FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Kroger Co.
DOCKET NO.: 18-04619.001-C-3, 19-01899.001-C-3 and 20-06108.001-C-3
PARCEL NO.: 09-13-20-477-002

The parties of record before the Property Tax Appeal Board are Kroger Co., the appellant, by attorneys Ellen G. Berkshire & Jennifer Wadland, of Verros Berkshire, PC in Chicago, and the Macon County Board of Review by Jeannie Mayfield, Chairman (as of the tax years on appeal).

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 **Macon** County Board of Review is warranted. The correct assessed valuation of the property is:

2018

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
18-04619.001-C-3	09-13-20-477-002	178,914	787,656	$966,570

Subject only to the State multiplier as applicable.

2019

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
19-01899.001-C-3	09-13-20-477-002	182,922	783,648	$966,570

Subject only to the State multiplier as applicable.

2020

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
20-06108.001-C-3	09-13-20-477-002	186,562	780,008	$966,570

Subject only to the State multiplier as applicable.

For purposes of this appeal and pursuant to Property Tax Appeal Board procedural rule 1910.78 (86 Ill.Admin.Code §1910.78), Docket Numbers 18-04619.001-C-3, 19-01899.001-C-3 and 20-06108.001-C-3 were consolidated for purposes of oral hearing. A consolidated decision is being issued since the substantive evidence for each of the respective tax years was identical.

Statement of Jurisdiction

The appellant timely filed these appeals from decisions of the Macon County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessments for the 2018, 2019 and 2020 tax years. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of these appeals.

Findings of Fact

The subject property consists of a grocery store built in 1997, operated as a Kroger, and with a gas station/convenience store built in 2014. The subject consists of 8.22 acres or approximately 358,063 square feet of land area located in Decatur, Long Creek Township, Macon County.

Subject Improvements

As an initial issue, while both parties to these appeals presented appraisal reports, the data within those reports was inapposite concerning building size of the grocery store, the convenience store size, the canopy square footage, the number and type of fuel pumping stations, and the number and size of underground fuel storage tanks. The Property Tax Appeal Board, in advance of the hearing, ordered the parties to provide additional documentation from the appraisers' respective work files along with the appraisers' respective testimony to address each of these factual disputes at hearing.

Based on the documentary evidence presented and made a part of this record along with the accompanying testimony, the Board finds the subject grocery store contains approximately 64,580 square feet of building area including mezzanine office area which was inexplicably excluded by the board of review's appraiser (Webster appraisal, p. 26). This determination means that the subject has a land to building ratio of 5.54:1. The convenience store building contains 270 square feet of building area with a fueling canopy of 3,864 square feet and ten fueling stations (five fuel pumps). With regard to the foregoing building size determinations, the Board finds the appellant presented the best evidence utilizing aerial size calculations performed by its appraiser which are highly similar to data contained in the property record card maintained by the assessing officials. In contrast, the board of review's appraiser had indecipherable notes of measurements he made concluding 64,415 square feet of building area, based on his reliance on blueprints of the grocery building which he viewed and were not made part of the record. Those same notes purport to support the measurements of the convenience store and canopy. (Board of Review Hearing Ex. 1, p. 1 & 3)

Finally, appellant's appraiser, Helland, was not informed by the client of the details of the underground storage tanks associated with the gas station. Using his experience in the appraisal, Helland made an assumption that the site contains three, 7,500 square foot underground storage tanks which were included and considered within the cost approach to value of the site improvements. (TR. 18)[1] In contrast, based on documentation from the State Fire Marshal's Office concerning the underground storage tanks on the subject parcel, Webster reported the subject property is improved with a 20,000-gallon underground storage tank for unleaded fuel, an 8,000-gallon tank for premium fuel and a 10,000-gallon tank for diesel. Given the submission at hearing along with accompanying testimony, the Board finds that Webster provided the best evidence of the underground fuel storage tank improvements along with their replacement cost

[1] References to the transcript of the proceedings are set forth as "TR." followed by the page number citation(s).

of $180,750 rather than Helland's estimate of $80,000 based on an assumption of the number and size of these improvements. (Webster appraisal, p. 25; BOR Hearing Ex. #1, pages 4-5)

Appellant's Case-in-Chief

The appellant appeared through counsel before the Property Tax Appeal Board contending that the fair market value of the subject property was not accurately reflected in its assessed value for the tax years at issue. In support of this overvaluation argument, the appellant submitted an appraisal prepared by Peter D. Helland and Edward V. Kling of Real Valuation Group, LLC. The appraisal estimated the subject property had a market value of $2,900,000 as of January 1, 2018 (marked at hearing as Appellant's Hearing Exhibit No. 3).[2]

As its witness, the appellant called Peter Helland, currently a Senior Vice President with Newmark Valuation Advisory. At the time of the appraisal presented in this consolidated appeal, Helland was working for RVG Commercial. Helland prepared the report and Kling provided data support and market opinions in a review capacity. Helland has been appraising property since 2005 and is licensed in Illinois, Indiana, Wisconsin, Missouri, Iowa, Kansas, Nebraska and Minnesota. He has the Member of the Appraisal Institute (MAI) designation from the Appraisal Institute as well as the AI-GRS designation, which is a general review designation. Helland recently determined he has prepared 208 appraisals of grocery store or big box retail buildings; therefore, as of 2018, there were fewer completed grocery or big box appraisals, he estimated to be perhaps about 150 were completed. As to competency for the assignment, he has appraised numerous grocery stores across central Illinois along with office properties and other retail properties in Decatur, Springfield, Champaign, Peoria, Effingham and Fairview Heights.[3] (TR. 7-10)

Helland explained the importance of identifying the interest appraised in the report as those interests, either fee simple, leased fee or lease hold, which determine what rights a party has to utilize the real estate. In fee simple the party has the full bundle of rights to use and enjoy the property unencumbered. Pursuant to the Uniform Standards of Professional Appraisal Practice (USPAP), under the scope of work rule, the appraiser must identify the problem to be solved, determine what is necessary to develop credible assignment results, and disclose that within the report, the extent of the data researched along with the extent of the research into the economic factors, as well as how conclusions and the opinion of value was derived. The appellant, legal counsel and tax representatives were identified as the client and intended users; the intended use was for an assessment appeal using fee simple rights to derive a market value opinion as of January 1, 2018. Helland utilized the three approaches to value in arriving at the opinion. (TR. 13-14; Appellant's Hearing Ex. 3, p. 1-2)

Helland inspected both the interior and exterior of the subject property on October 24, 2018. The witness acknowledged a typographical error in the report setting forth sixteen fueling stations when there were actually ten; as the five fuel pumps are not taxable real property in Illinois, the

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[2] The appellant utilized the same appraisal for the 2018, 2019 and 2020 tax year appeals.

[3] The appellant moved to have Helland recognized as an expert in the valuation of big box retail and grocery store properties. As no objection was posed by the board of review, the witness was accepted by the Property Tax Appeal Board as an expert witness.

error does not impact his conclusion of value. Helland further testified that the fuel pumps are not considered within the cost approach to value as they are FF&E given the literature published by the Appraisal Institute on how to appraise fuel service stations. (TR. 15-16; Appellant's Hearing Ex. 3, p. 5, 19)

In order to determine the size of the grocery store building, Helland obtained a copy of the subject's property record card (PRC) from the local assessing officials which includes detailed measurements. Helland utilized GIS data to determine the accuracy of the information in the PRC and found his own calculations were within .003 percent of the assessor's sketch and thus relied upon that data. He utilized a similar methodology for the convenience store and the canopy size determinations. (TR. 17-18; Appellant's Hearing Ex. 3, p. 18-19)

Helland described the subject's neighborhood as a site immediately to the south of the Decatur airport and on the east side of Decatur in a largely retail area with a Wal-Mart to the south and a Rural King, movie theater and several restaurants along with bank branches to the east of the subject. Beyond those areas, there are some medium density single-family residential properties, some estates, woodlands and agricultural land as the circle expands in terms of radius. (TR. 18-19; Appellant's Hearing Ex. 3, p. 14-15)

The appraisal noted a decline in population in Decatur and a lack of job growth in the area with a median household income at the relevant time of $40,777 per year with a poverty level reportedly at 25.1%. (Appellant's Hearing Ex. 3, p. 11)

For local market conditions of central Illinois, the appraiser testified and set forth in the appraisal that Kroger closed two grocery stores in Peoria in January 2018, a store in Lincoln later in 2018 and closed the Fairview Plaza store in Decatur in mid-2018; after that closure, there were still three Kroger stores operating in Decatur. Across retail as a whole, since the start of 2017, Helland testified that retailers HH Gregg, Radio Shack, Gordman's, Eastern Outfitters and Gander Mountain were vacating anchor spaces and no longer operating. Additionally, in terms of big box stores, a number of department stores had been closed such as Sears, JC Penney's and Macy's. As of the valuation date, operators such as Sports Authority, HH Gregg and Gander Mountain were vacating their stores; later in 2018, Toys R Us closed all of their locations nationally and K-Mart was in the process of closing stores; ShopKo and ALCO were on the verge of bankruptcy, thus there were a number of big box locations as well as supermarkets across Illinois, the Midwest and nationally that were vacating spaces. Given these retail changes, the impact on supply and demand for the subject type of property according to Helland is that operating retailers do not want to occupy second generation space which he defined as anything that had ever been occupied, regardless of age. Factors depressing this second generation space, include that many such spaces have been converted to self-storage facilities across Illinois which were once Wal-Marts or K-Marts; some discount retailers such as Rural King and Big R absorb some of these vacant buildings; other times, some buildings, depending upon their depth have been reimagined into multiple units and/or junior anchors may be repurposed for two 20,000 square foot tenants; and, in some instances, with a location near an interstate and an insufficient number of users, some vacant space has been used as warehouse space. Alternatively, second generation space is torn down as the new user for branding purposes does not want to be viewed as "in the old ShopKo," "the old Kroger" or "the old Target." Helland further testified that a former County Market grocery store on Pershing Road in Decatur has been listed on the market;

he opined this property either needs a local user to take over the space, reimagine the space or, in some instances, local municipalities will provide substantial incentives either via sales or property taxes, to incentivize someone to gentrify the vacant space which is "another sign of the times for this type of space." (TR. 19-23; Appellant's Hearing Ex. #3, p. 14-15)

As vacant, Helland found the highest and best use would be for retail development, typically an owner-user that would construct a build-to-suit project based on their value and use meaning the entity would not be concerned about the resale value of the property. It would not be built speculatively nor in an effort to lease and make a profit from the construction. The only exception would be an investor with a lease in place for a new user prior to construction, which often occurs with national restaurant chains. Helland found the subject’s highest and best use as improved is the existing use as the improvement added value to the land. Helland noted, if the subject were to be vacated, efforts would be made to attract entities such as Hobby Lobby or Big R, a local grocer in the region, or even when they were in business, a ShopKo or Gordman's which had absorbed some second-generation space; such a buyer will want a discount since it will be necessary to modify the façade to their brand. (TR. 23-25)

