FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Community Consolidated School Dist. #93
DOCKET NO.: 15-05647.001-I-3
PARCEL NO.: 02-33-104-007

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 ***A Reduction*** 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:	$1,064,900
IMPR.:	$3,130,900
TOTAL:	$4,195,800

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.

Prior to the start of the hearing herein, appellant's counsel by oral motion requested the Property Tax Appeal Board invoke section 1910.94 (86 Ill.Admin.Code §1910.94) of the rules of the Property Tax Appeal Board which states:

Inspection of Subject Property – Effect of Denial by Taxpayer or Property Owner

a) No taxpayer or property owner shall present for consideration, nor shall the Property Tax Appeal Board accept for consideration, any testimony, objection, motion, appraisal critique or other evidentiary material that is offered to refute, discredit or disprove evidence offered by an opposing party regarding the description, physical characteristics or condition of the subject property when the taxpayer or property owner denied a request

made in writing by the board of review or a taxing body, during the time when the Board was accepting documentary evidence, to physically inspect and examine the property for valuation purposes.

b) Any motion made to invoke this Section shall incorporate a statement detailing the consultation and failed reasonable attempts to resolve differences over issues involving inspection with the taxpayer or property owner.

The Board finds the appellant's oral motion is untimely filed and further was not properly delivered to the taxpayer/owner of record, but, was rather delivered to the taxpayer/owner's counsel prior to their entry of appearance in this matter as representatives of the taxpayer/owner. Further, the request to inspect the subject property was purportedly requested by appellant's appraiser and not by the taxing body during the time when the Board was accepting documentary evidence as required in the above quoted rules of the Property Tax Appeal Board. In addition, the oral motion did not incorporate a statement detailing the consultation and failed reasonable attempts made to resolve differences over issues involving inspection with the taxpayer or property owner. For these reasons, the Board denies appellant's motion to invoke Section 1910.94 of the Property Tax Appeal Board rules.

Findings of Fact

The subject property consists of a one-story, tilt-up concrete panel constructed single-tenant industrial building.[1] The gross building area is 392,959 square feet.[2] The improvements were constructed in approximately 1998. The subject features approximately 19,267 square feet of finished office space, an open bullpen layout, conference rooms, a lunchroom and two sets of washrooms. In addition, the subject features locker rooms, mechanical rooms and warehouse/loading space. The subject has a ceiling clearance of 32 feet in the warehouse. Other features include 50 exterior docks and 1 drive-in door. The property is situated on a 787,437 square foot site or 18.08 acres with an overall land-to-building ratio of 2.04:1.[3] The subject is located 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 $16,900,000 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 1977 and is

[1] The subject was described as a one-story structure; however, the evidence revealed the subject also features a second story mezzanine level.

[2] This includes 8,172 square feet office space located on the second floor. The Board finds the minor discrepancy in the subject's size does not impact the Board's decision herein.

[3] The parties differed as to the exact 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.

licensed in Illinois and Indiana. He testified that he is a qualified Uniform Standards of Professional Appraisal Practice ("USPAP") instructor for the Appraisal Foundation. He is the President and Chief Appraiser for Associated Property Counselors, Ltd. Kleszynski has served with the Appraisal Institute from the local level up to the president of the Chicago Chapter of the Appraisal Institute. In addition, he has served on a national level on the Board of Directors as well as the Executive Committee and chaired the General Appraisal Board which sets the educational and admission requirements for persons seeking their MAI designations. Kleszynski stated he has appraised hundreds of warehouse distribution centers while appraising from 20 to 30 within the past five years.[4]

Kleszynski identified himself as the preparer of an appraisal report. (Appellant's Exhibit A). He testified that the appraisal report was prepared in a manner consistent with USPAP. Kleszynski testified that he personally performed an exterior inspection of the subject property on January 26, 2017. He viewed the public area, the dock areas and the overall location of the property. Kleszynski testified that he did not perform an interior inspection of the subject property, because he was not allowed by the taxpayer. Therefore, in preparation of his report, he relied on information from the township assessor using the subject's property record card along with various database services which include *CoStar* and LoopNet including flyers he examined regarding the subject property.

Kleszynski was required to make various assumption in preparation of his appraisal report. The assumptions related to the issues of physical condition, the physical square footage, amount of office space and the physical components for the property for things such as the ceiling heights, existence of locker room facilities as well as services by sprinkler systems and power and the loading docks. Kleszynski called these assumptions an extraordinary assumption as it relates to the idea that in the event they needed to make any adjustments to his evaluation of the property because of what they discovered during those processes, they wanted to have the opportunity to do so.

Kleszynski stated the subject property is located in the primary industrial district of Carol Stream, Illinois in DuPage County. Kleszynski described the subject's land as a generally rectangular-shaped parcel that has approximately 765 feet of frontage along the west side with approximately 1,023 square feet of frontage along the north side. He described total land area as being 787,437 square feet of land area or 18.08 acres. He stated the subject property was not located in a flood hazard area and was serviced by all municipal public and private utilities.

The subject was improved with asphalt-paved driveways, parking areas, concrete service walks, light standards, a guardhouse and various types of signage. The subject's improvements were described as a masonry or concrete panel industrial building which was estimated to be built in 1995. The subject contains approximately 392,959 square feet of building area with 19,267 square feet or 4.9% of finished office space. He considered the subject to be a modern multi-tenant industrial design with adequate restrooms, power sources and ceiling heights ranging from 30 to 33 feet. Further the subject was described as having a sprinkler system and 51 docks. He considered the property to be in average condition based on his exterior inspection and his development of the data.

[4] Kleszynski was accepted as an expert valuation witness without objection.

Kleszynski testified that his assignment was to estimate the market value of the fee simple interest in the subject property in accordance with his determination of the highest and best use. Kleszynski stated the highest and best use of the property would be the optimum use to which the property could be put and it is the use that will yield the greatest net return to the land for the longest period of time. He opined that after working through the tests of legal permissibility, physical possibility, financial feasibility and maximum productivity, they determined that as vacant the highest and best use of the property was to be developed with an industrial distribution improvement that was consistent with the current zoning ordinance and area development patterns which were predominantly industrial in character. As improved, Kleszynski opined the current use of the subject property as a distribution center having approximately 400,000 square feet of building area is the highest and best use of the property as improved.

In estimating the subject's value, Kleszynski utilized the market data approach in order to estimate the land value component of the property and then in order to evaluate the property as improved, he applied both the income approach to value as well as the sales comparison approach to value. In regard to the sales comparison approach for the land only, Kleszynski stated it was important because there were certain assumptions that had to be made relative to the condition and overall utility of the property that they we not able to get a visual of. They then determined that there was going to be too many assumptions to be applied in order to do a cost approach to value that would be appropriate. He stated that because the land component of the assessment is a critical component not only of the assessment, but also of understanding the highest and best use. Because of this, they elected to present an analysis of the sit in order to estimate the most probable price that someone would pay for the land only in the event that the property was vacant.

In his analysis of the property for land only they elected to examine five comparable sales that had similar highest and best use and zoning when compared to the subject. Page 35 of his report (Appellant's Exhibit A) is a presentation of the comparables used. The appraisal report depicts the comparables were located in Bartlett, Bensenville and Franklin Park, Illinois and 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 for property rights conveyed, financing, condition of sale, elapsed time, location, zoning, land area and physical variations, Kleszynski selected a unit value for the subject of $4.25 per square foot of land area or $3,345,000, rounded. (787,437 x $4.25 = $3,346,607). (Appellant's Exhibit A, page 37).

Kleszynski next developed the income approach to value. For market rental rates, he examined five rental properties he considered appropriate based on their location, size and industrial/office applications. His appraisal depicts the rental comparables ranged in size from 42,350 to 328,140 square feet of leased area with 0% vacancy rates. The comparables were depicted as having rental rates ranging from $3.90 to $4.91 on a modified gross or net basis. Kleszynski stated that all of the rental comparables they selected were located within the physical parameters he identified as the industrial area in which the subject is located.

Kleszynski testified that his estimate of market rent reflects a rent being calculated on a net basis. When questioned on the difference of a gross lease as compared to a net lease, Kleszynski stated that it is essentially a function of market viability. In the subject's particular market, the information indicated that the typical lease was written on a net basis. He stated a net-based lease means that the property owner receives net to them on a per square foot rental rate and that the tenant participates in the expenses over and above the net rent. Normally the division for net rent is that the tenant will pay a pro rata share or a per square foot share of the taxes, insurance and common area maintenance (CAM). Further, although there are some variations in the rent, the typical net rent causes the owner of the property to participate in the management expense and the expenses associated with vacancy and collection losses and reserves for replacement and miscellaneous items would be identified as expenses that would be unforeseen or not things charged back to the tenant because of agreements or the type of chargeback that existed.

Kleszynski testified that he verified the rental data from database services using *CoStar* and *LoopNet*. In addition, he utilized his relationships with a number of realtors and was able to either pull things from their websites or was able to obtain flyers for the properties that he selected. Kleszynski testified that in some instances he was able to verify the leases and in some instances he could not. Kleszynski stated that rental rates and terms for lease and properties such as the subject, which he would classify as being high-end properties in an operating industrial park are really protected by the source meaning the realtor involved. He said they consider it to be proprietary information particularly as it relates to expiration dates, bumps and expenses associated with how they are divided up between the owner and the tenant. He considers full information to be somewhat difficult to obtain unless an actual copy of the lease is obtained, which is often not available.

Kleszynski was not able to verify the leases for the subject property even though he requested them. In regard to adjustments to the rental comparables, Kleszynski stated there were not a great deal of adjustments that needed to be applied because the rentals they selected were very similar to the subject property and the general range was what he would consider to be reasonably tight expanding only by a dollar per square foot between the low and the high. (See page 47, Appellant's Exhibit A). Because there were not significant adjustments to be applied, they were content with selecting a market rental rate from within the depicted range or close to that range. Kleszynski concluded that the economic rent for the subject property, as of January 1, 2015, is supported at $3.75 per square foot of building area on a net basis. Kleszynski stated the vacancy rates utilized within his appraisal report was derived from two sources. He stated they had the vacancies that existed in the buildings they utilized as comparables which indicated zero vacancy rates. They then compared that with the surveying information taken from the *CoStar* database which included data taken over a five-to-six-year period of time involving approximately 19,100,000 square feet of general industrial space in which he limited his search to only include Carol Stream. The information depicted vacancy rates for properties like the subject generally range from 4% to 7.1% and that the average vacancy rate between 2012 and 2016 was approximately 6.4%. From this, he concluded an estimated vacancy and collection loss for the subject of 7%.

The appraisal report depicts potential gross income for the subject of $1,473,596 (392,959 square feet x $3.75 per square foot) which he then added estimated tenant reimbursements of $757,822 to arrive at total rental income of $2,231,418. Kleszynski then subtracted vacancy and collection

losses of 7% ($156,199) to arrive at an effective gross income for the subject of $2,075,219. He then subtracted real estate taxes ($494,540), insurance ($47,155), common area maintenance ($216,127), management fees (4% of effective gross income or $54,818), reserves for replacements (1% of effective gross income or $13,704) and miscellaneous expenses (0.5% of effective gross income or $6,852) which indicated total expenses of $833,196. After these calculations, the subject's net operating income was estimated to be $1,242,023. (Appellant's Exhibit A, page 49).

