and maintenance of $0.16 cents, utilities at $0.01 cents, insurance at $0.06 cents, management fees of $0.11 cents, respectively, per square foot of building area, which indicated expenses of $0.39 cents per square foot. Ryan also allowed a deduction for replacement reserves to cure short-lived items that would need replacement such as docks, windows, doors and roof. Ryan found the rental comparables had expenses ranging from $0.32 to $0.60 cents per square foot of building area, however, three of the rental comparables were under $0.42 cents a square foot of building area. Ryan opined that the operating expenses he used was reflected in the rental comparables. Ryan stabilized expenses at $0.59 cents per square foot of building area.

He excluded replacement reserves and real estate taxes because a reserve is what the owner puts away to be able to cure short-lived items that will wear out over the course of renting the property. The property taxes were substituted with a tax load based on the level of assessment and the appropriate tax rate so the property taxes would neither positively nor negatively affect his income approach analysis. Ryan stated that the overall capitalization rate converts net operating income into value via the income approach. He examined a survey called *Realty Rates* which is a national survey of property investors and industrial buildings. He testified that for industrial properties the first quarter industrial capitalization rates were from 4.6% to 13.5% with a median of 9.73%. He chose a 9% capitalization rate based on that criteria.

Ryan also considered the band of investment technique which weighs the mortgage and equity components found in the market. He stated they are weighted by the loan to value ratio and the equity ratio and when added together they give an idea of the overall capitalization rate. Based on the band of investment technique his conclusion of the overall capitalization rate was 8.18%. In reconciling the two approaches he weighted more towards the survey because these are the

[11] Page 76 or Ryan's appraisal report incorrectly described rental comparable #3 as being an asking rent when in actuality it was a consummated lease.

actual people that buy and sell properties in the marketplace and he then reconciled to an 8.75% overall capitalization rate. Ryan then used the level of assessment for DuPage County and multiplied it by the tax rate to determine the tax load or the effective tax rate. Ryan testified that in this case it was 3.51% which he then added to the overall capitalization rate of 8.75% for a tax adjusted or loaded overall capitalization rate of 12.26%. A tax load was applied because he did not deduct property taxes as an expense.

Ryan estimated effective gross income for the subject of $1,475,000 and deducted operating expenses of $196,000 to arrive at a net operating income of approximately $1,280,000 which was capitalized at the 12.26% overall tax loaded capitalization rate which then indicated a value for the subject of $10,416,412 or $10,425,000, rounded. (Intervenor's Exhibit G, page 84).

In reconciling the two approached to value for the subject Ryan gave more weight to the sales comparison approach because it reflects the actions and market transactions of property sold in the fee simple estate with support by the income approach to value. Based on his analysis, Ryan estimated the subject's fee simple value of $10,500,000 as of January 1, 2015.

On cross-examination, Ryan testified that he physically inspected the subject property on August 21, 2017. Ryan explained that even though he misstated the number of docks at the subject property, his adjustments for this feature were correct based on the subject having 57 total docks. Ryan admitted that his statement that the subject property, which sold in November 2013, was not advertised for sale, was actually advertised for sale to the public. Ryan reiterated that the standard is to use fee simple sales as opposed to leased fee sales. Ryan testified that whether a property can be leased has no bearing on the fee simple value in that when you buy a building that is vacant, you have the complete bundle of rights where you could lease it, occupy it, leave it sit vacant or wait for the market to change and tear it down. He stated a buyer has all of the options in buying a fee simple estate. If a buyer buys a leased property, the bundle of rights has been diminished as the buyer does not have the right to occupy the property.

Ryan testified that he did not stabilize the sale comparables he selected to reflect the market because they were vacant or soon to be vacant properties. In regard to comparable sale #5, Ryan admitted that the 2005 construction date was incorrect. He explained that the property was renovated in 1996 with new sides, a new roof along with a new parking lot. He incorrectly used the 2005 date for his adjustments. Ryan admitted that he should not have made a downward adjustment due to asking status for rental comparables #2 and #4 and should not have made an overall downward adjustment for these properties.

Ryan further testified that he examined the subject's sale in November 2013 but did not give it much weight because it was a leased fee sale and involved another property. He stated the purchaser was a real estate investment trust which he found out by looking at the transfer declaration sheet which also indicated the transfer was not advertised for sale. He did not consider the sale to be a fee simple interest.