In the appraisal process, the determinations of highest and best use are reflected in functional obsolescence determinations in the cost approach and in the sales and income approaches to value through comparisons with the comparable properties. While a free-standing retail property may serve as an appropriate comparable to the subject, the retail gas station component of the subject presents a different issue according to Helland; on page 19 of the appraisal, Helland stated, "The on-site fuel canopy limits the potential tenants/users for this property." According to Helland, as of 2018, fewer and fewer grocers were handling fuel service. For instance, in northern Illinois, Jewel grocers had begun to sell off their service stations to Circle K, as the station was situated on an outlot with a separate parcel. Woodman properties in Illinois typically have a large convenience store with a fuel station which operates on its own parcel. On the other hand, appellant Kroger does not have a full operating convenience store since with a 270 square foot building, it is more similar to a booth and not much consideration was given to ingress/egress to the fueling portion of the site. Helland opined that an effort to parcel off the subject's fueling portion would restrict access to the east side of the grocery store and also cut off access from the road to the south of the subject parcel. He further testified that typical buyers and owner operators of these types of buildings do not sell fuel which therefore pushes down the contributory value of the fuel improvements. Finally, once on the market, the parcel with underground storage tanks will require appropriate environmental studies and assurances on the site. Alternatively, Helland testified that rather than parcel off the fuel station, Kroger or a future owner might license the fuel sales to another entity similar to how some of the Kroger pharmacies are handled, although other issues may exist in such an arrangement depending on the location of storage tanks although separate leases for the gas station component are not that common. (TR. 26-30; Appellant's Hearing Ex. #3, p. 19)

Helland developed the three traditional approaches to value to estimate the subject’s market value. Helland testified that developing the land valuation for the subject property was difficult given the significant site size of 358,063 square feet of land area. He stated that when the big box retail market is depressed, there are fewer buyers for those land sites due to the lack of interest in constructing those buildings. Therefore, Helland had to stretch across much of central Illinois to find relevant land sales; land sale #4 is a junior anchor site meaning there was already an anchor in place and the parcel was then improved with a hotel, meaning the traffic flow to the property was enhanced according to Helland. At page 27 of the report, the appraiser detailed four comparable land sales located in either Bloomington or Forsyth. The sales occurred from November 2012 to September 2014 of sites ranging in size from 159,430 to 221,720 square feet of land area. The properties sold for prices ranging from $200,000 to $575,000 or from $1.25 to $3.55 per square foot of land area. Helland testified that with the limited amount of available data, examination should focus on the data set in totality as none of these comparable sales stands out as the perfect comparable. He further opined in light of the area's residential density, income levels, traffic exposure and land, given the adjustments, using these comparable land sales, he concluded an estimated unit value of $2.00 per square foot of land area was appropriate which resulted in an estimated land value for the subject of $716,000, rounded. (TR. 30-35; Appellant's Hearing Ex. #3, p. 27-29)

In developing the subject's replacement cost new, Helland wrote that he used Section 13, Page 20, Supermarkets, Class C, Type Average of the Marshall & Swift Valuation Service. Helland testified that he selected the average building quality because of the marketplace itself and his experience in viewing the construction components that are set forth in Marshall. The base cost was determined to be $88.00 per square foot of building area with a $2.75 adjustment for sprinklers. A perimeter adjustment for economies of scale was applied along with a height, local and current multiplier, resulting in an estimate replacement cost new of $83.16 per square foot of building area. Multiplying this by the subject's size of 64,580 square feet of building area resulted in an estimated replacement cost new for the grocery building of $5,370,710 (TR. 37-39; Appellant's Hearing Ex. #3, p. 31-32).

Utilizing the subject's chronological age of 21 years, Helland used an economic age/life method to estimate the subject's depreciation with economic life considered to be 75 years in total. Thus, Helland estimated the subject's depreciation to be 28%. (Appellant's Hearing Ex. #3, p. 32-33)

From this analysis, Helland added the subject's estimated land value of $716,000 to the estimated replacement cost new of $5,370,710, less 65% depreciation of $3,490,961 to arrive at a depreciated value of the improvements of $1,879,748. Contributory site value improvements ($494,000) for paving, lighting, signage, fencing and landscaping were added which indicated an estimated value for the subject by the cost approach of $2,373,748 plus 5% for entrepreneurial incentive of $118,687 resulting in a total under the cost approach of $3,210,000, rounded, including land, or $49.71 per square foot of building area. (Appellant's Hearing Ex. #3, Page 37).

Further analyzing the site improvements calculation shown on page 36 of the appraisal, Helland described the inclusion of the asphalt paving and its typical economic life cycle of 10 to 12 years as drawn from Marshall. Similarly, there are calculations for the convenience store and fuel canopy which were built in 2014 and thus resulted in a lower level of depreciation, and finally the underground fuel storage tanks and concrete work, signage and lighting. These calculations resulted in a total of site improvements of $494,000, rounded. (TR. 41-42; Appellant's Hearing Ex. #3, p. 36)

Hypothetically, Helland testified that if the subject site had three underground fuel storage tanks of 20,000 gallons, 10,000 gallons and 8,000 gallons, respectively, as shown on page 36 of the appraisal, the cost estimates would again be drawn from Marshall and would be more than the $80,000 value he set forth in the appraisal. However, Helland stated under the hypothetical, the larger fuel storage tanks would also be deemed to be super adequate or larger than typically needed for this size of fuel operation, which would cause an increase in the amount of depreciation. Helland testified overall there would be a nominal increase, perhaps $100,000, to the cost approach with this hypothetical information concerning underground fuel storage tanks. (TR. 39-40)

Helland next developed the sales comparison approach to value. In developing this approach, Helland considered first the factors of the size and use of the property; under the category of big box is any building from 30,000 to over 200,000 square feet of building area, with differing categories within that range. Next focus is regional, demographically and geographically, for similar locations in central Illinois. The next aspect is age of the property along with similar underlying land and recency of the sale. In seeking comparable sales using the listing services of Co-Star, MLS, LoopNet and ComStack, Helland placed emphasis on finding fee simple sales and giving those most weight that are most similar to the appraised property along with finding the recorded sale transaction and confirming the data based upon a conversation with a party to the sale. (TR. 42-44)

Helland utilized five sales comparables that were located in Urbana, Springfield, Bloomington and Lincoln. Helland testified he chose sale #1 because, even though it included a small adjacent shopping center and was older, it was suitable due to the main size and square footage of the property as a grocery store, which had been an IGA and became a Ruler Foods, occupied grocery store, and then was vacated and purchased by U-Haul to renovate and repurpose the property; he noted this further reflects the market conditions for these types of properties. The witness further testified that the adjacent strip center "can sort of mimic" the 'value' to be added by the subject property's fuel station. He stated sale #1 which sold for $1,500,000 or $27.24 per square foot of building area, including land, would be considered an investment grade property that was completely vacant at the time of sale. Helland made positive adjustments for property rights (due to the vacancy), location and age which resulted in a 40% net adjustment to an adjusted sale price of $38.14 per square foot of building area, including land. (TR. 44-46; Appellant's Hearing Ex. #3, p. 39-40)

Appraisal sale #2 was a former Eagle grocery store which had been operated as a Dane's Discount Store which closed; the property was bank owned and on the market for a significant amount of time after remodeling the new buyer relocated a meat processing business with a meat market. Based on this data, Helland found this sale to be a former grocery store purchased by an owner-user for a similar grocery type use going forward. He noted this comparable was smaller and older along with sustained vacancy. The property sold for $654,075 or $22.88 per square foot of building area, including land, and Helland applied adjusts totaling 40% resulting in an adjusted sale price of $32.03 per square foot of building area, including land. (TR. 46-47; Appellant's Hearing Ex. #3, p. 41-42)

As to sale #3, Helland described this as a big box retail building in Springfield which formerly operated as Slumberland Furniture which was purchased by an owner-user for operation as

World of Power Sports. The adjustments to the sale price of $2,175,000 or $43.50 per square foot of building area, including land, were offsetting for superior location for retail use and newer date of construction as compared to positive adjustments for land-to-building ratio and lacking grocery store/fuel improvements finish. (TR. 47-48; Appellant's Hearing Ex. #3, p. 43-44)

Appraisal sale #4 was described by Helland as a big box retail property in Bloomington, Illinois, which was originally constructed in 2000 as Tom's Parkway Foods, a grocery store. The property was then leased to Great Escape for retail sales, another big box use, and eventually sold as vacant to U-Haul to be renovated as a storage facility. This property includes a small mezzanine area and reflects a superior location in terms of exposure for retail use which was previously used as a grocery store, but lacks the fuel improvements. The property sold for $2,670,000 or $45.58 per square foot of building area, including land, with offsetting adjustments in the appraisal for the differences noted. (TR. 48-49; Appellant's Hearing Ex. #3, p. 45-46)

Lastly, sale #5 in the appraisal was an occupied Kroger grocery store in Lincoln with a small adjacent strip center included, which had tenants in place at the time of sale resulting in a more desirable investment property as compared to a small fuel station included with the subject grocery store. The property sold for $2,380,000 or $45.80 per square foot of building area, including land. Helland testified he applied a negative 5% adjustment given that the occupied strip center was more desirable than the subject's fuel improvements which resulted in an adjusted sale price of $43.51 per square foot of building area, including land. (TR. 49-50; Appellant's Hearing Ex. #3, p. 47-48)

In summary, the five chosen comparable sales ranged in age from 12 to 34 years old and were situated on sites ranging from 135,200 to 317,988 square feet of land area. The comparables had land-to-building ratios ranging from 2.70:1 to 7.80:1. The comparables sold from April 2014 to August 2016 for prices ranging from $654,075 to $2,670,000 or from $22.88 to $45.80 per square foot of building area, including land. After making various adjustments for property rights, sale conditions, location, building size, land-to-building ratio, construction quality and age/condition, the comparables had adjusted unit prices ranging from $32.03 to $45.58 per square foot of building area, including land. Helland testified that he found and examined enough sales of similar competing properties in order to apply the comparable sales approach with a high degree of confidence and concluded a market value for the subject of $45.00 per square foot of building area, including land, or an estimated market value under the sales comparison approach of $2,910,000, rounded. (TR. 50; Appellant’s Hearing Exhibit #3, p. 38-51)

Next, Helland testified concerning hypothetical details of leased grocery sales in the area. At this time in Illinois, Helland stated that Jewel, a grocery store, was engaged in sale lease backs (a financing mechanism that is not a leased-fee agreement) where the owner no longer wanted to own the real estate; the arrangement involved the sale of property which would be leased back to the previous owner for a specified length of time and price; the property is not exposed to the market. Helland stated the arrangement is not based on the value of the real estate but rather on how much the property owner wants to get. To convert such a transaction for *ad valorem* purposes in Illinois, both market rates and market occupancy must be considered which should differ from one another. Helland further testified that if an appraiser utilizes a leased-fee sale in the sales comparison approach and uses that same property in the income approach, it would be really difficult for the appraiser to compare the sales and income approaches to one another when relying on the same data in both approaches. (TR. 50-53)