Kleszynski testified that in estimating the overall capitalization rate he had information from the sales he used. For example, his sale #1 that was utilized in his sales comparison approach to value, he was able to extract a capitalization rate of 7%. In addition, he reviewed data from *Price Waterhouse Cooper's National Investor's Survey* which indicated that the overall capitalization rate range for properties that would be considered national warehouse facilities ranged from 4.5% to 7% with an average of 5.77%. He stated they elected to also apply a mortgage equity band of investment analysis which was presented on page 51 of his appraisal report. He explained that this method was utilized by analyzing the available interest rates in the market as well as expected returns to the equity position. Kleszynski elected to use a 4.5% interest rate with a 25-year amortization and then applied a 9.5% expected return on the equity side of the investment and developed an overall capitalization rate of approximately 7.35% which is just slightly over the range depicted in the National Investor Survey and the sale he presented in his sales comparison approach (sale comparable #1)

In developing the income approach to value, Kleszynski capitalized the subject's estimated net operating income of $1,242,023 by 7.35% which yielded a value indication of $16,898,272 or $16,900,000, rounded.

Kleszynski next developed his sales comparison approach to value using information from database services such as *CoStar*, *Loop Net* and other privately developed information they had on the comparables in his database system. In this case they elected to utilize facilities that were over 250,000 square feet to 500,000 square feet of building area to limit the search to properties located in DuPage County. Based on this they reviewed the information, tried to verify the information and then elected to present five sales for use in the analysis of the subject. Kleszynski stated they found sufficient amount of information in DuPage County with what they thought were good sizes and current dates in order to estimate the value of the subject. All of the comparable sales were industrial warehouses or distribution centers. The sales were verified, depending on the particular transaction with either or a combination of contact with the realtors involved, the preparer of deeds or with the parties involved. In every instance for the sales they used, his office was able to verify the information with public records, deeds and/or PTAX documentation.[5]

Page 59 of Kleszynski's appraisal depicts the improved sales were located in Carol Stream, Aurora and Bartlett, Illinois. The comparables ranged in size from 252,946 to 400,000 square feet of building area with land-to-building ratios ranging from 1.94:1 to 3.45:1. The properties

[5] The hearing transcript, page 63 incorrectly depicts PTAB's documentation was used. It appears the witness stated PTAX documentation.

sold from April 2012 to December 2014 for prices ranging from $11,250,000 to $17,500,000 or from $40.50 to $52.50 per square foot of building area, including land.

Kleszynski testified that sales #1 and #2 were leased at the time of sale which meant the buyer acquired a leased fee interest. Kleszynski further testified that leased fee sales are a good indicator of value and they were able to determine what the test material teaches is true that a property that is leased at market rent has no variation in the value of the interest being purchased. He stated that although it is clear that a leased fee interest is different from a fee simple interest, it is also clear that when leased at a market rate and at market terms, the price paid or the value of the leased fee interest is equal to the fee simple interest, which is what he presented. He stated the leased fee sale reflects the fact that the market is operating at an appropriate level where there is consistency between rental rates and acquisitions by owner-users or people who would be buying a property that might be vacant in order to enter into the market and possibly lease a portion or all of the property out. He opined that it reflected market balance and also reflected that market conditions in Carol Stream were what he considered to be reasonably strong.

Kleszynski reviewed comparable sale #1 in terms of the leased fee interest and was able to determine that sale #1, although encumbered by a lease at the time of purchase, that the lease was either at market or slightly below market and therefore, no adjustment should have been applied. He stated that for comparable sale #2, the property was leased at or below market rates indicating that there was no ability to extract an adjustment for the variations in property rights conveyed. He believed comparable sales #1 and #2 were equal to the fee simple interest. And were supported by comparison to sales #1, #2, #3 and #4 which had a range from $40.50 to $46.24 per square foot of building area, including land. Kleszynski found it was a reasonably tight range given the differences in the physical characteristics of the property.

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. Kleszynski explained he did not adjust the comparables for age because the comparable properties ranged from 8 to 30 years old and with the subject being approximately 18 to 20 years old, along with the subject's observed condition from the exterior as well as the exterior inspection of the comparables indicated they were of similar condition, the physical variations based on observations and the overall adjustment which takes into account consideration of age. He opined that all of the comparables he selected have the same effective age. Based on the adjustments, Kleszynski estimated the subject's value of $43.00 per square foot of building area or $16,900,000, rounded.

In reconciliation of the two approaches to value, Kleszynski placed most reliance in estimating the fee simple value of the subject property on the sales comparison approach because it represents the interactions of buyers and sellers in the marketplace and in this particular instance they had a combination of buyers and sellers that represented both investors as well as users of the property and because of the tight range of pricing on the comparables, the sales comparison approach was a better indicator of the subject's value as opposed to the income approach which required him to apply certain assumptions. Based on his analysis, Kleszynski opined that the market value of the subject property as of January 1, 2015 was $16,900,000.

On cross examination, Kleszynski agreed that the subject's land assessment as applied by the local assessor was $3,200,000 or $4.05 per square foot of land area. Kleszynski did not adjust the improved comparables for whether or not they had a sprinkler system. He admitted that he was only able to extract a capitalization rate from one comparable sale because they had what they thought was at least reasonably good information about what the income was for comparable sale #1. The date of sale for comparable sale #1 was April 2012. Kleszynski then agreed that there was an increase in value overall in the industrial market from 2012 to 2014 for the industrial market in central DuPage. He thought the increases ranged from 3% to 6% annually. He agreed that if it were 6% annually, then a two-year-old sale would have a straight-line adjustment of 12%.

Kleszynski testified that he and his son, Patrick, worked together to prepare the appraisal report, but he formulated the final opinion of value. Kleszynski explained that he did not prepare a cost approach to value because he did not get into the building to observe the physical condition of the interior of the building as well as the utility of the property as it relates to the floor plan, location of the docks, location of the posts and beams and the floor plan itself. Because of this, he made the determination that it would require too many assumptions that would put the completion of the cost approach at a certain level of risk, so he decided not to use it. In addition, for a building of the subject's age, an investor would not think it relevant.

In regard to his land sales, he agreed that land sales #1 and #2 were smaller than the subject and that land sale #2 involved an adjacent property owner. Even though it would suggest that an adjacent property owner might pay a premium, Kleszynski stated that sale #2 was supported by the market data and was at the lower portion of the established range for industrial land sales. He stated he did not adjust comparable land sale #2 for this issue because he could not extract that factor out. Even though land sale #2 occurred within a year of the assessment date in question, he made an upward adjustment for date of sale. Further, he agreed that he made no adjustment for land sale #3, which occurred in March 2014, even though comparable land sale #2, which sold in late January 2014 was adjusted. Kleszynski stated comparable sale #3 had improvements on it at time of sale which would have to be demolished. Kleszynski testified that because the property was improved it may or may not affect the land value. He did not make any adjustment for the improvement which needed to be demolished.

Intervenor's counsel then pointed out that an improved sale in Wood Dale, Illinois and two improved sales in Carol Stream were not used by Kleszynski in his sales comparison approach. In regard to comparable sale #1, Kleszynski stated he reviewed the *CoStar* report and the Transfer Declaration Sheet for this property in preparation of his appraisal. Kleszynski was then shown the *CoStar* report and the Transfer Declaration Sheet for this sale. (Intervenor's Exhibits 1 and 2). Kleszynski admitted that the Transfer Declaration Sheet depicted comparable sale #1 was not advertised for sale on the open market. Kleszynski further admitted that comparable sale #1 was leased at the time of sale and agreed that the buyer was purchasing an income stream along with the property. Kleszynski was unable to state the number of leases which may have been present at the time of comparable #1's sale. Kleszynski could not state the specifics of the lease(s) for comparable sale #1. The *CoStar* report depicted Allegheny Technologies, Inc. was the lessee at time of sale. Kleszynski reiterated he could not state if there were additional tenants. Kleszynski admitted he did not review the lease(s) for this property, so he could tell when the lease(s) started or how long the lease(s) were. Kleszynski agreed that the market

conditions at the time a lease is executed could affect the lease rate. Kleszynski testified that he could not state what the market conditions were at the time it was leased because he did not have the signed lease date. Kleszynski could not state what types of lease(s) were in place or whether they included any free rent. Further, he could not state if the lease(s) contained a rental escalation clause or renewal option.

Kleszynski agreed he indicated comparable sale #1 sold at a 7% capitalization rate which he acquired from *CoStar* reports that confirmed the information within the SEC filing which indicated a stabilized capitalization rate of 7%. Kleszynski agreed that he did not discuss this capitalization rate in his appraisal report.

Kleszynski stated comparable sale #2 was also leased at time of sale. Kleszynski admitted he did not review the lease(s) for comparable sale #2 and therefore could not answer questions concerning the specific terms of the lease(s). Kleszynski acknowledged that even without knowing specific lease information, he did not make any adjustment for the lease(s). Kleszynski stated no adjustment was made because the sales appeared to be at market prices. Kleszynski admitted that he did not have the lease information for comparable sale #2 to make the statement that the lease was at market rate. However, when he compared the sale to other sales he used, comparable sale #2 appeared to be at market levels.

Kleszynski was then presented with the *CoStar* report and Transfer Declaration Sheet for comparable sale #3. (Intervenor's Exhibits #3 and #4). Kleszynski's appraisal report, page 56 depicts comparable sale #3 sold in January 2014 for $17,500,000. However, the Transfer Declaration Sheet depicts the property sold for $12,125,000 and not the $17,500,000 as shown in the appraisal. Kleszynski agreed that at a sale price of $12,500,000, the sale would be at $32.04 per square foot of building area, including land. Kleszynski was then presented with the *CoStar* report and Transfer Declaration Sheet for comparable sale #4. (Intervenor Exhibits #5 and #6). The *Costar* report depicted comparable sale #4 was occupied at time of sale and immediately vacated after the sale. The *CoStar* report and the Transfer Declaration Sheet for this sale also indicated that comparable sale #4 was not advertised for sale. Kleszynski did not agree that comparable sale #4 did not meet his definition of market value. In his appraisal report, page 3, indicates the most probable price a property should bring is a competitive open market allowing for a reasonable time for exposure in the open market. The Transfer Declaration Sheet for comparable sale #5 was presented to the witness. (Intervenor's Exhibit #7). Kleszynski admitted that the Transfer Declaration Sheet for this sale depicted it also was not advertised for sale. Kleszynski admitted that he would have reviewed the *CoStar* report and Transfer Declaration Sheet for these sales.

Kleszynski acknowledged that in his final reconciliation to value he place most weight on his sales comparison approach even though sales #1 and #2 were leased fee sales and the sale price for sale #3 was incorrectly listed along with sales #4 and #5 not being advertised for sale.