On re-direct examination, Ryan testified that his typographical error of reporting the subject's number of docks in his appraisal report did not impact his final opinion of value because he went back and redid the dock space on a per square foot basis. He stated the subject property had the lowest building to dock ratio. The subject was found to have 6,000 square feet of dock space with rental comparable #2 having approximately 7,000 square feet of dock space with the rest of the rental comparables having a larger amount of dock space on a per square foot basis. Rental #2 was not adjusted for dock space and the others were adjusted upward. Ryan then reiterated that his incorrect description of the subject as having a broken floor plan would not impact his final conclusion of value.

Ryan testified that the basis of Illinois law is to value the fee simple interest unencumbered by leases either negatively or positively. The idea is the building would be valued as if vacant and available on the date of sale to sell or lease. Ryan further testified that if a leased fee sale was used, the appraiser would have to know how the lease was viewed by the tenant and buyer and what effect it had on value. He stated that shorter leases have capitalization rates that are higher, and the capitalization rates can change for stronger tenants. He stated that there is less risk and you would pay a lower capitalization rate for a Wal-Mart with a 25-year lease as opposed to a K-Mart with a similar lease.

He testified that before you could use that leased fee sale, the appraiser would have to know the lease terms and the contract rent. In regard to the subject's size (approximately 334,000 square feet) Ryan stated the market would be regional, which would include Lake County and Will County. Ryan stated the in regard to the capitalization rates, all types of industrial properties were used instead of the industrial distribution warehouse capitalization rates, however, he found they were closely aligned; therefore, his final opinion of value would not change.

Conclusion of Law

The appellant, Community Consolidated School District No. 93, 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 did not meet this burden of proof and an increase in the subject's assessment is not warranted.

The Board finds the best evidence of market value to be the appraisal prepared by Joseph M. Ryan, MAI, which estimated the subject's market value of $10,500,000 as of January 1, 2015 along with strong consideration of the income analysis presented by Atkinson. The Board finds Ryan's appraisal was well supported by the income approach presented by the board of review. The subject's assessment reflects a market value of $10,401,981 or $31.08 per square foot of gross building area, land included. The appellant requested the subject's assessment be increased to reflect a market value of $32,297,207[12] and submitted an appraisal prepared by Dale J. Kleszynski, MAI, SRA, estimating the subject property had a market value of $15,060,000 as of January 1, 2015.

Initially, the Board gives little weight in its analysis to the appellant's requested assessment of $10,754,970 which reflects a market value of approximately $32,297,207 using the 2015 three-year average median level of assessment for DuPage County of 33.30%. The Board finds no

[12] See appellant's appeal petition, Section 2(c).

support in this record for this claim. The Board finds the appellant did not file an amended petition to conform with the evidence produced by its appraiser. Section 1910.31(a) (86 Ill.Admin.Code §1910.31(a)) states in relevant part:

> After the Property Tax Appeal Board has transmitted an appeal to the board of review and the time period for intervention under Section 1910.60 has expired, a petition for appeal may be amended to correct any technical defects, except when the amendment would be prejudicial to a party.

The Board finds that appellant, after receiving not less than three extension requests, failed to file an amended petition in accordance with Property Tax Rule 1910.31(a) to conform its requested assessment with the evidence it presented in support of its claim.[13] Therefore, the board gives the appellant's request to increase the subject assessment to $10,754,970 to reflect a market value of $32,297,207 little weight. The Board will, however, consider the evidence presented by the appellant and give it its appropriate weight herein.

The Board finds the land sales developed by Kleszynski were a credible indicator of the subject's land value and supported the board of review's estimated land value for the subject of $3,103,574. Kleszynski estimated the subject's land value of $4.50 per square foot of land area or $3,125,000 utilizing five land sales. He stated the sales comparison approach for land only was important because the land value, given the intended use of the appraisal, is important to understand so that the property can be assessed correctly and is also important as part of the analysis of highest and best use.