Helland next developed an income capitalization approach to value. As outlined on page 53 of the appraisal, Helland relied upon five rental comparables, the first two of which he acknowledged were "pretty dated leases," each being from 2009 but were included due to building size and the difficulty in finding lease data for big box single tenant properties in central Illinois. He further testified that his market rent conclusion based on the rental comparables is above these five comparables largely due to the fact that the leases were dated. He described in testimony that rental comparable #3 was an anchor unit in a larger shopping center in Springfield with a more recent lease on a three-year term. Rental comparable #4, a junior anchor unit operated as Gold's Gym reflecting a bit of a dated lease from 2011 but providing pass through expenses as part of a shopping center but with a higher rent since it is a smaller unit. Finally, rental comparable #5 was a Shopko in a two-tenant retail center adjacent to a grocery store in Hoopeston; given the lease date in 2015, Helland found this to be reasonably comparable including the fact that it was part of a grocery store development. (TR. 54-55; Appellant's Hearing Ex. #3, p. 53)

For the income approach, the appraiser utilized five rental comparables located in Normal, Bloomington, Springfield and Hoopeston. The rental comparables range in size from 14,057 to 108,554 square feet of building area and rented on a net lease basis from $4.00 to $6.50 per square foot of building area. Ultimately, Helland opined a rental rate of $7.50 per square foot on a gross basis for the entire subject resulting in a potential gross income (PGI) of $484,350. Then Helland determined a 10% vacancy and collection loss rate or $48,435 was appropriate based on market trends and the general 5-year leases associated with second generation space for single tenant big box buildings with a six-month market time, which equates to 10% resulting in an effective gross income (EGI) calculation of $435,915. Next, Helland estimated with a triple net lease pass through expenses detailed on page 55 of the report based on market trends and market norms which include a management fee, maintenance, insurance, reserves, legal and accounting or $2.50 per square foot or 24% of estimated gross income (EGI), resulting in a total gross economic rental rate of $7.50 per square foot inclusive of the fueling improvements for the subject. Helland utilized 3% for management expenses ($13,077), insurance costs of $0.15 per square foot ($9,687), common area maintenance at $1.00 per square foot ($64,580), reserves for replacements of $0.20 per square foot and legal/accounting expenses of $5,000 or total expenses of $105,260 to arrive at an estimated net operating income (NOI) for the subject of $330,655. (TR. 53-59; Appellant's Hearing Ex. #3, p. 53-60)

Helland further opined, given the purpose of the appraisal wherein the taxes "are at odds" in a property tax appeal process, it was important to isolate the real estate tax burden out of the income and expense analysis and instead load it into the capitalization rate, thus avoiding any impact of the taxes themselves in the determination of value via the income approach. (TR. 56-59)

In order to determine an appropriate capitalization rate, as depicted on page 57 of the appraisal report, Helland initially set forth five direct capitalization rate comparables. Helland specifically testified that these comparables were new/fresh pieces of data in the report "so that none of the data is inbred and working off of itself to homogenize all of the approaches." The comparables sold from September 2013 to September 2018 and consists of buildings ranging in size from 31,080 to 100,213 square feet of building area. These comparables are located in Bradley, Ottawa, Normal and Peoria and presented capitalization rates ranging from 8.17% to 9.30%. The appraisal report on page 58 also reports examination of RERC fourth quarter 2017 sale data depicting 1st tier retail across the Midwest ranged from 7.3% to 7.4% and 2nd tier retail in the Midwest ranged from 8.1% to 8.2%. From the data, Helland opined an overall capitalization rate of 8.5%. As part of the report, Helland also depicted data on the band of investments method at 8.31%. Using the local tax rate of 10.48466% and multiplying it by the assessment ratio of 33.33% derived an effective tax rate of 3.49% which was added into the base rate of 8.5% for a total gross capitalization rate of 11.99%. Applying this to the subject's estimated net operating income resulted in an estimated income approach value for the subject of $2,760,000, rounded. (TR. 60-61; Appellant's Hearing Ex. 1, p.57-59)

Finally, as to reconciliation, Helland testified that he gave greatest weight to the sales comparison approach as it reflects the marketplace for a single tenant fee simple valuation of a big box property. Next came support from the income approach as it considers other market factors along with the tax rate itself. He stated the cost approach was given limited consideration. (TR. 61-62; Appellant's Hearing Ex. #1, 60)

Helland testified that for January 1, 2018, he estimated the subject's market value to be $2,900,000.

During cross-examination, Helland was asked whether most of his appraisal work is in larger metropolitan areas rather than in smaller counties with more rural populations. Helland testified that he grew up in Morris, Illinois and understands smaller rural communities. Furthermore, he stated he has performed appraisals of ALCO properties in White Hall, Dwight and Staunton, Illinois and has appraised properties all over Illinois including Greenville, Troy, Highland and Benton. In appraising those properties, not only are the buildings individually analyzed, but the appraiser also must keep in mind where it operates according to Helland. He stated one of the factors being considered as an appraiser is where is the big box located. (TR. 63-65)

When Chairman Mayfield opined that in rural Macon County a grocer in Decatur draws in demand from other areas and inferred that there were not enough grocers to serve the Decatur area, Helland responded that for Decatur there actually were too many grocers or Kroger would not have closed one. Mayfield also questioned the use of the phrase "big box" to refer to grocery stores when that term seems more applicable to retail, other than food; Helland responded that grocery is definitely big box. (TR. 65-67)

When Mayfield questioned the presentation of sales that were "dark stores" or vacant, Helland explained that a property must be empty or vacant in order to be purchased and used by the buyer who would most likely be an owner user; a property such as the subject does not have high investor demand according to Helland. (TR.67-68)

Under questioning by Administrative Law Judge Kirbach (ALJ), Helland testified that as to Appellant's Hearing Exhibit #1 consisting of the three aerials of the subject structures, in each case he found the aerial measurements were "close enough" to the sizes set forth in the property record card so that Helland accepted the property record card data. The aerial measurements depict 3,879.5 square feet for the canopy, 64,412.2 square feet for the grocery store and 267.1 square feet for the convenience store. The property record card schematic drawing presented as Appellant's Hearing Exhibit #2 depicts the canopy as 3,864 square feet, the grocery store as 64,580 square feet and the convenience store as 270 square feet. (TR. 68-69; Appellant's Hearing Ex. #1 & #2)

The ALJ also inquired why under the cost approach, Helland added entrepreneurial incentive after the depreciation deduction. He testified that based on training on the cost approach from the Appraisal Institute that is the methodology to be used. He further opined that if the entrepreneurial incentive had been added before the depreciation deduction for both the structure and site improvements, the result would have been the same. (TR. 69-71)

During re-direct examination, Helland explained that the appraisal assignment was to value a big box that is operated as a grocery store. Furthermore, according to the demographic data, Decatur was not depicted as a growing community as of the valuation date. The only material change in market conditions for Decatur that Helland became aware of from 2018 to 2020 was that one of the Kroger stores in Decatur closed. (TR. 71-72)

Based on the foregoing evidence and testimony, the appellant requested the subject’s assessment be reduced for the 2018, 2019 and 2020 tax years to reflect a market value of $2,900,000.

Board of Review's Case-in-Chief

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessments of the subject property were disclosed for tax year 2018 of $1,410,671, for tax year 2019 of $1,442,270 and for tax year 2020 of $1,383,333. The subject's assessments for 2018, 2019 and 2020 reflect the estimated market values of $4,234,977, $4,305,284 and $4,154,153, including land, respectively, when applying Macon County's three-year average median level of assessment for each of these tax years as determined by the Illinois Department of Revenue.[4]

In light of its evidentiary submissions, the Macon County Board of Review proposed that the subject's total assessment for each of the three tax years on appeal should be set at $1,383,333 to reflect their appraisal evidence, thereby reducing both the 2018 and 2019 tax year assessments.

In support of its contention of the correct assessment for tax years 2018, 2019 and 2020, the board of review submitted an 88-page summary appraisal report prepared by Joseph M. Webster, a Certified General Real Estate Appraiser with the MAI designation from the Appraisal Institute. The appraiser, after utilizing the three approaches to value, estimated the subject property had a fee simple market value of $4,150,000 as of January 1, 2018 (Webster appraisal).

As its witness, the board of review called Joseph Webster. As of the date of hearing, Webster had about fifteen years of experience in the appraisal of commercial real estate primarily in

[4] The established three year median levels determined by the Illinois Department of Revenue for 2018 is 33.31%, for 2019 is 33.50% and for 2020 is 33.30%.

central Illinois. In the appraisal, it is stated that Webster had appraised numerous grocery stores throughout Illinois, including in Decatur. (TR. 72-73; Webster appraisal, p. 12)

As part of the area data in the Webster appraisal, it was reported that both Macon County's and Decatur's populations have declined over the past twenty years. After setting forth statistical data on historical unemployment rates, information on the area's major employers, data on the mix of housing units, types and vacancy data, along with median household income and age for residents, Webster concluded that Decatur was considered "stable, but remains vulnerable to further population declines." Webster testified that while Decatur's population is declining, there were two primary areas where commercial properties are thriving, one of which is the Forsyth area and the other is where the subject is located at the Route 36 and Route 121 interchange. He further asserted that there were residential neighborhoods in all directions from the subject property which have continued slow growth. Webster noted that some nearby smaller area communities, such as Mt. Zion, do not have their own grocery store. (TR. 73-77; Webster appraisal, p. 17-19)

On page 7 of the report, besides setting forth "Tax and assessment data" for 2018, payable in 2019, Webster also listed three properties and their respective assessed values. As listed, these properties range in building size from 18,260 to 62,323 square feet and have assessed values ranging from $541,809 to $869,748 or from $9.48 to $29.67 per square foot of building area. Webster also prepared a narrative concerning these properties noting, in part, that the third property consists of a 37,515 square foot grocery store along with a 19,430 square foot retail strip center and that the first and third properties have "somewhat higher effective age(s)" than the subject. In closing this analysis, Webster reported that the subject has an assessed value of $21.81 per square foot based upon a total building area of 64,667 square feet[5] and wrote "after accounting for the aforementioned differences, it appears that this assessed value is within range of the comparable properties shown above." The ALJ sought an explanation from Webster for his rationale in including this page 7 assessment analysis/data. Webster testified that he was just looking to see what the other properties were assessed at in the prior year and he believes it is a reasonable consideration for *ad valorem* purposes. "For example, if you see three properties that are assessed considerably less or considerably more, even if the market value is not consistent with the assessment, or it is consistent with the assessment, the property is not equitably assessed." (Webster appraisal, p. 7; TR. 169-170)

In describing the subject property, Webster reported Illinois Department of Transportation average daily traffic counts for 2017 and 2015, respectively, for U.S. Route 36 and Maryland Street at the subject are 11,800 and 5,300-vehicles, respectively. Since 2011, historical traffic counts on U.S. Route 36 indicate a downward trend, with a slight increase in traffic on Maryland Street since 2010. In testimony, Webster characterized the subject as having a moderately high traffic count which, "for the Decatur area, is a high traffic count." Given the testimony of Helland concerning 15 to 20,000 cars per day as a traffic count, Webster opined that in a smaller rural community there are not many roads with that kind of traffic count. (TR. 76-77; Webster appraisal, p. 25)

[5] Webster depicted the subject as consisting of a 64,415 square foot grocery building and a 252 square foot convenience store for a combined building area of 64,667 square feet.