Questioning then focused on Kleszynski's income approach to value. Kleszynski stated he did not review the actual leases for his rental comparables. Kleszynski stated that in most cases he spoke with one of the parties involved in the transaction. He believed all of the leases were consummated leases. Kleszynski admitted that rental comparable #1 was a gross lease which meant the tenant was paying for a portion of the expenses, however, he could not state what line

items the tenant was responsible for. He admitted the lease for rental #1 was for one-half of the building. He did not know anything about the other tenant who leased the other half of the building and could not state what type of lease the other tenant agreed to or the terms of the lease. The construction date for rental #1 was not disclosed within his appraisal report. Kleszynski admitted that his report does not disclose what adjustments were made to the rental comparables.

Kleszynski then acknowledged that even though rental comparable #3 was approximately 10% the size of the subject, he did not adjust this comparable to the subject. He also did not make a specific adjustment for the smaller size of rental comparable #4 when compared to the subject. Kleszynski admitted that for all of his net rental comparables (#2, #3, #4 and #5) he did not list the specific additional income other than the base rent.

Kleszynski agreed that his opinion of value for the subject of $16,900,000 would indicate an increase in real estate taxes of approximately $90,000, however when he computed the subject's tax load, he utilized the subject's actual taxes paid ($495,000) based on its current assessment value. In development of his overall capitalization rate, Kleszynski did list his sources when he developed the band of investments.

Kleszynski then testified that each approach to value is independently developed and does not rely on the other approaches to value. He then agreed that his sales comparison approach to value ($16,897,237) was about a $1,000 apart from his income approach to value ($16,898,272).

Kleszynski agreed that even though his rental comparables ranged from $3.90 a square foot on a net basis to $4.91 a square foot on a modified gross basis, he used $3.75 a square foot for the subject. In addition, his capitalization rates ranged from 4.5% to 7% and he used 7.35%. Kleszynski agreed that the use of *CoStar* would only be start to an analysis and would need to be verified. Kleszynski stated that for properties such as the subject, it is typical that they are not advertised for sale, but rather, a realtor would marry the parties together for a buyer in need of a property and a seller retaining a property. Further, it would be typical for a property such as the subject to trade among brokers without being advertised for sale on the open market.

On re-direct examination, appellant's counsel introduced a letter prepared by Kleszynski sent to the taxpayer in care of Eugene L. Griffin & Associates requesting access to the subject property as well as historical financials, rent rolls, floor plans, survey and capital improvements. (Appellant's Exhibit B). Kleszynski agreed that the PTAX-203A Statement for his comparable sale #1 indicated the sale price paid was a fair market value. Kleszynski stated he was able to rely on that for his sales comparison analysis. The witness was then provided with the PTAX-203 Statement for comparable sale #2. (Appellant's Exhibit C). The document depicted the sale also reflected a fair market value and also indicated the property was in fact advertised for 2 months on the market.

Kleszynski then admitted that his comparable #3 on page 56 of his appraisal report contained typographical errors. He stated it was an issue concerning his database. The PTAX-203A Statement for comparable #4 also stated the sale reflected a fair market value and had been on the market for 3 months.

Based on this evidence, the appellant requested the subject's assessment be increased to reflect market value of $16,900,000 commensurate with Kleszynski's final value opinion as stated in his appraisal report. At this point in the proceedings the appellant rested its case in chief.[6]

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total equalized assessment for the subject of $4,785,280. The subject's assessment reflects a market value of $14,370,210 or $36.57 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 prepared the evidence submitted by the DuPage County Board of Review. Atkinson prepared the sales grid analysis, the income analysis and the equity grid analysis.

He stated his sales comparables analysis identified properties within Bloomingdale Township. (Board of Review Exhibit A-1).[8] Atkinson testified that they show the subject as having 393,516[9] square feet of building area with approximately 8,172 square feet of office area. He stated his office receives all of the transfer declaration sheets that occur in Bloomingdale Township. His office also has access to *CoStar* and other databases to verify those sales which enabled him to utilize a compiled database. He testified that he reviewed their verified sales and found five properties that were very similar to the subject property within the township and ranked them accordingly. The witness testified they considered sales within 3-years of the tax lien date, so they looked at sales from 2012 to 2014. 2015 was a quadrennial reassessment period.

The sales grid (Board of Review Exhibit A-1) depicts five sale comparables situated on sites ranging from 10.866 acres to 26.125 acres. The comparables were built from 1966 to 1991, had wall heights ranging from 14 to 31 feet with land-to-building ratios ranging from 1.75:1 to 3.10:1. The comparables featured office spaces ranging from 0.38% to 15.03% of building area. The comparables sold from September 2012 to December 2014 for prices ranging from $7,250,000 to $20,500,000 or from $22.92 to $47.68 per square foot of building area, including land. The grid depicts a median sale price of $33.04 per square foot of building area. Atkinson testified that all of the comparables are within 6 miles of the subject with 4 being in Carol Stream as is the subject. He stated that comparable sales #2 and #5 were indicated by the *CoStar* reports that there may have been market factors that pushed those two values higher. Comparable sales

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[6] Intervenor/taxpayer's counsel renewed its motion for directed verdict based on the appellant requesting an assessment of $15,946,420 which reflects a market value of approximately $47,887,147 even though the evidence produced by the appellant (Kleszynski Appraisal, Appellant Exhibit A) depicts an estimate of value for the subject of $16,900,000. The Board finds the appellant at no time attempted to amend its requested assessment in the appeal petition to correspond with the evidence submitted. The motion for directed verdict was denied, the evidence submitted by the appellant will be given its appropriate weight.

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

[8] The property record card was identified in the record as Board of Review Exhibit A-4).

[9] The witness corrected the subject size to this amount as shown on the property record card.

#2 and #3 were the same property. He stated the second sale of this property (sale #2) was indicated to have had renovations done to the building which may have influenced the value. He considered sales #2 and #5 to be outliers of what he would consider to be an appropriate value for the subject property.

Atkinson then testified as to the equity analysis he prepared. (Board of Review Exhibit A-2). He testified that as part of an appeal process his office regularly checks the assessment of an appealed property against comparable assessment equities in the township because they are very concerned about uniformity. He stated it was important that they distribute the tax burden equitably across all like properties. He then looked at four primary factors with the first factor being square footage. He considered the square footage range to be 100,000 square feet of building area based on the limited amount of large properties within the township. He then examines the wall height. He explained that since they measure from the outside, the actual ceiling heights might be 2 – 3 feet shorter. Atkinson testified that square footage and wall heights are very important drivers of market value. Year built is also important. Finally, he then examines land-to-building ratios. The median value of the equity comparables was depicted as $35.27 per square foot of building area. The subject was depicted as having a value of $40.59 per square foot of building area, including land, which he found was considerably higher than the median value.

Atkinson next testified regarding his income analysis. (Board of Review Exhibit A-3). Atkinson testified that when his office is approaching a quadrennial reassessment period, they prepare an analysis on ratios that can be applied uniformly. He stated they get hundreds of appeals during a quadrennial reassessment period. They had over 900 in 2015. Looking at 2012 through 2014 they found a vacancy and collection allowance of 7.5% was reflected by the market activity in the township. An expense ratio of 12.5% was indicated on a triple net basis along with a capitalization rate of 9% based on sales activity within the township. Atkinson further testified that they received the subject's rent roll and were able to use the subject's actual net rent which indicated $3.67 per square foot of building area. He then applied that to the gross building area of 393,516 to arrive at a potential gross income for the subject of $1,444,204. After applying vacancy and collection losses of $108,315 or 7.5% of potential gross income the effective gross income was indicated to be $1,335,888. From this he subtracted 12.5% of effective gross income ($166,986) which indicated net income for the subject of $1,168,902.

He then applied an unloaded capitalization rate of 9% which produced an indicated market value of $12,987,800 or $33.00 per square foot of building area, including land. He stated Kleszynski utilized a rental rate of $3.75 per square foot of building area and his actual rate for the subject was $3.67 per square foot of building area.

Atkinson testified that the vacancy allowance, other expenses and capitalization rates were extracted from the market data his office receives. Atkinson agreed that his income analysis indicated a value for the subject of $33.00 per square foot of building area, his equity analysis produced a median value of $35.27 per square foot of building area and his sales comparison analysis indicated a median value of $33.00 per square foot of building area. Atkinson testified that because a part of their character is to help ensure an equitable distribution of the tax burden, when there is a disagreement among the different approaches to value, they tend to favor equity out of fundamental fairness to other property owner in the township.

On cross-examination, Atkinson testified that he used the subject's actual income of $3.67 per square foot of building area and used market derived data for the remaining part of his income analysis. In regard to development of his 9% capitalization rate, Atkinson testified that in preparation for the quadrennial reassessment period, they receive reports of all sales within the township and have access to actual income for the properties within the township. They also have access to *CoStar* and other reports or industry publications that would indicate what appropriate capitalization rates are. Based on a totality of the information his office believed a 9% unloaded capitalization rate was appropriate and standard. He agreed that the supporting information was not submitted into evidence.

The witness then testified as to the differences in his sale #2 and Kleszynski's comparable sale #3. He stated Kleszynski's appraisal reported the wrong sale price, which would change the price per square foot value. In addition, the grantor/grantee were different, and the dates of sale were different along with a different document number referencing the sale. He agreed there were two separate sales of the same property. Kleszynski utilized the first sale of that particular property but presented the wrong sale price.

Atkinson stated he used net lease rates without adding tenant reimbursement income, real estate taxes or insurance into the income, which he thought would be improper to do. He testified that if he did include those expenses it would represent a gross lease and would then require a loaded tax rate. Atkinson stated that the expenses he used are not particular to the subject property, but rather, were derived from all of their income analyses for income producing industrial properties in the Bloomingdale Township.

Based on his analysis, Atkinson concluded an assessed value for the subject of $4,329,270 which equates to a market value of $12,987,800 or $33.00 per square foot of building area, including land. He stated the current assessment in tax year 2015 for the subject is $36.48 per square foot of building area. He then agreed that his actual income analysis, equity analysis and his median sale price for properties similar to the subject support a lower value for the subject in 2015. Atkinson testified that if he removed sales #2 and #5, which he considered outliers, the sales would range from $22.92 to $33.04 per square foot of building area, including land, which is also below the subject's value as reflected by its current level of assessment. Atkinson stated all of his sales were open-arm's-length transactions. To the best of his knowledge none of the sales were leased fee sales. Based on the above testimony the board of review requested confirmation of the subject's assessment.

The taxpayer/intervenor called Bradley Braemer, MAI, AI-GRS as a witness.[10] 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.

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

Braemer testified that he was assigned to review the appraisal report prepared by Kleszynski (Appellant's Exhibit A) for credibility. Braemer inspected the subject property on February 13, 2018. The review appraisal prepared by Braemer (Intervenor's Exhibit #8) was entered into the record. He personally inspected the interior and exterior of the subject property on February 13, 2018. Braemer testified he reviewed Kleszynski's appraisal report following the USPAP guidelines. He did not develop a second opinion of value for the subject.