Kleszynski utilized comparable land sales that he identified as having similar highest and best use features to the subject property. The land sales were located in industrial districts and were adjusted for property rights conveyed, financing, condition of sale, elapsed time on the market, location, zoning, size and physical variations. After making adjustments, Kleszynski selected a unit value for the subject of $4.50 per square foot of land area or $3,125,000, rounded. (694,723 x $4.50 = $3,126,254). (Appellant's Exhibit #1, page 37). The income analysis presented by the board of review depicts the subject's land assessment of $1,033,490 which reflects a land market value of $4.47 per square foot of land area or $3,103,574. In addition, the appellant's appeal petition requested no change in the subject's land assessment. Based on the minimal difference of land value as found by Kleszynski, the appellant's appraiser, and the board of review, the Board finds the subject's land value is supported and no change in the subject's land assessment is warranted.

The Board next examined the improved comparable sales presented by each appraiser. Kleszynski incorrectly reported the sale price for comparable #4. The corrected sale price was $12,125,000 and not $17,500,00 as reported. In regard to comparable sale #5, Kleszynski agreed a *CoStar* report depicted that the property had been listed on the market for lease for approximately two years and *CoStar* was unsure as to how long the property was actually listed

[13] Appellant's appeal found incomplete – 30-day extension granted on September 15, 2016. Upon request, a second extension request of 60-days was granted to appellant on October 21, 2016. On January 20, 2017 a final extension request of 60-days was granted appellant upon request.

in the market for sale. He agreed that the PTAX-203 Transfer Declaration Sheet (Intervenor's Exhibit E) for improved sale #5 indicated the property was not advertised for sale.

Kleszynski agreed that page 3 of his appraisal report indicates that market value is defined as the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale if a reasonable time is allowed for exposure on the open market. Further, Kleszynski agreed that in his reconciliation page 63 of his appraisal report depicts he placed greatest consideration on his sales comparison approach to value. Even though, improved sales #1 and #3 were leased fee sales with improved sale #2 being partially leased, sale information for improved sale #4 was incorrectly reported within the appraisal report and improved sale #5 not being advertised for sale.

Kleszynski testified that when you are doing a leased fee analysis the optimum set of circumstances is to have a copy of the lease and be able to analyze the specifics of the lease. However, Kleszynski agreed that the PTAX-203 Transfer Declaration sheet for improved sale #1 indicated the sale was not advertised for sale and that it was a leased fee sale. Kleszynski admitted that he did not know the terms of the lease. He could not answer what the rental rates were for this property. Further, Kleszynski agreed with the statement that:

> [I]ncome producing real estate is often subject to an existing lease or leases encumbering the title. By definition, the owner of real property that is subject to a lease no longer controls the complete bundle of rights, i.e. the fee simple estate.

(*Appraisal of Real Estate*, 13th edition, 2008, page 323, Intervenor's Exhibit "B").

Kleszynski agreed that the above exhibit also stated "[T]o compare the lease fee interest to the fee simple interest in the subject property, the appraiser must determine if the contract rents of the comparable property was above, below or equal to market rent." Kleszynski testified that for improved sale comparables #1, #2 and #3, he did not have copy of the leases and could not answer the questions surrounding the terms of those leases. *The Appraisal of Real Estate* text page 323 (Intervenor's Exhibit "B") states in relevant part:

> If the sale of a leased property is to be used as a comparable sale in the valuation of the fee simple interest in another property, the comparable sale can only be used if a reasonable and supportable market adjustment for the difference in rights can be made. . . . to compare the lease fee interest to the fee simple interest in the subject property, the appraiser must determine if the contract rents of the comparable property was above, below or equal to market rent.

Id.

Based on Kleszynski's use of leased fee sales without a full examination of the leases calls into question whether the sales he used represented fee simple values. The Board finds Kleszynski, therefore, made adjustments to the comparable sales based on subjective data without evidence of market support in the record. Kleszynski admitted that a lease can impact a purchase price, but still chose to use leased fee sales when fee simple sales were available.

Further, two of the sales used by Kleszynski (#1and #5) were not advertised on the open market. Of the five improved sales used by Kleszynski at least two were leased fee sales for which the leases were not examined and three of the sales were not exposed on the open market. One sale was misreported in the appraisal, which Kleszynski admitted was misleading in his report and actually sold for $32.04 per square foot and not the $46.24 as reported. Even though, Kleszynski gave the sales comparison approach to value the most weight in his final reconciliation, the Board finds Kleszynski's sales comparison approach to value was not reliable nor credible and does not support his final value conclusion.