For the appraisal assignment, Webster inspected the exterior and interior of the subject property on October 2, 2019, observing the site and site improvements, the exterior of both buildings and the interior of nearly all areas of both buildings. He reported having been accompanied by a store manager and included photographs in the report that were taken that day. The two photographs of the exterior and interior of the convenience store depicted on pages 78 and 88 fail to display any public entrance for typical shopping in a gas station convenience store. (Webster appraisal, p. 5, 10; photographs appear on pages 77 – 88 of the report)

For purposes of the hearing and in response to an order of the Property Tax Appeal Board issued in advance, the board of review produced documentation from Webster's work file consisting of five pages marked at hearing as BOR Hearing Exhibit 1. Webster testified that he prepares his own building measurements. Pages 1, 2 and 3 of the exhibit include notations of 200 by 310 which the witness reported came from blueprints viewed at the property at his request; Webster testified that the blueprints lacked both an offshoot in the back and an offshoot in the front of the building and did not include measurements for those portions of the building. Using his measurements for the two offshoots of the building, Webster set forth a grocery building size of 64,415 square feet, not including the small mezzanine. For the convenience store and canopy, Webster testified that he did not have available blueprints and measured each of those structures himself concluding that the convenience store contains 252 square feet of building area and the canopy measured 3,969 square feet. Pages 4 and 5 of BOR Hearing Exhibit 1 consist of public records from the State of Illinois Fire Marshal's website concerning the underground storage tank sizes which Webster also confirmed with John Taylor of the Kroger corporate office. (TR. 79-82; BOR Hearing Ex. 1; Webster appraisal, p. 25-26)

Webster determined the grocery building's overall condition was average to good, although there had been no significant level of recent remodeling and Webster observed some stained ceiling tiles in a break room. He found no significant items of deferred maintenance. (Webster appraisal, p. 26)

Webster determined the highest and best use of the site as vacant would be for retail, restaurant, medical office or a mix thereof. The appraiser was of the opinion the highest and best use of the subject as improved is for its current use and Webster further stated that no conversion in uses was feasible. He further opined that the most likely purchaser would be a grocery store operator for the fee simple interest. Despite this conclusion, Webster did comment in the report that "many properties of this type sell based on leased fee property rights to investors." (Webster appraisal, p. 28)

Next, Webster analyzed the applicable market conditions for grocery stores indicating that online shopping is anticipated to increase along with shopper preferences for delivery and express grocery services. Average store sizes are decreasing and margins for grocery stores are thin, with pre-tax margins frequently being less than 5%. Additional secondary competition has been increasing recently from discount stores, such as Dollar General. At the time of this appraisal report, Macon County reportedly had nine operating grocery stores consisting of three Kroger's, two Wal-Mart's and two Aldi's, a Save-A-Lot and a County Market, or one store per 11,756 residents "which compares favorably to the national metric of one store per 4,913 residents." Webster noted that two grocery stores closed "in the past couple of years," one of which was a Kroger in western Decatur, likely impacted by a nearby newly constructed County Market as well as declining population. In northern Decatur a County Market also closed reportedly due to declining population in Decatur as well as the changing retail environment. A Schnuck's grocery closed several years prior and a former Aldi is vacant in one part of Decatur, while a new Aldi was built in a slightly superior location. Webster acknowledged that decreasing grocery store sizes could imply functional obsolescence. He further concluded that the subject's neighborhood is in a portion of town that has experienced minor growth and is a primary shopping area for Mount Zion, such that he opined "there is not an oversupply of grocery stores in this market." (Webster appraisal, p. 26, 30)

Using the cost approach to value, Webster first estimated the subject's land value considering five comparable land sales. In selecting the land comparables, he contends they contain the same salient characteristics as the subject; in testimony, Webster noted it is a challenge to find sales comparable in size within incorporated sections of a community the size of Decatur, but the chosen comparables bracket the subject. Each sale is located in Decatur and range in size from .91 to 10.44-acres of land area. The sales either sold as B-2 or M-1 zoned parcels or were re-zoned from R-1 to B-2 after the sale. The sales occurred from March 2015 to February 2019 for prices ranging from $330,000 to $1,303,763 or from $1.76 to $8.61 per square foot of land area. Within the report Webster indicated land sales #1 and #5 were acquired for development of medical buildings. The appraiser indicated land sale #2 was acquired for development of a Sonic restaurant in an out lot of Wal-Mart, land sale #3 was acquired for development of Aldi and land sale #4 was acquired for development of a travel stop and was the sum of a three-site assemblage. When considering adjustments to the land sales, the appraiser determined that no market condition adjustments were warranted to these sales, regardless of when the sales occurred but qualitative adjustments for location/exposure, access, size, configuration and zoning were made as depicted on page 37 of the report. Webster testified that land sales #2 and #3 were superior while land sale #4 had an inferior overall rating whereas land sales #1 and #5 had a similar overall rating and these latter two sales reflected $2.74 and $3.64 per square foot of land area. Based on these vacant land sales, Webster estimated the subject property had a land value of $2.80 per square foot or $1,000,000, rounded. (TR. 83-86; Webster appraisal, p. 31-38)

In estimating the cost new of the improvements, Webster used replacement costs from the Marshall & Swift Valuation Service Cost Manual. In the report he used a base cost for Class C, supermarkets of good quality or $108.00 per square foot. Webster made an adjustment of $3 for sprinklers, along with a current, local, perimeter and height multipliers resulting in a replacement cost new estimate of $113.34 per square foot for the grocery store with a reported building size of 64,415 square feet for $7,300,796. Similarly, Webster used a base cost for Class C, convenience stores of good quality of $113.00 from Marshall along with current, local, perimeter and height multipliers for an estimated replacement cost new of $163.82 per square foot for the convenience store with a reported building size of 252 square feet for $41,283. Calculations of site improvements/equipment for asphalt paving, canopy, pumping stations, underground storage tanks and miscellaneous site costs totaling $1,028,080 resulting in a subtotal of $8,370,159 for replacement cost new to which Webster added 10% or $837,016 for entrepreneurial profit to arrive at a total cost new of $9,207,175. (Webster appraisal, p. 39-43)

Webster calculated incurable physical depreciation for the grocery store to be 37.5% and for the convenience store to be 13.33% using the age-life method. Then he determined the parking lot and miscellaneous site improvements had physical depreciation of 50%, whereas the canopy, pumping stations and underground storage tanks had a 30% physical depreciation rate. Based on these calculations, Webster reported total incurable physical depreciation to be $3,486,700. Webster concluded that functional and external "obsolescence of 45% is favored in this case, due to the declining population in Decatur, as well as the slightly larger store size, relative to the sales" shown on page 45 of the report. Therefore, based on the depreciation levels of his comparable sales #1 through #4,[6] Webster opined incurable functional obsolescence and economic external obsolescence of $2,574,214 should be equally allocated or $1,287,107 for each type of obsolescence. In summary, Webster deducted 65.83% as depreciation from all sources of $6,060,914 resulted in a reported depreciated value of all improvements of $3,146,261. Then adding the land value of $1,000,000 resulted in an estimated value under the cost approach of $4,150,000, rounded. (Webster appraisal, p. 43-46)

In the sales comparison approach to value, Webster used five comparable improved sales and one listing. Webster testified that none of these properties were "distressed sales." When asked by the Chairman if the properties were all occupied and running, Webster stated no; comparable sale #5 as well as the listing were vacant at the time of sale. Within the report, Webster indicated that comparable #1 was a leased-fee sale with five years remaining on the lease at the time of sale; comparable #2 was a leased-fee sale with two years remaining on the lease when sold; comparable #3 consists of a grocery store and in-line retail spaces, most of which were leased at the time of sale along with a new lease with Anytime Fitness signed prior to the sale to the anchor tenant; comparable #4 reflects a leased-fee sale of a grocery store and in-line retail spaces with about 4.7 years remaining on the Kroger lease; Webster noted this sale at $91.35 per square foot, including land, "took place at a premium price"; and comparable sale #5 represents a former Aldi store with a deed restriction prohibiting future grocery store use; after sale this property has been utilized as a thrift shop. The active listing in Decatur consists of a former County Market grocery store, excluding an adjoining gas station which was still operated by County Market. These properties are located in Ottawa, Springfield, Tilton, Decatur and Peoria. The parcels range in size from 1.49 to 8.93-acres of land area improved with buildings that were built from 1975 to 1990. The buildings range in size from 16,280 to 62,323 square feet of building area reflecting land-to-building ratios ranging from 3.44:1 to 6.92:1. Comparables #1 through #5 sold from January 2016 to April 2018 for prices ranging from $1,200,000 to $5,201,849 or from $42.23 to $91.35 per square foot of building area, including land. The listing presented an asking price of $2,400,000 or $38.51 per square foot of building area, including land. (TR. 91; Webster appraisal, p. 48-55)

After applying qualitative adjustments to the sales and listing for conditions of sale, location, size, age/condition, and/or land-to-building ratio, in the sales comparison approach Webster set forth adjusted sales prices for the six properties ranging from $34.66 to $82.22 per square foot of building area, including land. At pages 56-57 of the report, Webster summarily stated, "Despite the use of qualitative adjustments, Sales 1, 3, and 5 could be quantitatively adjusted to $64.29, $59.26, and $66.34 per square foot, respectively." After considering adjustments to the remaining properties suggesting both higher and lower unit values, Webster opined that a value of $62.50 per square foot of building area, including land, for the subject was reasonable. When

[6] The only information supporting these figures is set forth on pages 48 to 51 of the report "based on a replacement cost new" then setting forth the purported depreciation.

applying the determined total building size of 64,667 square feet, he estimated the subject had a value of $4,040,000, including land, rounded. (Webster appraisal, p. 55-57)