He testified that his first step in reviewing Kleszynski's appraisal was to make sure his [Kleszynski's] appraisal was a USPAP compliant appraisal. He then looked at the adequacy, relevance and reasonableness of the data included in the appraisal that is under review. The final step was to determine if the final conclusions are credible. Page 22 of his review is a summary of what was in Kleszynski's report regarding a lease of the subject property. Page 23 is a description of the actual lease that he received from the client at the subject property. Braemer testified that the tenant is Office Depot, and they at one point occupied a portion of the building and then around 2012 they signed a lease for the remaining portion of the building. He stated that on the date of value one tenant occupied the entire building. Page 23 of his review report depicts the lease terms which indicated an effective rate of rent of $3.50 per square foot of building area which was closely aligned with the amount Kleszynski used in his appraisal at $3.51 per square foot of building area. However, he stated that he did not see in Kleszynski's appraisal a statement that the Office Depot lease was a renewal lease and that Office Depot had been in the property for several years.

He testified that in an appraisal they were looking for tenants new to the building. This is because a renewal tenant would have the additional costs associated with moving as they have their equipment in the property, so typically an appraiser will put more weight on new leases versus renewal leases. Braemer testified that Kleszynski's comparable sales #1 and #2 were leased fee sales for which no adjustment was made for the leases that were in place at time of sale. Braemer agreed with Kleszynski that an appraiser can use leased fee sales in a fee simple valuation as long as an adjustment is made for above or below market rates. He stated that if there is no difference in the contract rents versus the market rents then no adjustment is necessary. Braemer found fault in Kleszynski's appraisal because the appraisal does not state any of the details of the leases and throughout Kleszynski's testimony it was clear Kleszynski did not have the leases for comparable sales #1 and #2. As a reviewer, he could not tell from reading Kleszynski's appraisal whether an adjustment should have been made, he wanted to compare the actual rents but could not.

He further stated a person could not just assume the leases were at market rates. In order to determine if an adjustment was required, he would have to examine the rent, the terms of the lease, the size of the lease, annual increases, if any, tenant improvement allowances and the basics behind the rent structure over the terms of the lease. Therefore, it was improper for Kleszynski to conclude no adjustment should be made for the property being sold with a lease. Because of this, the leased fee sales should not have been used as a comparable. He stated Kleszynski indicated his first element of comparison was property rights, and if he is unable to determine if an adjustment is needed for property rights and he is not able to make that adjustment, then he would not be able to include those comparable sales in the appraisal.

Braemer concluded the conclusion of value for a fee simple interest is not supported by the appellant's appraiser's methodology and is not credible. (Intervenor's Exhibit #8, p. 29).

On cross-examination, Braemer agreed that his review appraisal report states the review appraisal report follows the criteria set by the Uniform Standards of Professional Appraisal Practice, USAP, under the standards rules 3 and 4, 2018-2019. Braemer concluded that Kleszynski's analysis in his [Kleszynski's] appraisal report was adequate to comply with USAP.

He stated Kleszynski' appraisal report met the requirements of USPAP standard 2-2 for minimum reporting requirements in all categories. Braemer acknowledged he obtained the actual lease for the subject property. Braemer agreed that Kleszynski did not state that he reviewed the subject's actual lease terms. The witness was then shown a cover page of the 2018-2019 Uniform Standards of Professional Appraisal Practice standard 3 for Appraisal Review Development. (Appellant's Exhibit D). When questioned on whether it was a violation of USPAP standard 3 for him [Braemer] to use data not available to the primary appraiser in a review report in the development of an opinion as to the quality of the work under review, Braemer stated he was just looking at what the lease was at the subject. He testified that he made no comments other than his [Kleszynski's] rental rate was the same as his [Braemer]. He testified that the purpose of obtaining the subject's actual lease was to make sure that the rental rates Kleszynski was putting in his appraisal report were correct. He then agreed that this would help him in developing an opinion as the quality of Kleszynski's work under review.

The witness was directed to the PTAX-203A Transfer Declaration Sheets for comparable sales #1, #2 and #5 wherein the documents depicted the sales were a fair reflection of the market value, respectively for each sale. Braemer agreed that his review appraisal report depicted Kleszynski did not adjust his sale comparables for age. He was then directed to Kleszynski's appraisal report where in it depicted that the comparables were adjusted for physical variations, which he stated could include age, but he was not sure if age was included.

Braemer did not agree that just because Kleszynski's comparable sales #1 ($45.72 per square foot) and #2 ($44.48 per square foot) fell between the sale prices of fee simple sales #3 through #5 ($40.50 – $52.50) that it could be concluded that leased sales #1 and #2 were likely or close to market. Braemer stated he could not make this conclusion because there are several elements of comparison when an appraiser is examining a sale and rental rate is just one element. He stated there may be other reasons why the unit prices are with the range such as motivation from the buyer or seller, size and age. Further, just pinpointing it on unit prices is incorrect. He testified that maybe the sales were at market, but a reader of the appraisal needs to see what the rental rates were to determine if the reader was going to make the statement that no adjustment was needed. Braemer agreed that he did not have any evidence to conclude that the sales were not at market rates. Braemer testified that Kleszynski had a difficult job in trying to figure out what the rental rates were, however, he could have called the buyer or the seller and try to figure out what the rental rate was. He stated that if Kleszynski could not do that and he cannot make an adjustment, then he should not be using those comparable sales. If he [Braemer] were valuing the property he definitely would have contacted the buyer, seller or broker.

Braemer stated that the USPAP standards in place at the time Kleszynski prepared his report (March 2016) would be controlling, not 2018-2019. Braemer was working under the 2018

standards because that is when he prepared his review appraisal report. As an expert, Braemer testified that the majority of industrial warehouse buildings are typically advertised for sale on the open market. He stated that as shown in Kleszynski's appraisal report, a property has to be exposed on the market for a market valuation, and further, if it was not advertised, it should not be used.

Joseph M. Ryan, MAI was next called as a witness on behalf of the taxpayer/intervenor.[11] 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 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 #9).

Ryan testified the purpose of his appraisal was to find the fee simple market value of the subject with the intended use of the appraisal being to establish an equitable assessment for the property. He stated the property rights appraised were the fee simple unencumbered by leases or any of the other four governmental powers of taxation, eminent domain, police power and escheat. Ryan inspected the subject's interior and exterior along with the surrounding environs. During his interior inspection he was escorted through the building by the plant manager from Office Depot. The effective date of his appraisal report is January 1, 2015. Ryan testified that the subject property sold in a fee simple sale in November 2013 with another property. The grantor was the James Campbell Trust and the grantee was Liberty Property Trust, the taxpayer/owner. He stated the appellant bought the leased fee interest and the scope of his assignment was to appraise the fee simple interest.

Ryan described the subject property as an industrial building located in Carol Stream, Illinois. The site was described as mostly rectangular in shape with adequate frontage. Accessibility and visibility were described as fine. He found there were no limitations on the subject site for development and there were no developmental or functional limitation based on topography or size and the subject had good utility. He stated the subject conformed to similar properties located in the central DuPage County submarket. He described the subject as being in an industrial area with a golf course across the street with primarily industrial area to the west. The subject was zoned Industrial District I in Carol Stream to which the subject conformed to zoning and was considered a legal use based on the zoning requirements. Ryan testified the subject building contains 385,000 square feet of building area consisting of a one-story, tilt up, single tenant industrial building that was constructed in 1998. The subject has about 5% of office space or approximately 19,000 square feet of building area. Features include 32-foot ceiling heights. Ryan stated the mechanicals were fine and the office had typical office finish. The warehouse was basically unfinished with adequate plumbing and restrooms. The subject featured docks on the north elevation of the building and fifty exterior truck bed height docks. The subject's west side was retrofitted with 20 lower docks that lacked large overhead doors that were used to load panel trucks which he found atypical of the market. He stated this limited 53-foot trailers on that side of the building. He considered this germane to the subject's business enterprise conducted at the property. He testified the 20 lower docks would not be considered typical of the market

[11] Ryan was accepted as an expert in real estate valuation without objection.

and would be considered a super adequacy. He found the building functional in good condition. Ryan described highest and best use which is use that is physically possible, legally permissible, economically viable and maximally productive use of the site.

Ryan found the subject property met all of the criteria and as improved it was the highest and best use of the site. As vacant, it would be for industrial use primarily based on the zoning and surrounding environs. Ryan stated he did not prepare a cost approach to value analysis because market participants do not rely on the cost approach in making their investment decisions. He stated the property was 17 years old on the date of sale. In addition, the land was not vacant and available for sale. He was assigned to give one value for the subject and his sales and income approaches to value included the land value.

Ryan testified that the sales comparison approach to value is based on the appraisal principle of substitution that a buyer would not pay any more for a property that he/she can find a substitute property that has the same utility than you would pay for that that property. He stated properties on the market compete against one another and the property with the lowest price and highest utility has the widest distribution or the most buyers for the property.

Ryan testified that the purpose for using vacant fee simple estate sales is because an appraiser cannot give a fee simple value if he/she does not use properties that sold in fee simple. He stated that if you do not have the property rights correct, you cannot determine a fee simple property right using leased fee sales. Further, the leased fee sales have a limited bundle of rights and there are a lot of things that go into a capitalization rate. He testified that the textbook states the quality, quantity and durability of the income stream, but in reality would a person pay the same even if they were in the same building if you had to buy a building and Wal-Mart was in one building with a long-term lease and K-Mart was in the other building with a short-term lease, then the investor is going to pay more for the Wal-Mart property, so the leased fee sales have more to do with the quality of the tenant, the risk associated with that tenant which influences the overall capitalization rate paid by the investor.

In regard to the use of leased fee sales, Ryan testified that he always cites the *Boulder Group* study. He stated all the Boulder Group does is sell net leased properties and they have a whole research paper on net lease properties with 20-year terms that sell for more than a net lease property with a 4 or 5-year term or a 1 or 2-year term due to the fact that there is more risk associated with a shorter lease term if the tenant is not going to renew the lease. He stated that a lot of the real estate investment trusts will not buy the short term leased property because they do not want to deal with leasing and brokers and things like that. Further, because they are out of that market, oftentimes the capitalization rate is affected by the length of the lease terms, so in the fee simple interest, you are acquiring all of the bundle of rights and a vacant property and you can lease, sell or do nothing with it. The buyer is not buying a property with alienated rights. For leased fee sales, the buyer does not have the right to occupy the building.

For his development of the sales comparison approach to value, Ryan utilized six comparable sales. 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 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.[12] (Intervenor's Exhibit #9, page 61).

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 a portion 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. He considered all of his comparable sales as being a substitute for the subject property.

Ryan testified that he independently verified each sale. He stated that once a sale is found they contact someone that had knowledge of the sale; a broker, owner, buyer or seller. He stated it is their procedure that when a sale is written up, the transfer document is printed and put in their database. Ryan inspected most of the sales. Further, the property is inspected and photographed and put in the file.