Ryan, on the other hand, utilized six fee simple sales that he found in the marketplace. The six sales were located in Itasca, Aurora, McHenry, Romeoville, Bolingbrook and Libertyville, Illinois. Ryan testified that all of sale comparables were vacant at time of sale. Ryan stated that comparable sale #2 was reported to have a short-term tenant leasing approximately 35% of the building when the property sold. In his conversations with the broker, he was told the seller considered the purchase to be of the fee simple interest.

Further, Ryan inspected most of the sale comparables. Ryan testified that he independently verifies each sale with some party to the transaction such as the broker, seller or buyer. Ryan felt that all of his sales met the principle of substitution. He felt each comparable had a similar highest and best use as the subject. Ryan utilized qualitative adjustments and compared individual features of the building and market conditions. He stated they considered the property rights, financing, conditions of sale, market conditions, location, land-to-building ratio, building size, age, clear ceiling heights, dock areas to arrive at the total adjustments needed. Ryan adjusted the price per square foot of the comparable sales when compared to the subject. After making various adjustments, Ryan concluded a value for the subject of $31.50 per square foot of building area or $10,550,000, including land. The Board finds Ryan made logical adjustments to his comparable sales and supported the adjustments made.

The Board gave most weight in its analysis to Ryan's comparable sales #3, #5 and #6. These comparables sold as vacant properties from December 2013 to July 2015 for prices ranging from $5,992,887 to $13,500,000 or from $27.50 to $32.17 per square foot of building area, including land. The Board finds this is a fairly tight range from which an indication of value can be determined. After making adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated market value of $10,401,981 or $31.08 per square foot of gross building area, land included, is within the established range of the best comparables in this record and is supported.

The Board next examined the income approach to value as developed by the appraisers and board of review. For market rental rates, Kleszynski examined five rental properties located in the same general industrial district as the subject. The comparables were depicted as having rental rates ranging from $3.90 to $4.95 on a modified gross or net basis. Kleszynski testified that he estimated the subject's market rent on a net basis. He explained that in a net lease situation, the owner of the property controls a consistent dollar amount that they receive. Operating expenses such as real estate taxes, insurance and common area maintenance are passed through to the tenant on a pro rata basis.

To verify the rental data, Kleszynski used database services such as *CoStar* Comps and *Loop Net*. In addition, he had data available from his relationships with brokers and was able to generally verify some of the terms of the leases or were derived from the data sources. However, Kleszynski testified that he was unable verify the lease rates for the subject because that information was unavailable to him. Kleszynski took into consideration the various variations for location, size and amount of industrial/office space. Kleszynski then concluded an estimated market rental rate of $4.00 per square foot on a net basis was appropriate.

The evidence revealed vacancy rates between 2012 and 2016 had essentially dropped, but in 2015 they ranged from 4.3% to 7.1%. Kleszynski then elected to apply a vacancy and collection loss above that range at 8% in the evaluation of the subject property. Kleszynski estimated the subject's potential gross income for the subject of $1,338,872, which added estimated tenant reimbursements of $619,056 to arrive at total rental income of $1,957,928. He then subtracted vacancy and collection losses of 8% of total rental income ($156,634) to arrive at an effective gross income for the subject of $1,801,294. He then subtracted real estate taxes ($357,976), insurance ($43,513), common area maintenance ($217,567), management fees ($49,270), reserves for replacements ($12,318) and miscellaneous ($6,159) which indicated total expenses of $686,803. After these calculations, the subject's net income was estimated to be $1,114,491. (Appellant's Exhibit 1, page 49).