Under the income capitalization section, Webster set forth data on five rental comparables of grocery stores located in either Decatur, Champaign or Tuscola; for confidentiality reasons, some details on rental comparable #5 were withheld, but upon cross examination, Webster acknowledged this rental comparable was a portion of his comparable sale #4. The comparables consist of buildings built from 1963 to 1990 and which range in size from 37,515 to 72,326 square feet of rentable building area. The parcels range in size from 4.974 to 18.64-acres of land area resulting in land-to-building ratios ranging from 2.92:1 to 5.38:1. Webster reported the comparables have either effectively net or triple net leases with reported rental rates ranging from $5.87 to $10.50 per square foot of net rentable building area. In testimony, Webster stated the difference between effectively net and triple net in this instance was the lessor did not collect all of the reimbursements that they were authorized to in the lease. Next, Webster applied adjustments for lease terms, with the subject being analyzed on a triple net basis. Additional adjustments were applied and considered for location, size, age/condition, quality/finish and land-to-building ratio which were applied on a quantitative and cumulative basis. The fact that rental comparable #2 was closed was considered in reconciliation according to the appraiser. In testimony, Webster stated rental comparable #2 was vacant "although they continued to lease that property for $10.50 per square foot triple net." After applying his quantitative adjustments to the rental comparables for lease terms, location, size, age/condition, quality and finish and land-to-building ratio, Webster reported the adjusted rental rates range from $6.45 to $11.03 per square foot of net rentable area.[7] In the report, the appraiser recognized the wide range of adjusted rental rates, but also noted that the high-end reflected by rental comparable #2 was a significant outlier; Webster testified since rental comparable #2 was vacant at the time of the lease and effective date, he gave no weight to that rental. Thus, after effectively giving no consideration to the outlier, the appraiser opined a rental rate for the grocery component of the subject of $6.75 per square foot was reasonable; Webster applied his building size of 64,415 for the grocery building to arrive at a grocery store rent of $434,801. (TR. 92, 94; Webster appraisal, p. 58-65)

Next, Webster developed a determination of market rent for the subject's gas station component. The appraiser set forth a spreadsheet with limited data on three gas station rental comparables located in Decatur, Mahomet and Davenport. He reported the parcels range in size from .69 to 18.64 acres of land area. The buildings range in age from 4 to 21 years old and were each in good condition. The buildings range in size from 240 to 4,452 square feet and presented net or triple net lease terms ranging from $17.52 to $60.49 per square foot of building area. Webster reported that he gave consideration to each of these gas station rental comparables with greatest emphasis on gas station rental #1 located in Decatur, when opining a gas station market rent for the subject of $50.00 per square foot of building area or, when applied to his building size determination of 252 square feet, a market rent for the gas station of $12,600. (Webster appraisal, p. 66)

When performing the income approach to value, Webster added his separate opinions of potential gross income (PGI) for the grocery store and gas station for a combined total of

[7] In testimony, Webster stated the rentals ranged from $5.87 to $10.50 per square foot. (TR. 93)

$447,401 as his PGI estimate. Next, the appraiser deducted 10% or $44,740 for vacancy and collection losses, resulting in an effective gross income (EGI) calculation of $402,661. In explaining the vacancy determination, Webster stated there were nine-occupied grocery stores in Decatur and 4 vacant stores, implying a vacancy loss of 30.67%, however, Webster noted the characteristics of those properties along with the age of the subject, suggests a 10% vacancy loss was more reasonable. In his reconstructed income statement on page 68, Webster set forth his expense estimates, including real estate taxes, for management as 3% of EGI or $12,080, for professional fees for legal and accounting of $2,500, for miscellaneous expenses primarily during period of vacancy of $25,000 and for reserves for replacement at a rate of $0.30 per square foot or $19,400 which results in total expenses to be deducted from EGI of $58,980 or 14.64% of EGI, which results in a net operating income (NOI) finding of $343,681 or 85.36% of EGI. (Webster appraisal, p. 68-70)

Webster set forth data on the band of investment technique of 8.14%, investor surveys reflecting an average of 10.53% and capitalization rate data derived from the four comparable sales utilized in the report ranging from 7.42% to 8.90%. Webster noted that of the six properties considered, three properties were anchored by grocery stores but include multiple-tenant structures; the appraiser reported the sixth property was subsequently vacated by the tenant although an 8-year lease was in place at the time of the 2016 sale. Based on the foregoing data considerations, Webster developed a capitalization rate for the subject property of 8.14% in reliance on the band of investment technique. Capitalizing the subject's estimated net income resulted in an estimated value of $4,220,000. (Webster appraisal, p. 71-72, 73)

In reconciling the three approaches to value, Webster in the report stated that all three approaches were considered to be good indicators of value and were given nearly equal emphasis in concluding that the subject property had an estimated market value of $4,150,000 as of January 1, 2018. In testimony, Webster acknowledged that the final value conclusion was equivalent to the cost approach determination, but stated the other approaches were either higher or lower, "so it wasn't as though I gave the most emphasis to the cost approach." He also testified that his approaches were all within a 5% range which he opined was reasonably narrow for this type of property. He further noted if all three approaches were averaged, it would come out pretty close to $4.15 million and with that "being fairly, a fairly round number, I felt that was the appropriate value in this case." (TR. 88, 97-98; Webster appraisal, p. 73)

Under cross-examination, Webster acknowledged that he has never previously testified before the Property Tax Appeal Board concerning an appraisal prepared of a grocery store. The witness further explained that Webster & Associates, by whom he is employed, is owned by his father. When questioned about the different appraisal purposes set forth on the Webster & Associates website, the witness did not dispute that *ad valorem* assessment purposes may not be identified on the website. However, when inferred that the website may lead one to believe *ad valorem* purposes would be outside the firm's usual area of expertise, Webster refuted that and responded in part, "not to get on a pedestal here, but I believe that I'm the best, and in the Central Illinois area." He noted when consumers call around to find an appraiser, "they always come back to me." (TR. 98-99)

Webster agreed that the appraisal assignment in this matter was to value the fee simple real estate, not the business of a grocery store. As to the grocery building improvement, Webster determined it was built in 1997 and has not undergone any significant renovation or remodeling as of the date of valuation. Upon questioning, Webster stated that if there were any items of deferred maintenance, it was not significant; he testified that the property stood out as being in reasonably good condition. However, he acknowledged that on page 26 of the report, Webster set forth some items of deferred maintenance. (TR. 100)

Upon further inquiry, the appraiser testified that his client on this appraisal was the Macon County Board of Review, and it is, in part, the responsibility of the board of review to review and correct property tax assessments. The witness acknowledged that the appraisal assignment was to independently appraise the subject property for *ad valorem* purposes and asserted there was no predetermined conclusion that the property was equitably assessed. The analysis on page 7 of the appraisal report sets forth minimal data on three equity comparables and finds that the subject is within the range of those equity comparables. Equity comparable #1 is a 62,323 square foot grocery store with a gas station located at 1450 East Pershing in Decatur which has an estimated market value based upon its assessment when using the statutory level of assessment of 33.33% of $28.44 per square foot. Equity comparable #2 depicts an assessment of $29.67 per square foot and contains 18,260 square feet of building area, which is 72% smaller than the subject grocery building, and as such given the economies of scale has a higher per square foot value. Equity comparable #3 which is a grocery store and strip center with an estimated market value at the statutory level of assessment of $45.81 per square foot. Upon examination, Webster acknowledged that the two equity comparables which are most similar to the subject depict estimated market values which are, respectively, 64% and 30% lower than the subject's 2018 estimated market value as reflected by its assessment. (TR. 101-103)

In the market conditions analysis, Webster agrees that the populations of both Decatur and Macon County were declining as of the date of valuation. He also recognizes that Decatur remains vulnerable to further population decline. Webster admitted that to the extent the data was available, historical traffic counts on US Route 36 have been declining. Directly across US Route 36 from the subject property is agricultural land and Webster testified that there were no noticeable vacancies or boarded up properties along Route 36 near the subject property. The witness acknowledges that the market for retail stores indicates a trend preferring building sizes smaller than the subject structure and the average sizes of grocery stores have decreased about 15%. The witness agrees that this trend demonstrates functional obsolescence which he noted was recognized within the cost approach to value. (TR. 103-105)

Recognizing that the instant appraisal report is dated December 30, 2019, Webster testified that he was aware that in 2018 Kroger closed two of its Decatur area stores. As to what drove those closures, Webster stated that the grocery store industry has changed with direct competition from Dollar General. A County Market store on the west side of Decatur closed in an area with a greater rate of decline than near the subject property, which has experienced some growth because the Mt. Zion area is growing. Webster testified, "Basically there's a flight away from the Decatur School district." (TR. 105-106)

For the subject's highest and best use as improved, Webster determined to be the subject's current use as a single tenant retail space, not as a grocery anchor in a shopping center. While Webster found that the most likely purchaser for the fee simple interest would be a grocery store operator (Webster appraisal, p. 28). At hearing, the witness qualified his position noting "properties frequently vacate in the areas that are not declining" and for that reason, "I acknowledge that a common purchaser would be an investor." Webster also concluded in the appraisal, under the highest and best use as vacant, that it was not feasible to construct a grocery store in the same layout as the subject on the site as of the valuation date. Given these varying conclusions, Webster acknowledged that there is a level of external and/or functional obsolescence present in the market for big box retail. (TR. 106-109)

Webster was extensively examined regarding land sale #1, 3.47-acres, which was described as part of a parcel on page 32 of the appraisal which includes an aerial photograph. In the course of answering questions, Webster testified that he did the appraisal for when this property was built (a medical office building was constructed on the site). When shown an aerial photograph of land sale #1, identified as Appellant's Hearing Exhibit 4, which was delineated with an area outlined in red and an area outlined in blue, Webster testified that he does not believe the area outlined in blue depicts the entire portion of the parcel that was part of the sale transaction and Webster stated that he would be surprised if the area in blue is the only portion of the property shown as sold in county records. (TR. 109-112; Webster appraisal, p. 32; Appellant's Hearing Ex. 4)

For Webster's land sale #2, there was no buyer's broker involved in the transaction. Land sale #2 consisting of 39,491 square feet of land area is more than nine times smaller than the subject parcel. Land sale #2 is an out lot of a Wal-Mart Super Center which sold for $8.61 per square foot but is located in close proximity to the subject property; Webster acknowledges this sale is significantly higher on a square foot basis than his value conclusion of $2.80 per square foot of land for the subject. (TR. 112-113; Webster appraisal, p. 33)

Land sale comparable #3 in Webster's appraisal was shown as sold in county records for a price of $1,303,763 and an acreage of 4.1-acres, both slightly different than reported by the appraiser. Webster acknowledged that based on county records, the sale price for land sale #3 would calculate to $7.30 per square foot of land area. When shown Appellant's Hearing Exhibit 5, an aerial photograph of land sale #3 outlined in blue, Webster testified that area looks very similar to what is shown in his appraisal report. Webster applied an upward adjustment to this sale price for having an irregular shape as compared to the subject. Land sale #3 has a reported sale price of $7.43 per square foot which is two-and-a-half times greater than Webster's final land value opinion for the subject. The witness admitted that he was aware the buyer of land sale #3 intended to subdivide and sell the out parcel for a premium. (TR. 113-116; Webster appraisal, p. 34; Appellant's Hearing Ex. 5)