Ryan utilized qualitative adjustments and compared individual features of the building and market conditions. They considered the property rights, financing terms, conditions of sale, market conditions, location, land-to-building ratio, building size, age, ceiling clearance and 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. Ryan testified that because he utilized fee simple sales, no adjustments for property rights, sale condition or market condition were made. He stated sales #1, #2 and #5 had an overall downward adjustment with sales #3, #4 and #6 having an overall upward adjustment as shown on page 67 of his appraisal report. (Intervenor's Exhibit #9, page 67). After making various adjustments, Ryan concluded a value for the subject of $32.50 per square foot of building area or $12,525,000, including land.

Ryan reiterated that a leased fee sale would not have the same property rights as a fee simple sale because the bundle of rights would be alienated. He testified that without having an intimate knowledge of the leases and how they affected the capitalization rate, it is difficult, if not impossible, to make the appropriate adjustment. Ryan testified that all of his sales were arm's-length market value transactions which means there is a willing buyer, willing seller, neither under duress, the terms were not [sic] cash or cash equivalent and the property was exposed to the open market. (Intervenor's Exhibit #9, page 10).

He stated comparable sales #1, #4 and #5 were adjusted downward because of their superior locations. Ryan testified that the Romeoville/Bolingbrook area is a stronger industrial area with better access to the highway system which makes the market a little stronger than central DuPage. He stated the Will County sales have access to I-55 and I-80 so moving product is a little less circuitous. On the other hand, sales #3 and #6 were adjusted upward because of their inferior locations because Ryan thought McHenry and Libertyville were not as strong industrial markets as the subject's area. In regard to size, Ryan testified that usually a size adjustment would be required if the difference in the comparable and the subject were approximately 10%.

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

Ryan stated that an older property in good shape may have more desirability that a newer property in poor condition, therefore, the adjustment would be primarily based on age. He stated ceiling heights under 30-feet have less cubic area and if you can stack pallets higher, you need less floor area, which is why higher ceiling height clearances are more desirable.

On page 67 of his appraisal report (Intervenor's Exhibit #9, page 67) Ryan arrayed the comparable sales by whether they were overall positively or negatively adjusted and in the middle is what he would expect the value for the subject property would be. This indicated to Ryan that the range was going to be approximately $30 to $34 per square foot of building area for the subject property. He reconciled to $32.50 per square foot of building area for the subject or $12,523,680 ($32.50 x 385,344 square feet of building area) or $12,525,000, rounded. Ryan explained that every appraiser would like to find the six sales right on the same block, in the same submarket, all the same size, all built the same time. However, that is not possible, so his number one criterion was to find sales of fee simple interest. From that, Ryan expanded and found what sales he could in the subject's market and expanded further from there. After he found a sufficient number of sales, he then adjusted the comparables to the subject. Gross building area was taken from the subject's rent roll, which he conferred with the Office Depot manager.

Ryan next developed the income approach to value for the subject property. He developed a current estimate of market rent for the subject to then estimate a gross potential income and then analyze the vacancy rates for the submarket. He then recognized the fixed expenses and deducted them to establish a net operating income for the subject property. Next, he selected a capitalization rate and applied the capitalization rate to the subject's net operating income to determine a value via the income approach to value. Ryan stated he used the direct capitalization of income capitalization.

Ryan testified that the direct capitalization method involves taking the net operating income and dividing it by a capitalization rate and determining a value. He stated that for a property tax assignment, the idea is to determine the rent on a certain date, which in this case was January 1, 2015. However, oftentimes rents have escalation clauses that step up the rent over the lease term, but those rents are for years down the road, and the assignment is to value the property as it is found on the date of value.

Ryan testified that he did have occasion to review the subject's lease terms. He then looked at the rent roll they had for the subject property which was 100% leased as of the date of value. He said the lease commenced in January 2012 and the rent on January 1, 2015 was $3.58 per square foot of building area. The lease contained a pass-through for common area maintenance of $0.64 cents and the real estate tax pass-through was just under a dollar which indicated a gross lease of $5.18 per square foot of building area. Ryan testified that a gross lease represents how the renter of the property looks at the market. Disparity in taxes, disparity in common area maintenance affects the rent he [the renter] will pay. The renter is paying all of those costs, so back to the principle of substitution in a sales comparison approach, if you can rent a building with the same utility that has lower taxes and lower maintenance costs, you are going to do it or it is going to affect the landlord's net rent if the renter's tax and CAM pass-throughs are higher, the landlord may have to take less rent to compensate for the prudent tenant.

Ryan stated that in a property tax case, the use of the gross rent allows him to isolate property taxes as an expense and substitute a tax load so that the actual property taxes do not negatively or positively affect the value. Based on his experience in the central DuPage County submarket, Ryan testified that the lease may state that it is a net lease, but the pass-throughs are paid by the tenant and then the tenant certainly recognizes what the pass-throughs are. He reiterated that in a property tax appraisal and in order to isolate the property tax component of the gross lease, the tax load is substituted and added to the capitalization rate and the taxes are not expensed as an operating expense. He examined four rental comparables.

The rental comparables, found on page 76 of his appraisal report, ranged from $4.17 to $5.21 per square foot of building area on a gross rental rate. The rental comparables were adjusted for market conditions, location, age, utility, size and ceiling clearance. Ryan testified that all of his rental comparables were a substitute for the subject property and each was verified with the broker to the transaction. All of the rental comparables required an overall downward adjustment. After making the qualitative adjustments, Ryan concluded a gross rental rate of $5.00 per square foot of building area on a gross lease basis and applied this to the subject's 385,344 square feet of building area to conclude a potential gross income for the subject of $1,926,720 or $1,927,000 rounded. He testified that no tenant reimbursements were added to this amount because they were included.

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% of potential gross income to represent the vacancy and collection loss or $141,614, which was deducted to arrive at an effective gross income of $1,785,106 or $1,785,000, rounded. (Intervenor's Exhibit #9, page 78).

In order to determine appropriate operating expenses, Ryan 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 a national survey that is broken down on a regional basis. Ryan testified that the data he used came was specific to the market for suburban Chicago warehouse and manufacturing buildings. BOMA reported that for suburban Chicago warehouse and manufacturing buildings greater than 400,000 square feet of building area utilities ranged from $0.02 to $0.07 cents, repairs and maintenance ranged from $0.12 to $0.31 cents, management fees ranged from $0.06 to $0.14 cents, insurance ranged from $0.05 to $0.06 cents, real estate taxes ranged from $0.96 to $1.07 and administration fees ranged from $0.06 to $0.11 cents on a per square foot of building area basis.

Ryan then stabilized administration fees at $0.02 cents per square foot of building area ($7,500), repairs and maintenance at $0.16 per square foot of building area ($60,000), utilities at $0.01 cents per square foot of building area ($5,000), insurance at $0.06 cents per square foot of building area ($22,500), management fees at $0.11 cents per square foot of building area ($42,500) and replacement reserves at $0.20 cents per square foot of building area ($77,500). His stabilized operating expenses at 7.40% of effective gross income (excluding replacement reserves and real estate taxes) were estimated to be $0.36 cents per square foot of building area

or $215,000.[13] (Intervenor's Exhibit #9, page 81). Ryan testified that appraisers use the BOMA survey to determine if the expenses for the subject property are realistic or within the market.

Ryan found that over his appraising thousands of industrial properties that rent is fairly market based, but expenses are unique to the property. Ryan stated his estimated administration operating expense of $0.02 cents was at the low end of the range depicted by BOMA. Ryan testified that he was also aware of what the CAM expense was for the subject property at $0.64 cents per square foot of building area which meant the tenant was reimbursing the landlord $0.64 cents per square foot of building area for operating expense, which was on the high-end of what BOMA was reporting. He stated the rental comparables were between $0.34 cents and $0.60 cents per square foot of building area, but three of the rental comparables were $0.37, $0.42 and $0.34 cents, respectively, per square foot of building area, so he utilized $0.36 cents per square foot of building area, excluding real estate taxes. Total operating expenses for the subject property was depicted as $215,000 or $0.56 cents per square foot of building area.

In order to estimate the appropriate overall capitalization rate, Ryan examined direct capitalization and the band of investment method. Ryan testified that he did not use market derived capitalization rates for the fact that he did not use any leased fee sales. He examined a survey called *Realty Rates* which is a national survey of property investors and industrial buildings. He testified that for industrial properties in the first quarter of 2015 depicted industrial capitalization rates were from 4.6% to 13.5% with an average of 9%. He stated industrial properties all types included warehouses and manufacturing, although, manufacturing is primarily owner occupied. 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. Ryan utilized a 25-year mortgage, 4% mortgage rate and a 70% loan to value ratio which resulted in a mortgage constant of 6.33% This was then weighted against the 70% loan which indicated a mortgage component of 4.43%. An equity factor of 12.5% for the dividend rate was used with a 30% equity position by the investor, which indicated a 3.75% equity component. The band of investment technique indicated an overall capitalization rate of 8.18%. He chose an 8.75% overall capitalization rate based on investor's criteria for the subject property after giving more weight to the surveyed market participants.

Ryan then used the statutory level of assessment of 33.33% and multiplied it by the tax rate of 10.525% to determine the tax load or the effective tax rate of 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 $1,785,106 and deducted operating expenses of $215,000 to arrive at a net operating income of $1,570,106 which was capitalized at the 12.26% overall tax loaded capitalization rate which then indicated a value for the subject of $12,806,738 or $12,800,000, rounded or $33.22 per square foot of building area, including land. (Intervenor's Exhibit #9, page 85).

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[13] Total operating expenses including reserves was estimated to be $0.56 cents per square foot. (Intervenor's Exhibit #9, page 81).

In reconciling the two approached to value for the subject Ryan gave more weight to the sales comparison approach ($12,525,000) because the scope of the assignment was for a fee simple interest and he had sales of fee simple interest property. The income approach to value ($12,800,000) was also given significant consideration in his final analysis. Based on his analysis, Ryan estimated the subject's fee simple value of $12,600,000.

On cross-examination, Ryan testified that the size of the subject he indicated (385,344 square feet) did not include a second-floor mezzanine office of 8,172 square feet of office area. He stated the area was not used and was atypical of the market. The area was used for storage so he would not add the 8,172 square feet to the subject's size.

Ryan was presented with a Co-Star report (Appellant's Exhibit E) and a press release (Appellant's Exhibit F) indicating the subject property was advertised for sale at the time of its purchase. Ryan stated he opined the subject as not being advertised for sale based on the PTAX-203 Transfer Declaration Sheet. Ryan stated it really did not matter to him because the subject's sale was of a leased fee interest and the scope of his assignment was to value the fee simple interest.

Ryan then admitted that he incorrectly described the subject as having a broken floor plan. Ryan agreed that 4 of his 6 sales were located outside of DuPage County. Ryan admitted that he did not analyze actual sales in computing the overall capitalization rate. When asked if there were sales within the subject's immediate central DuPage market that he considered, but did not use, Ryan stated he first looked for size and did find sales in DuPage. However, they were either leased fee sales that he could not verify the lease terms, or they were sales he could not verify. He found one sale in the subject's submarket, but the sale had rail access and the seller's broker told him the buyer paid up to get the rail access. It appeared the buyer was a paper manufacturer and had 15,000-pound rolls of paper coming in and needed a train rail spur access.