However, Braemer testified that the subject property is a multi-tenant property with two tenants as of January 1, 2015. The tenants were Pampered Chef and Start Sampling. His review appraisal, page 24, depicts the lease terms in the primary appraisal report (Kleszynski's report) were from the original Start Sampling lease, which was signed in 2008, prior to the crash of the real estate markets. In 2013, this tenant renewed their lease at a lower rate, due primarily to the crash of the real estate markets. The renewal term was from July 2013 to September 2018 (versus January 2009 start date in Kleszynski's report). Further, the actual effective net rent differed from the rent stated in Kleszynski's report. Braemer found the tenant received 3 months of free rent and when taking into account with the internal rate of return of 7.5% (based on discounts rates from the *PwC Real Estate Investor Survey*), the effective net rent is $3.71 per square foot versus the $4.45 per square foot as reported by Kleszynski. Braemer found this $0.74 per square foot difference to be substantial. Braemer testified that this was a renewal lease in which the tenant had already established their business at the property and had their equipment and product there on the property. He stated the rental rate would have those conditions and factors figured into the rental rate. Therefore, a renewal tenant may pay a premium above the market rent.

The Board finds that other than stating "minor adjustments were made to the comparables" Kleszynski's appraisal report is lacking information regarding what adjustments were made to the comparables and how they were applied to the subject. Kleszynski deducted the subject's actual 2015 real estate taxes of $357,976 which was based on a market value of $10,400,000, while concluding a value for the subject of $15,060,000. As counsel for the intervenor/taxpayer pointed out, this results in a difference in taxes of $155,000 higher. The Board finds Kleszynski placed more emphasis on utilizing comparables closely situated near the subject, even though the sales were leased fee sales as opposed to utilizing fee simple sales located within the subject's regional market and/or were not advertised on the open market.

The Board finds that Kleszynski's final opinion of value does not represent the subject's fee simple interest. The Board finds the data utilized by the appellant's appraiser to estimate the subject's income and expenses was not well supported with verifiable market data, and therefore, calls into question the estimations utilized. Based on the evidence submitted herein and the testimony provided, the Board finds Kleszynski overstated the subject's market value and is therefore not a reliable or credible indicator of the subject's fee simple market value as of January 1, 2015.

Ryan examined four rental comparables. Ryan testified that his rental comparables represented what is actually occurring in the market. The rental comparables ranged from $4.17 to $5.21 per square foot of building area on a gross rental rate. The rental comparables were adjusted for location, size, age, lease commencement date, closed ceiling height and overall utility to arrive at an overall adjustment. Ryan testified that he inspected each rental comparable. After making the qualitative adjustments, Ryan concluded a gross rental rate of $4.75 per square foot of building area and applied this to the subject's 335,000 square feet of building area to conclude a potential gross income for the subject of $1,590,000. Ryan stated that vacancy in the central DuPage County submarket had a decrease from 7.56% in the fourth quarter of 2013 to 7.35% in the fourth quarter of 2014. For the purposes of determining market vacancy, he applied 7.35% to represent the vacancy and collection loss for the subject property which came to approximately $117,000 for an effective gross income of approximately $1,475,000.

Ryan then examined the operating expenses from all four rental comparables. He also used the *Building Owners and Managers Association* (BOMA) survey of customers as to their operating expenses for industrial type properties. Ryan testified that the BOMA survey is specific to the market for suburban Chicago warehouse and manufacturing buildings. The size amounts were for buildings in excess of 400,000 square feet, similar to the subject. Ryan stated that BOMA also reported individual expenses. He used $0.02 cents for administration, repair and maintenance of $0.16 cents, utilities at $0.01 cents, insurance at $0.06 cents, management fees of $0.11 cents, respectively, per square foot of building area, which indicated expenses of $0.39 cents per square foot. Ryan also allowed a deduction for replacement reserves to cure short-lived items that would need replacement such as docks, windows, doors and roof. Ryan found the rental comparables had expenses ranging from $0.32 to $0.60 cents per square foot of building area, however, three of the rental comparables were under $0.42 cents a square foot of building area. Ryan opined that the operating expenses he used was reflected in the rental comparables.

Ryan stabilized expenses at $0.59 cents per square foot of building area. He excluded replacement reserves and real estate taxes. The property taxes were substituted with a tax load based on the level of assessment and the appropriate tax rate so the property taxes would neither positively nor negatively affect his income approach analysis.