As to Webster's land sale #4, as shown in the appraisal and identified as outlined in blue in Appellant's Hearing Exhibit 6, was adjusted in the report for its irregular shape as compared to the subject. Due to the irregular shape, Webster agreed this parcel has extremely favorable visibility from Interstate 72 and is a good spot for a truck stop with very little development on the northwest side of Decatur at this time. In the appraisal, Webster made a downward adjustment to the sale price of $1.76 per square foot for inferior location which the witness reaffirmed as correct. The witness also agreed this parcel is most similar to the subject property in size. (TR. 116-118; Webster appraisal, p. 35; Appellant's Hearing Ex. #6)

Land sale #5 of 2.77-acres occurred in February 2019 for $2.74 per square foot of land area, after the date of value in Webster's appraisal. Assessment data for land sale #5 after the date of sale reflects a market value of $1.73 per square foot of land area. Similarly, the subject parcel's land assessment of $178,914 depicts a market value of $1.50 per square foot. (TR. 118-119; Webster appraisal, p. 36)

As to the considerations made by a buyer, all three approaches to value have characteristics that account for different aspects of the subject; Webster opined that a buyer when relocating would be considering the cost approach in a buy versus build analysis. (TR. 119)

On page 40 of Webster's appraisal, he utilized good quality in the <u>Marshall Valuation Service</u>, despite having described the subject property to be in average to good condition. When questioned about the level of interior finishes reported in the subject that do not qualify as good quality in <u>Marshall</u>, Webster testified, "You have to look at, what does the outside look like." The witness acknowledged that certain categories of building materials are categorized as good or average in <u>Marshall</u>. Webster testified that listing #1 in his appraisal, a County Market which closed, was a box, its brick and there is really no décor as it is basically just an open shell. When questioned about the <u>Marshall</u> categories to qualify as good quality, Webster acknowledged that use of decorative block may be necessary, but he disagreed that plaster rather than drywall would be needed for good quality despite what the manual may call for, since "nobody uses plaster anymore" in any central Illinois building that is less than 80 years old. When questioned about the flooring category in <u>Marshall</u> that calls for terrazzo flooring for good quality rather than concrete or vinyl tile, Webster testified, "But I also as an appraiser make those determinations. Like, for example, the County Market is an average quality building. There's really nothing that sets it apart from just a box with brick on it. This property has décor." The witness was not at all surprised that the differences in Class C average and Class C good quality supermarkets would be $20 per square foot of building area. (TR. 119-122; Webster appraisal, p. 40)

Within the cost approach, Webster included the fuel pumping stations with a value of $107,500. When questioned about whether the pumping stations are considered as taxable real property, the witness expounded as an appraiser he has to determine what is truly real estate. Webster opined herein as an appraiser that the fixtures are real estate and the issue is whether it is affixed in a manner that it can be removed without significant or a real expenditure; he noted that may differ from how assessors treat certain fixtures and the treatment is also inconsistent from one assessor to another. (TR. 122-124; Webster appraisal, p. 42)

Webster testified that, as an appraiser, he is obligated to abide by USPAP guidelines. Furthermore, the witness agreed that the Appraisal Institute is also a leading guide for his profession in reliance upon the <u>Appraisal of Real Estate</u>. In a passage from page 574 of the 14th Edition of the <u>Appraisal of Real Estate</u>, identified as Appellant's Hearing Exhibit 7, concerning entrepreneurial profit, Webster agreed with the proposition in the text that, "As a market derived figure, an estimate of entrepreneurial profit or entrepreneurial incentive is only as reliable and precise as the available market data warrants." Similarly from page 575 of the same text, Webster agreed with the proposition that "To ensure the reasonableness of an estimate of entrepreneurial incentive or entrepreneurial profit, appraisers should carefully examine the source of additional property value over and above the total cost of development and the effects of supply and demand for properties of that type in the subject property's market area." The witness also agreed with the next proposition on the same page of the textbook that, "However, the entrepreneurial profit might only be realized years after the property is built when it sells to a similar owner-occupant at a premium because the property is suitable and immediately available, unlike new construction or conversion of a different property." Webster contends that the grocery store market has changed towards smaller stores. However, for purposes of the instant appraisal report, Webster added 10% of the calculated replacement cost new of the subject or $837,016 as an entrepreneurial incentive in the cost approach. Webster hesitantly acknowledged that if the estimated replacement cost new of the subject property were inflated, then as a percentage, the entrepreneurial incentive would likewise be inflated. (TR. 124-128; Webster appraisal, p. 39 & 43)

The ALJ asked Webster to explain the placement of the 10% entrepreneurial incentive calculation within the cost approach prior to the deduction for depreciation to which Webster stated you first determine the return required upon construction and then turn to depreciation; he stated the developer is considering a hypothetically new property which is then depreciated. (TR. 171-172)

For purposes of calculating functional and external obsolescence as depreciation utilizing the market extraction method within the cost approach, Webster relied upon his comparable sales #1 through #4, excluding sale #5. The witness agreed the steps in making the depreciation calculation include applying adjustments to the comparable sales data for factors such as rights conveyed, financing and conditions of sale. In this regard, Webster testified he considered the fact the buyer overpaid for sale #4 because the implied functional and external obsolescence was negative. Each of the four sales upon which Webster relied upon were leased-fee transactions. The witness further qualified his sales stating that sale #2 was "effectively fee simple" and sale #3 was purchased by a tenant, but it also had leases. When questioned by the ALJ as to the witnesses' characterization of "effectively fee simple," Webster stated that sale #2 sold with two years remaining on the lease as a Shop N Save but was purchased for use as a County Market; the witness agreed that when a property is leased at the time of sale it is leased-fee sale, however Webster uses "effective" because that wasn't the intent of the buyer to have pass through income but rather to occupy the property. (TR. 128-131)

Next for the cost approach, in calculating depreciation with the use of market extraction based upon leased fee sales, the appraiser must estimate the value of the land at the time of sale which Webster stated he did. The summary appraisal report, however, does not itemize the land values attributed to the properties as part of the market extraction process; Webster testified you could "back into it." As part of this process, the appraiser must also estimate the cost new of the improvements at the time of sale. In this report, Webster summarily reported the replacement cost new of comparable sales #1, #2, #3 and #4 resulting in varying depreciation percentages along with an entrepreneurial incentive that is not stated in the report. Webster testified the incentive was 10%, but admits it is not stated on pages 48 through 51 as to comparable sales #1 through #4; the witness particularly admits the incentive is not mentioned as all with regard to sales #1 and #4. While Webster contends that all of the data presented in the report is sufficient, he acknowledged that if hypothetically, the land value or the cost new of the comparables were calculated in error, the error would carry over into the cost approach in this appraisal. Upon further questioning, Webster became defensive testifying that the issue is what is the reader looking for and he opined that a reader is not looking for the same type of support that would be shown for the subject property as compared to the comparable sales. Finally, Webster testified it is standard to utilize leased-fee sales for a market extraction depreciation analysis if that is the market. In terms of his appraisal report, Webster acknowledged that the depreciation analysis performed in the cost approach is inextricably tied to the comparable sales approach since the same properties were used in each analysis. (TR. 132-137)

The witness was next questioned about the appraisal's sales comparison approach data. The appraisal's purpose is to estimate the retrospective market value of the fee simple interest of the subject property as defined on page 8 of the report. Webster utilized comparable sale #1 which was a leased fee sale with five years remaining on the lease at the time of sale; the appraiser did not fully review the lease terms and was unfamiliar with the rental rate or the date the lease was original signed, which was 1982. Furthermore, he was unfamiliar with the fact the lease had four additional five-year options. Webster did not dispute that sale #1 was part of a 1031 exchange in which the same broker represented both the buyer and the seller. (TR. 137-140; Webster appraisal, p. 48)

Webster acknowledges that his comparable sale #2 was leased with two years remaining on the lease at the time of sale. Again, he did not review the lease terms and was unaware of the rental rate. By utilizing the reported capitalization rate of 8.90% and with use of a calculator, Webster testified the property had an implied net income of $3.76 per square foot. There may not have been a buyer broker involved in sale #2. This property benefits from freeway visibility. Webster acknowledges that county assessing officials may not have deemed this sale transaction to be a qualified sale. (TR. 140-143; Webster appraisal, p. 49)

Comparable sale #3, a multi-neighborhood strip center anchored by a grocery store, which used in Webster's appraisal is a leased fee transaction that was purchased by a tenant. Other tenants in the property were Auto Zone, Anytime Fitness, a restaurant and a hair salon. Webster testified that he reviewed each of these leases in their entirety and would be able to produce the rents paid if requested. The witness stated this property had a net operating income of $5.19 per square foot. No adjustment was made for conditions of sale due to the purchaser being a tenant because Webster had appraised the property, was familiar with the leases and "I determined it was a market-oriented price." (TR. 143-144; Webster appraisal, p. 50)

As to comparable sale #4, Webster acknowledges this is a leased fee transaction involving both a grocery store containing 37,515 square feet and an adjacent retail building containing 19,430 square feet. The reported square footage of the property of 56,945 square feet combines both units. At the time of the sale, the grocery store anchor tenant had nearly five years remaining on the lease; Webster was familiar with the lease terms since he appraised this property and is bound by confidentiality on its terms. When questioned whether the transaction included a $100,000 credit to the buyer, Webster testified he was not aware of that, but stated that he believed the buyer overpaid for the property. As part of his appraisal, sale #4 depicts the highest sale price both before and after adjustments, where Webster determined this comparable was slightly inferior to the subject in age/condition and superior to the subject in sale conditions. Finally, the witness also acknowledged that comparable sale #4 is the same property as equity comparable #3 on page 7 of the report in which the 2019 assessment data depicts an estimated market value of about half of the reported sale price. (TR. 144-147; Webster appraisal, p. 7 & 51)

Comparable sale #5 in Webster's appraisal was sold to a not-for-profit entity for a charitable use which is now tax exempt. The witness stated that the intent to convert the property to a tax exempt use was not an appropriate consideration for adjustment purposes; if the buyer were to overpay for the property, that would warrant an adjustment according to Webster. Admittedly this comparable is 75% smaller than the subject. (TR. 147-148; Webster appraisal, p. 52)

The last property in Webster's comparable sales analysis is listing #1 with an asking price of $2,400,000 or $38.51 per square foot of building area, including land. The witness is aware that this property has not sold and was taken off the market which would lead Webster to conclude that the seller was unable to find a buyer at that price. Within the appraisal, Webster made a downward adjustment for property condition as a listing resulting in an adjusted sale price of $34.66 per square foot, including land. The Macon County assessing officials have an estimated market value based upon this property's assessment of $28.44 per square foot. This comparable was the most similar property to the subject in building size. (TR. 148-150; Webster appraisal, p. 53)