The intervenor/taxpayer then rested its case.

In rebuttal, the appellant's counsel called Eric Dost MAI, AI-GRS as a witness.[14] Dost is president of Dost Valuation Group Ltd. He has appraised apartment complexes, assisted living facilities, charter schools, shopping centers, distribution facilities, hospitals hotels, manufacturing plants and various other properties. He is a State Certified General Real Estate Appraiser in Illinois, Indiana, Iowa, Michigan and Wisconsin. Dost prepared an appraisal review report (Appellant's Exhibit G) of the LaSalle appraisal. (Intervenor's Exhibit 9).

Dost testified that his appraisal review report was prepared in a manner consistent with USPAP standards. He stated the scope of his appraisal review was to read the report [LaSalle Group appraisal] and review it for the quality of data, completeness, accuracy, the relevance of data and analysis given the property's type and intended use. Dost's client was Community Consolidated School District #93. In order to complete his review report, he read the LaSalle Group appraisal report, looked up public record information, information on the *CoStar* database, internet research as well as his experience in appraising and reviewing other properties in the market area.

[14] Dost was accepted as a valuation expert without objection.

Dost found the Ryan's income approach was based on nonmarket-oriented gross lease basis. He testified that the capitalization rate was inconsistent with the subject's actual capitalization rate and above market levels. He stated the appraisal implied that only vacant buildings are representative of fee simple values, which is incorrect. Further, he stated several relevant sales in DuPage County were omitted. He found Ryan relied on sales outside of DuPage County when there were local ones available. Dost testified that an omission of the land value and the combination of factors led to a report that was not credible or reliable.

Dost testified further that Ryan did not prepare a cost approach to value, however, he [Dost] does not believe a depreciated replacement cost of the improvements are relevant for a property of the subject's age. However, the land value is relevant and important for a test of the highest and best use as improved. He stated land values are often a pretty large component of industrial property values. And finally, it is part of the assessment. Dost testified that the land valuation shows if the improvements have contributory value to the total value. He stated that in some cases when a property is nearing the end of its life, the land value as vacant becomes higher than the value as improved. He testified that it was a significant deficiency that Ryan did not include a land sales analysis in his appraisal. Dost testified that the subject property was advertised for sale according to a *CoStar* report and a press release which is in contradiction of what Ryan stated in his report.

Further, Dost stated that Ryan incorrectly reported the subject's lease as a gross lease when in fact it was a net lease. Dost testified that if an appraiser uses a gross lease instead of a net lease it increases the rental rate and is not market oriented and allows the appraiser to use a full load factor inappropriately when the tenant is really responsible for paying the property taxes. He further stated this transfers the property tax burden to the property owner through the use of a full load which decreases the value to the landlord.

Dost also stated he would use 392,959 square feet as the subject's building size to include the 8,172 square foot second floor office. Dost stated that a leased fee value can be the same as a fee simple value. Further, a leased fee interest is a partial interest due to an economic interest being transferred to a tenant via a lease. The creation of a lease divides the fee simple into a leased fee interest which is the property owner's interest and the leasehold interest which is the tenant's interest. He stated the fee simple estate equals the leased fee plus the leasehold estate. Dost testified that *The Appraisal of Real Estate*, 14th Edition also states that the relationship between contract rent and market rent greatly affects the value of the leasehold or tenant's estate. A leasehold interest may have value if the contract rent is less than market rent creating a rental advantage for the tenant. Further, this relationship in turn may affect the value of the leased fee interest. The value of a leased fee interest would fix rents below market rents, which may be worth less than the unencumbered fee simple or the leased fee interest at market rent levels.

Dost stated that for example, if market rent is $15 for the fee simple estate and the property is under a long-term lease for $5, the value to the fee simple estate would be based on the $15 market rent. The leased fee would be based on the $5 and the leasehold estate then would have a value based on $10 per square foot in a hypothetical, highly simplistic scenario. So, the leased fee would be $5 plus $10 for the leasehold which equates to the $15. As another example, Dost

stated that if the fee simple estate market rent was $15 and the leased fee estate was leased at $15, the leasehold estate would have a zero-rent advantage and basically no value.

In regard to the difference between investment value and market value, Dost testified that investment value is the value of a certain property to a particular investor given that investor's investment criteria. Investment value may coincide with market value if the investor's investment criteria are typical of buyers in the market. Further, if this is the case, he stated the values may be the same. Dost explained that basically it means that if the investor's criteria such as the capitalization rate are at market levels, the investment value may be the same as market value. If the property was leased and occupied at market levels and the capitalization rate was consistent with market levels, the value of the fee simple interest would be the same as the leased fee interest since there was no rent advantage as it would basically be a market price.

Dost agreed that the subject is a modern distribution warehouse. He stated that a typical buyer could be an owner, occupant or investor. Multi-tenant buildings are typically purchased by investors. Dost disagreed with Ryan's statement on page 47 of his [Ryan's] report wherein it states that "investors are not concerned with vacancy and collection loss or capital costs. The consistent sale of a vacant building represents the market value to the real estate (a transaction not influenced by cash flows)." Dost disagreed with this statement by Ryan, he stated that a vacant building actually has negative cash flow and has a very large negative net operating income (NOI) typically due to property taxes and insurance and other holding costs while it is vacant. Dost disagreed that only vacant buildings sales represent fee simple prices. Dost reiterated that the value of a fee simple interest can be the same as the value of the leased fee interest depending upon the relationship of contract rent and market rent. Dost further testified that vacant buildings have zero percent occupancy which is not stabilized. Again, there are holding costs for vacant buildings such as property taxes, insurance, security, et cetera and so they actually have a negative NOI, so they definitely do not have a stabilized occupancy or revenue.

Dost stated buildings other than just vacant buildings should also be considered. Dost testified that Ryan's assertion of only considering vacant buildings conflicts with his [Ryan's] explanation of typical purchasers of the subject's type of property because there was an investor demand for this type of property.

Dost opined that Ryan's comparable sale #1 was in the O'Hare Airport submarket and sale #2 being in the Fox Valley submarket. He also thought there were more recent sales available in regard to sale #2. He stated sale #3 was in a significantly different submarket from the subject as it was in McHenry County. As to sale #5, Dost stated the reported date of construction was 2005, while *CoStar* reported the property was constructed in 1967. He stated the incorrect age results in an incorrect adjustment for date of construction. Also, he found comparable sale #6 as being in a significantly different submarket from the subject. Based on his analysis, Dost found none of the comparables used by Ryan were in the central DuPage County submarket.

Dost opined that Ryan's comparable sales #1 and #2 required an adjustment for market conditions. Dost testified that he found four recent sales in the subject's size range in DuPage County that were all vacant, which Ryan did not use. He stated these sales would have ben available to Ryan through the *CoStar* reports. Dost considered the sale located at 700 Kimberly

to be a serious omission in Ryan's appraisal report because of its similar size, date of sale and location within the same industrial district of Carol Stream. Dost testified that the LaSalle report (Intervenor's Exhibit 9) incorrectly implies that only vacant building sales are representative of fee simple values. Dost's review of the sales indicated that four of the sales were outside of DuPage County and the LaSalle report omitted four vacant building sales with DuPage County including on in Carol Stream located less than a mile from the subject. Dost opined that due to the omission of relevant recent sales, he did not consider Ryan's sales comparison approach to be credible or reliable.

Dost explained that the difference between a gross lease and a net lease was that a gross lease is all inclusive rent and the landlord pays for all operating expenses including taxes. In a net lease the rent is net and the tenant is responsible for all operating expenses. Dost stated the LaSalle report indicates that the Office Depot lease commenced in January of 2012 and that the rent is $3.58 per square foot of building area and that there are pass-throughs of $0.64 cents per square foot for CAM and $0.96 cents for the real estate taxes. Dost stated it appears Ryan converted the subject's net lease to a gross lease, which was not reflective of the market. Dost testified that all of Ryan's rental comparables appeared to be net leases which Ryan changed to gross leases. He stated the market standard for lease types for large, single-tenant industrial buildings was for a net lease. Because of this, he considered that using a gross lease basis for rents of large, single-tenant industrial building leases to be incorrect appraisal methodology. Dost testified that the proper method would have been to use a net lease with the tenant responsible for the majority of operating expenses including property taxes and then the appraisal could include expense recoveries or reimbursements as an income line item to include the expenses paid ty the landlord but reimbursed by the tenant. He stated that the use of a gross lease structure really affects the value due to the property taxes in the use of a full load factor. At a maximum, Ryan should have used a pro-rated load factor. Dost testified that what Ryan did really decreased the subject's value using a full-load factor because the property was fully occupied and Ryan stabilized it at 93% occupancy, so the tenant is responsible for 93% of the taxes under his [Ryan] stabilized premise. Dost agree that Ryan did not include the subject's actual income and expenses in the income analysis section of his report.

In regard to Ryan's development of the capitalization rate, Dost testified that his use of "all industrial types" rather than a more specific distribution warehouse disclosed that distribution warehouses had an average capitalization rate that was lower than for "all types." Dost found that Ryan should have used a second source rather than just rely on Realty Rates.com. Dost found the range of capitalization rates from the four sales he found ranged from 5.65% to 7% with an average of 6.05%. Dost computed the subject's capitalization rate in regard to its sale was 5.73%. Therefore, based on this data, Dost opined that Ryan's selected capitalization rate of 8.75% was not market oriented and not credible. Dost further opined that the income approach to value as developed by Ryan was not credible nor reliable.

Dost also found that based on his data and analysis of the research, the adequacy, completeness and reliability of the 2015 LaSalle report (Intervenor's Exhibit #9) was not credible or reliable. Dost testified that his opinion was in conformity with the standards of professional conduct and code of ethics of the professional association to which he belongs. Dost was confident that his research and analysis leads to a well-supported technical review appraisal report for the subject property consistent with property appraisal methodology and practice.

On cross-examination, Dost agreed that the property at 700-710 Kimberly in Carol Stream was used by Kleszynski in his appraisal report as improved sale #3 on page 56. (Appellant Exhibit A). Dost agreed however that Kleszynski reported the sale date of comparable sale #3 as being January 2014 while Dost depicted a sale date of December 2014. Dost agreed the sale price was the same and the address was the same. He was not sure if these were typographical errors. Dost stated Kleszynski's reported sale price for comparable sale #3 was incorrect as it represented the December 2014 sale price of $12,125,000 [actual sale price was $17,500,000] (See Appellant's Exhibit H) and not the January 2014 sale price ($12,125,000) (See Intervenor's Exhibit #4).

In reviewing Ryan's reporting of the subject's size, Dost relied upon the assessor's records and admitted that he did no other independent verification. Dost testified that he did not do an interior inspection of the subject property, but did perform what he called a kind of drive-by at one point. He admitted he did not do an exterior inspection of the subject property. Dost acknowledged that he had no opinion on whether the subject property was overvalued or undervalued. Dost admitted that there was no legal authority that required Ryan develop a land valuation in his report. Dost then agreed that Ryan was most likely correct in his conclusion of the subject's highest and best use as improved.