Ryan then examined the *Realty Rates* survey which indicated that for industrial properties the first quarter industrial capitalization rates were from 4.6% to 13.5% with a median of 9.73%. He chose a 9% capitalization rate based on that criteria. Ryan also considered the band of investment technique which weighs the mortgage and equity components found in the market. Based on the band of investment technique his conclusion of the overall capitalization rate was 8.18%. In reconciling the two approaches he gave the survey more weight to conclude an 8.75% overall capitalization rate. Ryan then used the level of assessment for DuPage County and multiplied it by the tax rate to determine the effective tax rate of 12.26%. Ryan estimated effective gross income for the subject of $1,475,000 and deducted operating expenses of $196,000 to arrive at a net operating income of $1,280,000 which was capitalized at the 12.26% overall tax loaded capitalization rate which then indicated a value for the subject of $10,416,412 or $10,425,000, rounded. (Intervenor's Exhibit G, page 84).

The Board finds Ryan's appraisal report utilized credible and verifiable data to conclude a final opinion of value for the subject. His adjustments appear to be logical and reasonable based on market rates and appear to be supported by the conclusion of value as presented by the board of review.

The board of review's submission is an income analysis based on market information submitted to the local assessor's office. The record indicates the subject had two tenants in 2015. The assessor's office was also provided with actual rent rolls for the subject property that were used to develop the income analysis. Based on a review of the materials, the assessor's office concluded that the two leases at the subject property were classified as gross leases which is why they concluded a loaded overall capitalization rate was appropriate. Atkinson testified that one lease was for $5.51 per square foot of building area and the other was for $4.45 per square foot of building area. His office then used those figures to estimate the subject's potential gross income of $1,605,975, which was more than what Kleszynski ($1,338,872) and Ryan ($1,590,000) estimated.

Atkinson then testified that since 2015 was a quadrennial reassessment year, his office developed ratios based on market evidence for vacancy and collection expenses and capitalization rates. Based on all industrial property in the township [Bloomingdale] they utilized a 7.5% vacancy and collection loss and a 12.5% expense ratio along with a 9% capitalization rate. Atkinson stated that as township sales come into his office along with the income expense statements, they are able to develop and extract capitalization rates. His office then applied the ratios to the subject's potential gross income to conclude a net operating income for the subject of $1,299,836. They then applied an unloaded capitalization rate of 9% and added a tax load of 2.51% which indicated a market value for the subject of $10,391,570 or $31.05 per square foot of building area, including land.

Atkinson testified that at the beginning of a quadrennial reassessment year they have hundreds of appeals every year and in 2015 they had 900 appeals. As part of the process and in reviewing sales as they are provided to their office through transfer declarations and other sources, they use the data in their files because they have income expense statements from properties in the township as well as other sources including appraisal reports prepared by either intervenors or property owners. Based on the data provided he testified that after qualitative consideration of all the sources, a 9% unloaded capitalization rate was appropriate for industrial properties for the 2015 quadrennial reassessment period.

In regard to Ryan's appraisal, which he felt supported the board of review's income analysis, Atkinson testified that he did not have the benefit of Ryan's appraisal at the time his income analysis was prepared, therefore it did not impact his conclusion of value. He did not believe the two different values on a qualitative basis were in conflict. Atkinson stated that that the LaSalle

Appraisal Group report indicated a value for the subject of $10,500,000 while his office concluded a value for the subject of $10,391,580.

The Board finds the income analysis prepared by the local assessor is credible and is a reliable indicator that supports Ryan's final opinion of value for the subject as of January 1, 2015. The Board finds Ryan's appraisal is the best indicator of the subject's fee simple interest tempered by consideration of the income analysis presented by the board of review. Therefore, the Board finds Atkinson's income analysis supports Ryan's final opinion of value utilizing the sales comparison approach and income approach to value and moreover supports the final value conclusion as found by Ryan. Unrefuted testimony disclosed the board of review's income analysis was predominantly based on market data within the subject's township as collected by the assessor's office.

The Board finds both appraisers gave most weight in their final opinions of value to the sales comparison approach with consideration given to the income approach to value. Having considered the final opinion of value as found by Ryan and with consideration and support from the income analysis presented by the board of review, the Board finds the preponderance of the evidence herein supports the subject's current assessment which reflects a fee simple market value for the subject of $10,401,981, therefore, the Board finds an increase in the subject's assessment is not warranted. The Board finds the subject's assessment is well supported, and therefore, based on the evidence and testimony herein, no change in the subject's assessment is justified.

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:

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: September 15, 2020

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.

PARTIES OF RECORD

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