The next area of inquiry on cross examination of the witness was the income approach rental comparables. Webster testified that he performed an appraisal as to rental comparable #1 and was therefore aware that the shopping center was not collecting all of their reimbursements due to increasing vacancy for which a downward adjustment was made in the appraisal. Webster further opined that this Kroger in Decatur is a weaker market than the subject as it is not experiencing the growth that the southeast part of Decatur/Mt. Zion is experiencing. Also, this comparable is in the Decatur school district, "which is kind of a negative" although the area population density may be significantly higher than for the subject in the immediate radius. Webster testified that this rental comparable is "not as desirable of a location" although no adjustment was made to the comparable for location. (TR. 152-155; Webster appraisal, p. 59)

Concerning rental comparable #2, Webster contended whether the property contains 60,000 square feet as stated in the report or 61,299 square feet, he was of the opinion that it is all "within the range." Admittedly, Schnucks vacated this property years prior to the expiration of their lease and that property was still vacant as of the date of hearing. While the appraisal sets forth an asking rental rate of $10.50 per square foot, the witness believes that an asking rental rate of $8.00 per square foot would still be a little bit high. While no adjustments for lease terms were made to this property, Webster noted that he gave no weight to this property in determining a final market rent for the subject. Although stating that this property's rental rate might not be feasible, Webster still made an overall upward adjustment to this comparable. (TR. 155-157; Webster appraisal, p. 60 & 65)

Upon examination, it was established that rental comparable #3 is located less than three-miles from the University of Illinois campus and Interstates 57, 72 and 74. Additionally, this property has approximately four times the population within one and three miles as compared to the subject. On page 61 of Webster's appraisal, it is noted the lease was through 2020, but did not state a start date of the lease. The appraiser did not apply adjustments for lease terms or market conditions. (TR. 157-158; Webster appraisal, p. 61)

In Webster's appraisal, rental comparable #4 is reported as containing 49,407 square feet of building area and was adjusted downward for being smaller than the subject. While the property record card may set forth a building size of 26,654 square feet for this building, Webster was of the opinion the assessing officials were in error as Webster performed an appraisal of this property. Although reporting the sub-lease of 5,000 square feet to Athletico, Webster treated the lease of the entire building and made no adjustments for lease terms. (TR. 158-159; Webster appraisal, p. 62)

Rental comparable #5 is set forth as confidential in the report and thus a reader of the appraisal must presume the accuracy of the data and would be unable to make an independent verification. Webster concluded an adjusted rental rate for this property of $6.75 per square foot on a triple net basis. (TR. 159-160; Webster appraisal, p. 63-64)

Next examination was made as to Webster's fuel rental comparables where fuel rental comparable #1 is accompanied by a Kroger store where the fuel station was built more recently in former common area. Fuel rental comparable #2 is a property that Webster has appraised three or four times and includes a Subway restaurant along with a full convenience store; Webster testified that the lease is for only the fueling component and the convenience store section. Lastly, rental comparable #2 is part of a commercial area located near an interstate exit. As to the last fuel rental comparable #3 which is located in Iowa, Webster acknowledges that this property sold in September 2018 for $855,000 and assuming a capitalization rate of 6.1%, Webster was questioned whether this comparable would have a rental rate of $53.49 per square foot, not $60.49 per square foot as set forth in the appraisal. Webster questioned the stated capitalization rate and wondered aloud where that was obtained by counsel for the appellant. Webster agreed that the only adjustments applied to the fuel station rental comparables were for location and size. (TR. 160-165; Webster appraisal, p. 66)

For purposes of developing the applicable capitalization rate, Webster relied in part upon the comparable sales #1 through #4 as set forth on page 71 of the report, where comparable sale #4 admittedly sold at a premium and before any adjustment, this property has a 7.42% capitalization rate at the low end of these properties. The fifth sale located in Springfield occurred in 2016 and sold at lower on a per-square-foot basis than any of the other properties utilized in the sales comparison approach in this appraisal. In his capitalization rate conclusion, Webster selected an 8.14% capitalization rate which was most similar to the 2016 sale price of a 12,486 square foot grocery store which was part of a portfolio sale and a 1031 exchange. Furthermore, of the six comparable sales utilized to develop the capitalization rate, three were multi-tenant shopping centers. The final capitalization rate applied by Webster did not include a tax load because the taxes were included as part of the miscellaneous expenses on page 69 of the appraisal. The tax expense that was accounted for was based upon Webster's own final income approach value. (TR. 165-168; Webster appraisal, p. 71)

The ALJ asked Webster to explain not utilizing a loaded capitalization rate and instead including real estate taxes within miscellaneous expenses when the purpose of the appraisal is an *ad valorem* opinion. Webster contended that his final value in the income approach, multiplied by 33.33% and the tax rate should come out very close to the $147,000 expense that was set forth in the report. Webster agreed that either way an adjustment must be made either in the comparable rent analysis or in the expenses; he made it in the expenses. (TR. 172-174)

When questioned by appellant's counsel about the interrelation of his data, Webster acknowledged that appraisal professionals discuss "inbreeding between the three approaches." Webster acknowledges that his data is tied from one to another, but he does not believe this is inbreeding as he has still presented three separate approaches. The witness agrees that elements from each of his approaches to value were used in overlapping ways in each approach. Hypothetically, any errors in the selection of comparables or in the calculations utilized and relied upon would carry over to each conclusion in the approaches to value. (TR. 168-169)

On redirect examination, Webster was asked about the chosen comparable sales. He testified that part of the appraisal analysis includes consideration of the highest and best use as improved and whether it is feasible to continue its operations. For the subject property, Webster felt the location near Mt. Zion and near southeastern Decatur, outside of the Decatur school district, suggested it was feasible to continue operations as a grocery store. For example, the former County Market in the inner part of Decatur has experienced more a decline than outlying parts of Decatur. He opined that these differences result in varying analyses of that area versus an area that is holding its own. (TR. 174-175)

Based on the foregoing evidence and testimony, the board of review requested an assessment for each of the three tax years reflective of the Webster opinion of value.

Conclusion of Law

The parties contend the market value of the subject property is not accurately reflected in its assessed valuation. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33⅓% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). 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 evidence in the record supports a reduction to the assessment of the subject property.

The appellant contends the subject property is overvalued for assessment purposes and submitted an appraisal prepared by Peter Helland estimating the subject property had a market value of $2,900,000 as of January 1, 2018. The appellant requested the subject’s assessment be reduced to $966,570 to reflect the appraised value presented by Helland at the statutory level of assessment.

For each of these tax years, the Macon County Board of Review contends that the assessment of the subject property should be reduced to a total assessment of $1,383,333, which would reflect a market value of approximately $4,150,000, land included, when using the statutory level of assessment of 33.33% and would be reflective of the appraisal which was submitted and prepared by Joseph M. Webster as of January 1, 2018. As conceded in its cover letters filed in each of these respective tax years, the board of review did not support its estimated 2018, 2019 and 2020 market value assessments for the subject property of $4,234,977, including land, $4,305,284, including land and $4,154,153, including land, respectively, when applying the three year median level of assessment as determined for each year by the Illinois Department of Revenue.

The record contains two appraisals submitted respectively by the appellant and the Macon County Board of Review (BOR) for the Property Tax Appeal Board to consider in determining the correct assessment of the subject property. In the absence of a "contemporaneous sale between parties dealing at arm's length" that would practically be conclusive on the issue of market value, valuation methods are employed to estimate a property's fair market value. Cook County Board of Review v. Property Tax Appeal Board and Omni Chicago, 384 Ill.App.3d 472, 894 N.E.2d 400, 407 (1st Dist. 2008). There are three basic valuation methods, the sales comparison approach, the income capitalization approach and the cost approach. Id. Both appraisers developed each of these three traditional approaches to value, with slight variations that will be discussed as deemed necessary by the Board. Ultimately given the evidence in the record, the Board finds that the appraisal presented by the appellant that was prepared by Helland was the most credible and logical opinion of value in the record and reflects the best evidence in the record.

Initially, the appraisers are in agreement as to the subject site size of 8.22-acres but disagreed slightly as to the size of the subject grocery building that was built in 1997. The Board finds that Webster excluded the mezzanine area of the building without an explanation for doing so. To the extent that various discrepancies between the appraisers' descriptions of the subject property were raised prior to hearing by Order, the Board finds that Webster's documentation in support of his size conclusions lacks the specificity and fails to support the assertions in his appraisal report. (BOR Hearing Ex. #1) The Board finds that the best evidence of grocery building size was presented by Helland reporting 64,580 square feet of building area including the mezzanine which was further supported by the subject's property record card supplied in this record by the BOR. The appraisers also disagreed on the size of the convenience store. Again, the Board finds that Helland presented the best evidence that the convenience store contains 270 square feet of building area which was further supported by the property record card, despite that Webster asserted the building contains 252 square feet of building area. Finally, the appraisers disagreed on the size of the fuel canopy but again, the Board finds that Helland provided the best evidence of the canopy's size of 3,864 square feet which was confirmed by the subject's property record card. After Helland acknowledged an error during hearing, the appraisers agreed that the subject property is improved with five fueling stations although the appraisers disagreed on the treatment of those improvements for purposes of the cost approach analysis. As to the underground fuel storage tanks, the Board finds the best evidence was presented by Webster with reliance upon public records of the fire marshal's office as opposed to the assumption Helland made as to the number and size of tanks, although Helland did opine that the reported fuel storage improvements as set forth by Webster would be an over-improvement to the property and require additional deduction for super-adequacy. The Board finds this assertion of over-improvement was not countered by the board of review's evidence and/or presentation of testimony.

The appraisers appear to be in agreement with the highest and best use of the subject property as vacant: Helland stating the highest best use of the site as vacant is retail development, and Webster finding the highest and best use of the site as vacant for retail, restaurant or medical office. The appraisers are also in agreement with the highest and best use of the property as improved: Helland is of the opinion that the existing use and improvements constitute the highest and best use of the site as improved, and Webster concluding that the highest and best use of the subject property as improved is the current use.

With respect to the estimated land value, Helland arrived at an estimated market value of $2.00 per square foot of land area or $716,000, rounded, while Webster estimated the subject site had a value of $2.80 per square foot of land area or $1,000,000, rounded. Both appraisers relied on comparable land sales to arrive at their respective opinions of market value. However, the Board finds the more credible estimate of land value was presented by Helland, as his report detailed the adjustment process used to arrive at the land value, which included his qualitative adjustments to each land sale for time, location, zoning, and size. (Appellant's Hearing Ex. #3, pg. 27) Webster provided little explanation in the report concerning the adjustments he considered when evaluating the land sales but after analyzing sales from $1.76 to $8.61 per square foot of land area, simply concluded with "consideration given to each of the sales, a unit value of $2.80 per square foot is reasonable for the subject." (Webster appraisal, p. 38) Based on this record, the Property Tax Appeal Board finds the subject site had a market value of $716,000 as of January 1, 2018 as concluded by Helland.