Dost admitted that if an appraiser were using a leased fee property, the appraiser would need to know the contract rent in order to use the leased fee sale. Dost agree with the general concept that 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 reasonable and supportable market adjustments for the differences in rights can be made. Dost testified that reasonable and supportable market adjustments would be based on the relationship between market rent and contract rent.

In regard to the leased fee sales Dost utilized in his review report wherein he felt Ryan could have used without knowing the full lease terms. Dost testified that each of his leased fee sales had varying terms. Two of the leased fee sales had recent renewals immediately before the sale. Another one had a big lease expiration coming up within a year and was going to be 50% vacant. Dost stated he did not think an appraiser necessarily had to have 100 percent of the lease terms. The properties were leased and if a property was leased at market rates immediately before the term before it sold, it is going to be a market transaction. Dost admitted he was assuming it was a market transaction because he did not actually examine the lease or receive confirmation as to the lease terms and did not know what the lease terms were. Dost testified that the leased fee sales he used are frequently triple net leased deals. The net operating income (NOI) per square foot usually contains minimal deductions for expenses or vacancy. He stated these properties are representative of the rental rate and the capitalization rate is calculated based on the first-year net operating income which is generally very similar to the actual contract rent in the first year. Dost admitted the appraiser should confirm either the NOI or the lease rate with somebody familiar with the lease terms.

Dost admitted that the sales he identified as being omitted in Ryan's appraisal report were identified by *CoStar*, however, the sales would need additional research in order to make the appropriate adjustments. Dost agreed that it was only his opinion that by not including any of

the subject's actual income or expense amounts in Ryan's appraisal that it was a significant omission and was not requirement of USPAP. Dost explained that he looked up the information for his available comparable sales with brokerage companies, marketing material as well as PTAX forms. To the best f his knowledge, all of his prospective sales were arm's-length transactions. In addition, he believed all of his leased fee sales were open arm's-length transactions and should have been considered by Ryan. Dost admitted that he had no evidence that Ryan did not consider the transactions he proffered. Dost agreed that if either appraiser had not considered the sales he proffered, it would be inappropriate.

On redirect, Dost reiterated the data incorrectly reported by Kleszynski for comparable sale #3. Dost testified that he was able to determine the capitalization rates for each of his proffered sales by using information from *CoStar* and from broker's marketing material. Dost stated this information would have been available to Ryan and he should have looked into the sale given the locations of Carol Stream.

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 $12,600,000 as of January 1, 2015 along with 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 $14,370,210 or $36.52 per square foot of gross building area, land included. The appellant requested the subject's assessment be increased to reflect a market value of $47,887,147[15] and submitted an appraisal prepared by Dale J. Kleszynski, MAI, SRA, estimating the subject property had a market value of $16,900,000 as of January 1, 2015.

Initially, the Board gives little weight in its analysis to the appellant's requested assessment of $15,946,420 which reflects a market value of approximately $47,887,147 using the 2015 three-year average median level of assessment for DuPage County of 33.30%. The Board finds no 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

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

> 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.[16] Therefore, the board gives the appellant's request to increase the subject assessment to $15,946,420 to reflect a market value of $47,887,147 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 used 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 $3,197,898. Kleszynski estimated the subject's land value of $4.25 per square foot of land area or $3,346,607 or $3,345,000, rounded, utilizing five land sales. 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.

For land sales Kleszynski utilized properties that he identified as 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 $4.25 per square foot of land area or $3,346,607 or $3,345,000, rounded. (787,437 x $4.25 = $3,346,607). (Appellant's Exhibit A, page 37). The income analysis presented by the board of review (Board of Review Exhibit A-2) depicts the subject's land assessment of $1,064,900 which reflects a land market value of $4.06 per square foot of land area or $3,197,898. In addition, the appellant's appeal petition requested no change in the subject's land assessment. Based on the slight difference of land value as found by Kleszynski, the appellant's requested amount 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 sale comparables presented by each appraiser and the board of review. Kleszynski agreed that there was an increase in value overall in the industrial market from 2012 to 2014 for the industrial market in central DuPage County which he thought ranged from 3% to 6% annually. He agreed that if it were 6% annually, then a two-year-old sale would have a straight-line adjustment of 12%. In regard to his sale comparables Kleszynski testified he reviewed the *CoStar* reports and Transfer Declaration Sheets for each comparable sale, however, after being presented with the aforementioned documents, Kleszynski admitted that sales #1 and #2 were leased fee sales, the sale price for sale #3 was incorrectly reported and sales #4 and #5 were reported as not being advertised for sale.

Kleszynski agreed that the buyer for comparable sale #1 was purchasing an income stream along with the property. Kleszynski was unable to state the number of leases which may have been

[16] 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.

present at the time of comparable #1's sale. Kleszynski could not state the specifics of the lease(s) for comparable sale #1. The *CoStar* report depicted Allegheny Technologies, Inc. was the lessee at time of sale. Kleszynski reiterated he could not state if there were additional tenants. Kleszynski admitted he did not review the lease(s) for this property, so he could tell when the lease(s) started or how long the lease(s) were. Kleszynski agreed that the market conditions at the time a lease is executed could affect the lease rate. However, Kleszynski testified that he could not state what the market conditions were at the time it was leased because he did not have the signed lease date. Kleszynski stated comparable sale #2 was also leased at time of sale. Kleszynski admitted he did not review the lease(s) for comparable sale #2 and therefore could not answer questions concerning the specific terms of the lease(s). Kleszynski acknowledged that even without knowing specific lease information, he did not make any adjustment for the lease(s). Kleszynski stated no adjustment was made because the sales appeared to be at market prices. Kleszynski admitted that he did not have the lease information for comparable sale #2 to make the statement that the lease was at market rate.

Kleszynski's appraisal report, page 56 depicts comparable sale #3 sold in January 2014 for $17,500,000. However, the Transfer Declaration Sheet depicted the property sold for $12,125,000 and not the $17,500,000 as shown in the appraisal. Kleszynski agreed that at a sale price of $12,500,000, the sale would be at $32.04 per square foot of building area, including land.

Comparable sale #4 was occupied at the time of sale and immediately vacated after the sale. The *CoStar* report and the Transfer Declaration Sheet for this sale also indicated that comparable sale #4 was not advertised for sale. Kleszynski was adamant and did not agree that comparable sale #4 did not meet his definition of market value. However, Kleszynski's appraisal report, page 3, indicates the most probable price a property should bring is a competitive open market allowing for a reasonable time for exposure in the open market. Kleszynski admitted that the Transfer Declaration Sheet for this sale depicted it also was not advertised for sale. Kleszynski admitted that he would have reviewed the *CoStar* report and Transfer Declaration Sheet for these sales. Kleszynski acknowledged that in his final reconciliation to value he place most weight on his sales comparison approach even though sales #1 and #2 were leased fee sales and the sale price for sale #3 was incorrectly listed along with sales #4 and #5 not being advertised for sale.

Braemer testified that Kleszynski's comparable sales #1 and #2 were leased fee sales for which no adjustment was made for the leases that were in place at time of sale. Braemer agreed with Kleszynski that an appraiser can use leased fee sales in a fee simple valuation *as long as* an adjustment is made for above or below market rates. He stated that if there is no difference in the contract rents versus the market rents then no adjustment is necessary. Braemer found fault in Kleszynski's appraisal because the appraisal does not state any of the details of the leases and throughout Kleszynski's testimony it was clear Kleszynski did not have the leases for comparable sales #1 and #2. As a reviewer, he could not tell from reading Kleszynski's appraisal whether an adjustment should have been made, he wanted to compare the actual rents but could not. He stated a person could not just assume the leases were at market rates.

In order to determine if an adjustment was required, he would have to examine the rent, the terms of the lease, the size of the leased premises, annual increases, if any, tenant improvement allowances and the basics behind the rent structure over the terms of the lease. Therefore, it was

improper of Kleszynski to conclude no adjustment should be made for the sale property being sold with a lease. Because of this, the leased fee sales should not have been used as a comparable. He stated Kleszynski indicated his first element of comparison was property rights, and if he is unable to determine if an adjustment is needed for property rights and he is not able to make that adjustment, then he would not be able to include those comparable sales in the appraisal.

For his development of the sales comparison approach to value, Ryan utilized six comparable sales. 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. (Intervenor's Exhibit #9, page 61). 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 a portion of the building when the property sold. However, in his conversations with the broker, he was told the seller considered the purchase to be of the fee simple interest. He considered all of his comparable sales as being a substitute for the subject property.

Ryan testified that he independently verified each sale. He stated that once a sale is found they contact someone that had knowledge of the sale; a broker, owner, buyer or seller. In addition, Ryan inspected most of the sales.

Ryan utilized qualitative adjustments and compared individual features of the building and market conditions. His office considered the property rights, financing terms, conditions of sale, market conditions, location, land-to-building ratio, building size, age, ceiling clearance and 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. Ryan testified that because he utilized fee simple sales, no adjustments for property rights, sale condition or market condition were made. He stated sales #1, #2 and #5 had an overall downward adjustment with sales #3, #4 and #6 having an overall upward adjustment as shown on page 67 of his appraisal report. (Intervenor's Exhibit #9, page 67). After making various adjustments, Ryan concluded a value for the subject of $32.50 per square foot of building area or $12,525,000, including land.

Ryan reiterated that a leased fee sale would not have the same property rights as a fee simple sale because the bundle of rights would be alienated. He testified that without having an intimate knowledge of the leases and how they affected the capitalization rate, it is difficult, if not impossible, to make the appropriate adjustment. Ryan testified that all of his sales were arm's-length market value transactions which means there is a willing buyer, willing seller, neither under duress, the terms were not [sic] cash or cash equivalent and the property was exposed to the open market. (Intervenor's Exhibit #9, page 10).

He stated comparable sales #1, #4 and #5 were adjusted downward because of their superior locations and sales #3 and #6 were adjusted upward because of their inferior locations because Ryan thought McHenry and Libertyville were not as strong industrial markets as the subject's area. On page 67 of his appraisal report (Intervenor's Exhibit #9, page 67) Ryan arrayed the comparable sales by whether they were overall positively or negatively adjusted, and the middle is what he expected the value for the subject property would be. This indicated to Ryan that the range was going to be approximately $30 to $34 per square foot of building area for the subject

property. He reconciled to $32.50 per square foot of building area for the subject or $12,523,680 ($32.50 x 385,344 square feet of building area) or $12,525,000, rounded.

Ryan explained that every appraiser would like to find the six sales right on the same block, in the same submarket, all the same size, all built the same time. However, that is not possible, so his number one criterion was to find sales of fee simple interest. From that, Ryan expanded and found what sales he could in the subject's market and expanded further from there. After he found a sufficient number of sales, he then adjusted the comparables to the subject.

The Board finds both appraisers agreed that leased fee sales could be used to determine a fee simple value. However, this is conditioned on an examination or review of the lease in effect at the time of sale to see if the leased rates were at market rates, which may or may not require an adjustment. The Board takes notice that *The Appraisal of Real Estate* treatise at page 323 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.

The Appraisal of Real Estate, page 323, 14th Edition.

The Board finds if an appraiser is going to use leased fee sales, the appraiser has to know the rental terms in order to make the appropriate adjustments and the sale can only be used if reasonable and supportable market adjustments for the differences in property rights can be made. The Board finds Kleszynski made no adjustment for property rights to the two leased fee sales he used, and did not know the lease terms. Kleszynski simply assumed the leases for the two sales he used were at market rate. The Board is unable to determine if his lack of adjustments were reasonable because they were not supported within the record. Further, two of the sales used by Kleszynski (#4 and #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 two of the sales were not exposed on the open market. Kleszynski's own appraisal report depicts the definition of 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, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:
>
> a) Buyer and seller are typically motivated;
> b) Both parties are well informed or well advised, and acting in what they consider their best interests;
> c) **A reasonable time is allowed for exposure in the open market**;

d) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
e) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale. [emphasis added]

Kleszynski Appraisal, page 3, quoting *The Dictionary of Real Estate Appraisal*, Sixth Edition.

The Board finds Kleszynski failed to follow the mandates of what is considered market value or otherwise did not support the unadvertised sales he used as representing the market. In addition, one sale was misreported in the appraisal, and actually sold for $32.04 per square foot and not the $46.24 per square foot as reported. 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. 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 is not credible nor reliable. Therefore, the Board gives Kleszynski's sales comparison approach to value little weight in its analysis.

The board of review's sales grid (Board of Review Exhibit A-1) depicts five sale comparables were utilized. The comparables sold from September 2012 to December 2014 for prices ranging from $7,250,000 to $20,500,000 or from $22.92 to $47.68 per square foot of building area, including land. The board of review's grid depicted a median sale price of $33.04 per square foot of building area. Atkinson testified that all of the comparables are within 6 miles of the subject with 4 being in Carol Stream as is the subject. He stated that comparable sales #2 and #5 were indicated by the *CoStar* reports that there may have been market factors that pushed those two values higher. Comparable sales #2 and #3 were the same property which sold twice. He stated the later sale of this property was indicated to have had renovations done to the building which may have influenced the value. He considered sale #2 and #5 to be outliers of what he would consider to be an appropriate value for the property.

The Board gives most weight in its analysis to the sales comparison approach to value as developed by Ryan, the intervenor/taxpayer's appraiser. The Board finds Ryan made logical adjustments to his comparable sales and supported the adjustments made. The Board finds his comparable sales better represent the fee simple interest of the subject property. 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 $12,523,680 or $12,525,000, rounded, or $32.50 per square foot of gross building area, land included, is within the established range based on a total sale price and slightly above the established range of the best comparables in this record on a per square-foot basis and is supported. Further, Ryan's estimated value by the sales comparison approach is strongly supported by the board of review's sale comparables which ranged from $7,250,000 to $20,500,000 or from $22.92 to $47.68 per square foot of building

area, including land. In addition, the board of review's grid depicted a median sale price of $33.04 per square foot of building area, further supportive of Ryan's conclusion.

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 $4.91 on a modified gross or net basis. Kleszynski testified that he estimated the subject's market rent on a net basis wherein 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.

Kleszynski stated he did not review the actual leases for his rental comparables. Kleszynski stated that in most cases he spoke with one of the parties involved in the transaction. He believed all of the leases were consummated leases. Kleszynski admitted that rental comparable #1 was a gross lease which meant the tenant was paying for a portion of the expenses, however, he could not state what line items the tenant was responsible for. He admitted the lease for rental #1 was for one-half of the building. He did not know anything about the other tenant who leased the other half of the building and could not state what type of lease the other tenant agreed to or the terms of the lease. Kleszynski admitted that his report does not disclose what adjustments were made to the rental comparables. Kleszynski then acknowledged that even though rental comparable #3 was approximately 10% the size of the subject, he did not adjust this comparable to the subject. He also did not make a specific adjustment for the smaller size of rental comparable #4 when compared to the subject. Kleszynski admitted that for all of his net rental comparables (#2, #3, #4 and #5) he did not list the specific additional income other than the base rent.

Kleszynski agreed that his opinion of value for the subject of $16,900,000 would indicate an increase in real estate taxes of approximately $90,000, however, when he computed the subject's tax load, he utilized the subject's actual taxes paid ($495,000) based on its current assessment value. Kleszynski testified that each approach to value was independently developed and does not rely on the other approaches to value. He then agreed that his sales comparison approach to value ($16,897,237) was about a $1,000 apart from his income approach to value ($16,898,272).

Kleszynski also agreed that even though his rental comparables ranged from $3.90 a square foot on a net basis to $4.91 a square foot on a modified gross basis, he used $3.75 a square foot for the subject. In addition, his capitalization rates ranged from 4.5% to 7% and he used 7.35%. Kleszynski agreed that the use of *CoStar* would only be start to an analysis and would need to be verified.

The Board finds Kleszynski indicated he made only minor adjustments to his rental comparables and did not include specific adjustments for his rental comparables in his report, even though, there were differences in size, age, utility and ceiling clearances. Further, the Board questions Kleszynski's deduction of the subject's current real estate taxes ($494,540) which was based on the subject's current assessment (reflecting a market value of approximately $14,355,000), while he determined the subject market value to be significantly higher at $16,900,000 which would indicate real estate taxes of approximately $90,000 higher. The Board finds these errors

significantly impacts the subject's estimated value by the income approach and calls into question the credibility of the estimation of value.

The evidence revealed vacancy rates between 2012 and 2016 had essentially dropped, but in 2015 they ranged from 4.3% to 7.1%. Kleszynski elected to apply a vacancy and collection loss of 7% in the evaluation of the subject property. Kleszynski estimated the subject's potential gross income for the subject of $1,473,596 which he then added estimated tenant reimbursements of $757,822 to arrive at total rental income of $2,231,418. He then subtracted vacancy and collection losses of 7% of potential gross income ($156,199) to arrive at an effective gross income for the subject of $2,075,219. He then subtracted real estate taxes ($494,540), insurance ($47,155), common area maintenance ($216,127), management fees ($54,818), reserves for replacements ($13,704) and miscellaneous expenses ($6,852) which indicated total expenses of $833,196. After these calculations, the subject's net income was estimated to be $1,242,023. (Appellant's Exhibit A, page 49).

The Board is not comfortable in concluding that Kleszynski's final opinion of value represents the subject's fee simple interest as opposed to a leased fee value. The Board finds the data utilized 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 final opinion of value and is therefore not a reliable indicator of the subject's fee simple interest as of January 1, 2015.

Ryan, the intervenor/taxpayer's appraiser, examined four rental comparables. Ryan testified that his rental comparables represented what is actually going on 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, clear 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 $5.00 per square foot of building area and applied this to the subject's 385,344 square feet of building area to conclude a potential gross income for the subject of $1,926,720. Ryan stated that vacancy in the central DuPage County submarket decreased from 7.56% in the 4th quarter of 2013 to 7.35% in the same period in 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 $141,614 for an effective gross income of approximately $1,785,106.

Ryan then examined 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 and replacement reserves at $0.20 cents, respectively, per square foot of building area, which indicated expenses of $0.36 cents per square foot.

Ryan stabilized expenses at $0.56 cents per square foot of building area or approximately 7.4% of effective gross income. 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 2015 industrial capitalization rates were from 4.61% to 13.49% 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 statutory 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 $1,785,106 and deducted operating expenses of $215,000 to arrive at a net operating income of $1,570,106 which was capitalized at the 12.26% overall tax loaded capitalization rate which then indicated a value for the subject of $12,806,738 or $12,800,000, rounded or $33.22 per square foot of building area, including land. (Intervenor's Exhibit #9).

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 next examined the income analysis prepared by Atkinson. (Board of Review Exhibit A-3). Atkinson testified that during a quadrennial reassessment period, they prepare an analysis on ratios that can be applied uniformly. He stated they get hundreds of appeals during a quadrennial reassessment period. They had over 900 in 2015. Looking at 2012 through 2014 they found a vacancy and collection allowance of 7.5% was reflected by the market activity in the township. An expense ratio of 12.5% was indicated on a triple net basis along with a capitalization rate of 9% based on sales activity within the township. Atkinson further testified that they received the subject's rent roll and were able to use the subject's actual net rent which indicated $3.67 per square foot of building area. He then applied that to the gross building area of 393,516 to arrive at a potential gross income for the subject of $1,444,204. After applying vacancy and collection losses of $108,315 or 7.5% effective gross income was indicated to be $1,335,888. From this he subtracted 12.5% of effective gross income ($166,986) which indicated net income for the subject of $1,168,902. He then applied an unloaded capitalization rate of 9% which produced an indicated market value of $12,987,800 or $33.00 per square foot of building area, including land.

Atkinson testified that the expenses for vacancy, other expenses and capitalization rates were extracted from the market data his office receives. Atkinson agreed through his testimony that his income analysis indicated a value for the subject of $33.00 per square foot of building area, his equity analysis produced a median value of $35.27 per square foot of building area and his sales comparison analysis indicated a median value of $33.00 per square foot of building area.

Atkinson testified that he used the subject's actual income of $3.67 per square foot of building area and used market derived data for the remaining part of his income analysis. Atkinson stated he used net lease rates without adding tenant reimbursement income, real estate taxes or insurance into the income, which he thought would be improper to do. He testified that if he did include those expenses it would represent a gross lease and would then require a loaded tax rate. Atkinson stated that the expenses he used are not particular to the subject property, but rather, were derived from all of their income analyses for income producing industrial properties in the Bloomingdale Township.

Based on his analysis, Atkinson concluded an assessed value for the subject of $4,329,270 which equates to a market value of $12,987,800 or $33.00 per square foot of building area, including land. He stated the current assessment in tax year 2015 for the subject is $36.48 per square foot of building area. He then agreed that his actual income analysis, equity analysis and his median sale price for properties similar to the subject support a lower value for the subject in 2015. (Transcript pages 229-233). Atkinson testified that if he removed sales #2 and #5, which he considered outliers, the sales would range from $22.92 to $33.04, which is also below the subject's value as reflected by its current level of assessment. Atkinson stated all of his sales were open-arm's-length transactions. To the best of his knowledge none of the sales were leased fee sales.

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 and is tempered with 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. 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 supports a reduction in the subject's current assessment to reflect the final conclusion of value as found by Ryan with consideration of the analyses prepared by Atkinson. Therefore, the Board finds the subject's assessment is incorrect and based on the evidence and testimony herein, a reduction is warranted commensurate with Ryan's final opinion of value of $12,600,000.

Since the subject's fee simple market value has been determined, the 2015 three-year average median level of assessments for DuPage County of 33.30% shall apply.

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

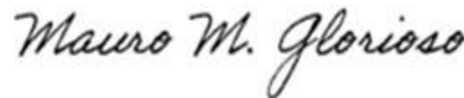
Member

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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