With respect to estimating the value of the improvements using the cost approach to value, both appraisers indicated they used the Marshall and Swift Cost Service utilizing replacement cost new for the grocery building. The appraisers differed in a few respects on this process. Helland utilized average quality of $88 per square foot, whereas Webster utilized good quality of $108 per square foot. The Board finds that without further explanation the use of the higher quality grade by Webster, given that he found the subject property to be in average to good condition, makes his opinion in this regard less credible and reliable and appears to over inflate the building value. While in his testimony, Webster sought to justify the classification of good based on exterior décor, the Board finds this is not credible given the photographic evidence in the record along with his testimony. Thus, on this record, the Board finds that Helland had the better quality grade of average in the replacement cost new of the grocery building.

Next, both appraisers applied physical, functional and external depreciation to their replacement cost new calculations with slight variances in methodology. To begin the depreciation analysis, each appraiser first applied the age/life method to calculate physical depreciation. Helland used an effective age of 21 years and an expected physical life of 75 years resulting in a depreciation calculation of 28%. Webster applied an effective age of 15 years and an expected physical life of 40 years for physical depreciation calculation of 37.5%. Neither appraiser provided a clear indication of the source or method used to calculate the economic life of the subject building. Given the respective appraisal reports and supporting testimony, the Board finds that Helland provided the better evidence of applicable physical depreciation within the cost approach.

Helland applied a total of 65% for accrued depreciation to the replacement cost new of the grocery building then added a depreciated value for site improvements of $494,000 before calculating an entrepreneurial incentive calculation of $118,687 or 5%. Webster applied approximately 66% for accrued depreciation to the replacement cost new of the grocery store, the convenience store and the site improvements along with the inclusion of a 10% entrepreneurial incentive, thereby depreciating all of those aspects of the property.

Both appraisers considered the site improvements to the property to include asphalt paving, the fuel canopy, underground storage tanks and miscellaneous site costs such as concrete work, overhead lighting and signage. The appraisers first differed on the square footage to be included in the estimate of the costs for asphalt paving. Helland calculated asphalt at $3 per square foot based upon 280,000 square feet resulting in an approximate replacement cost new of $840,000 whereas Webster calculated asphalt paving at $2.50 per square foot based upon 196,000 square feet resulting in an approximate replacement cost new of $490,000. On this record, the Board finds the only support for the amount of asphalt paving is contained in the subject's property record card which depicts 280,000 square feet of asphalt paving. The Board finds there is no data in Webster's appraisal report or the record to support the assertion of 196,000 square feet of asphalt paving. Therefore, the Board finds that Helland's estimate of the amount of asphalt paving is the best evidence in the record for a replacement cost of $840,000 less a depreciation calculation of 60% for a depreciated value of $336,000.

The Board finds Helland presented the best evidence of the cost of the fuel canopy by calculating the 3,864 square feet at a value of $25 per square foot or $96,600. Helland then applied depreciation of 30% for a depreciated value of $67,620. The Board has given less weight to Webster's estimate of value for the fuel canopy at $37.75 per square foot noting that Webster used an erroneous size of 3,969 square feet that is not supported on this record.

On this record, the Board recognizes that Helland understated the size and value of the underground storage tanks at the subject facility given his assumption of their size with a cost new estimate of $80,000. However, in testimony, Helland also acknowledged if one were to accept the published records of the tanks located at the property, the cost approach would be about $100,000 higher, although he also asserted depreciation would be greater than the applied 40% given the super adequacy of those hypothetical tanks for the subject. The Board finds the estimated cost new testimony provided by Helland appears well-supported in light of the replacement cost new for the tanks of $180,750 as depicted by Webster. The record concerning the underground storage tanks supports a determination that Helland somewhat understated their depreciated value in the cost approach, however, ultimately, the cost approach is typically not the best and most reliable approach to value other than when construction is fairly recent.

The miscellaneous site costs again differed where Helland reported a cost new of $50,000 and Webster reported a cost new of $100,000. Given the totality of the respective appraisal reports, the Board finds that Helland's approach to these costs is better supported than that of Webster.

The subject property is also improved with a 270 square foot convenience store. The appraisers each approached this improvement in differing manners. Helland summarily included the convenience store within the other site improvements based upon a replacement cost new of $120 per square foot or $32,400 to which he applied 30% depreciation for a depreciated value of $22,680. Although Helland provided no detailed information as to this calculation, the Board finds that Webster substantially overvalued this small convenience store structure. Webster approached the convenience store as an additional improvement under Marshall, with page 41 of the appraisal detailing the calculations utilizing good quality with a base cost of $113 per square foot of building area applied to his size determination of 252 square feet and applicable multipliers, which resulted in an adjusted cost per square foot of $163.82. The Board finds given the photographic evidence in the record of this convenience store which may not have a public entrance and appears to be more akin to a booth for a single gas station attendant to occupy, the Board does not find Webster's estimate for this structure to be logical or credible and instead finds that Helland's calculation appears to be the best evidence in the record.

As the final consideration within the cost approach analysis, the Board will consider the treatment of the fuel pumping stations. On this record, the Board has given greater weight to Webster's cost approach applied to the fuel pumping stations with a total cost of $107,500. The Board finds that Helland's contention that fuel pumping stations are not considered in the cost approach because they are FF&E was not supported in the record. The Board recognizes that assessment officials may vary within their jurisdictions as to whether fuel pumping stations are assessable real property or not, it is incumbent on the appellant to present evidence challenging the classification of the disputed property as real property or personal property for assessment purposes. On this record, the appellant presented no evidence regarding the classification of the fuel pumps. Thus, the Board finds the best evidence of replacement cost of fuel pumping stations was provided by Webster with a value of $107,500 less appropriate depreciation and this again indicates that Helland has slightly under valued the subject within the cost approach. However, the Board finds that all things considered including the analyses set forth above, the Helland appraisal presents the best evidence in the record utilizing the cost approach. Based on this record and the above findings, the Board finds Helland's value conclusion under the cost approach of $3,210,000 for the subject property has the best support in the record, but for small additions for the underground fuel storage tanks and the fuel pumping stations. After considering all of the above, however, the Board finds that Helland's overall analysis was the better approach than the data, analysis and approach provided by Webster.

With respect to the income approach to value, Helland arrived at an estimated market rent of $7.50 per square foot of building area on a gross basis using information on five rental comparables. Webster estimated the subject property had a market rent of $6.75 per square foot of building area on a net basis, for the grocery store and $50.00 per square foot for the fuel station/convenience store. The Board gives less weight to Webster's estimate of market rent set forth separately for the grocery and fueling improvements as he provided little information within the report that would allow this Board to truly evaluate the quality, validity and reliability of data used to establish the market rent for the subject property. Helland's appraisal did contain a summary of rental data with leased areas ranging in size from 14,057 to 108,554 square feet and rents ranging from $4.00 to $6.50 per square foot of building area. These rentals are supportive of Helland's estimate the subject had a market rent of $7.50 per square foot of building area including the fueling station on a gross basis for a potential gross income of $484,350.

With respect to the estimated vacancy and collection loss, both appraisers concluded a vacancy and collection loss of 10.0% of potential gross income. Neither appraiser provided much by way of documentation or references to market surveys to document the expenses in each report, however, the Board notes that Webster included real estate taxes within the expenses. The

Property Tax Appeal Board further finds the better practice in estimating the market value for *ad valorem* tax purposes is to develop, as Helland did, an effective tax rate to be used in the capitalization rate (a tax load) rather than to use real estate taxes as an expense under the income approach to value, which is what Webster did.

With respect to the capitalization rate, the appraisers were highly similar in their respective base capitalization rates with Helland utilizing 8.5% and Webster utilizing 8.14%. However, the Board finds that Helland's overall loaded capitalization rate of 11.99% is better supported with reference to market surveys and also a calculation of the effective tax rate of 3.49%. Given the foregoing considerations, the Board finds that Helland presented the better appraisal utilizing the income approach to value in concluding an estimated market value of $2,760,000.

The final approach to value developed by the two appraisers was the sales comparison approach to value. Helland utilized five comparable sales and Webster utilized five comparable sales and one listing. The Board finds Webster's five sales were leased-fee transactions. Nothing in the record indicates that the sales analyzed by Helland were leased-fee transactions. Furthermore, given the cross-examination it was evident that given the nature of the sales, Webster made somewhat subjective adjustments which were not supported by any analysis of the lease terms associated with the sales. The Webster appraisal report contains generalized statements about purported adjustments to the comparables utilizing market extraction methods, but the data is not contained within Webster's appraisal report in any specific and detailed manner. Since Webster did not review the leases to determine more precisely what adjustments, if any, needed to be made, the Board finds this further detracts from the weight that can be given to Webster's conclusion of value under the sales comparison approach. Thus, the Board has given little weight to Webster's estimate of value under the sales comparison approach. However, unlike Webster, Helland did set forth the adjustment process in his report disclosing the qualitative adjustments made to each comparable for various factors such as market condition/trends, location, land-to-building ratio, gross building area, zoning, use and condition, which does add more credibility to his analysis. On this record, the Board finds that Helland's opinion of value for the subject of $45.00 per square foot of building area under the sales comparison approach is the better evidence and more fully supported resulting in an opinion of $2,900,000.

After fully analyzing both appraisals along with the testimony, the Board finds that the best evidence of the subject's market value for the tax years on appeal herein was presented by the appellant through the Helland appraisal report. The Board gives less weight to the cost approach to value in Helland's report due to the issues related to the value applied to the underground storage tanks and the failure to include the fuel pumping stations in this approach. The Board finds the appellant submitted a credible appraisal prepared by Helland which supported the estimated final opinion of value with testimony. The Board finds Helland made logical adjustments to the comparables where appropriate and verified his data with market participants. On the other hand, the Board finds Webster on behalf of the board of review did not adequately support his adjustments or methodology within his appraisal report nor through his testimony. The Board finds his testimony was evasive, defensive and not verifiable, and therefore, not credible from which a reliable indicator of value could be ascertained. Therefore, after reviewing the three approaches to value developed by the two appraisers and considering the quality of the respective data within the reports along with the testimony of each appraiser, the Board finds the subject property had a market value of $2,900,000, or approximately $44.90

per square foot of building area, including land, which is less than the market value reflected by the subject's assessment for tax years 2018, 2019 and 2020.[8] Based on the foregoing, the Board finds that reductions are warranted for each of these tax years.

[8] The Board further finds this value conclusion by Helland is also supported by Webster's Improved Property Listing #1, a vacant, former grocery store located in Decatur with a listing price of $2,400,000 or $38.51 per square foot of building area, including land, with the caveat that listing prices typically set the upper range of value and recognizing that this listing did not include the adjoining gas station. (Webster appraisal, p. 53)

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 20, 2022

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

AGENCY

State of Illinois
Property Tax Appeal Board
William G. Stratton Building, Room 402
401 South Spring Street
Springfield, IL 62706-4001

APPELLANT

Kroger Co, by attorney:
Ellen G. Berkshire
Verros Berkshire, PC
225 West Randolph
Suite 2950
Chicago, IL 60606

COUNTY

Macon County Board of Review
Macon County Office Bldg., Room 401
141 South Main Street
Decatur, IL 62523