FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT:	Walgreens
DOCKET NO.:	22-03101.001-C-3
PARCEL NO.:	08-01-196-020

The parties of record before the Property Tax Appeal Board are Walgreens, the appellant, by attorney Christopher Mullen, of Mullen Law Offices in Chicago and attorney Patrick C. Doody, of the Law Offices of Patrick C. Doody in Chicago; and the Massac County Board of Review, by attorney Christopher E. Sherer, of Giffin, Winning, Cohen & Bodewes, P.C.

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

LAND:	$80,800
IMPR.:	$319,160
TOTAL:	$399,960

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Massac County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2022 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Pre-Hearing Motions

The parties appeared before the Property Tax Appeal Board on January 29, 2024 for a hearing at the Property Tax Appeal Board's office in Springfield pursuant to prior written notice dated October 26 2023.[1] Appearing at the hearing on behalf of the appellant were attorneys, Christopher Mullen, of Mullen Law Offices, and Patrick C. Doody of the Law Offices of Patrick C. Doody; and appearing on behalf of the Massac County Board of Review was attorney Christopher E. Sherer, of Giffin, Winning, Cohen & Bodewes, P.C.

[1] This hearing was originally scheduled to occur on June 29, 2022 at the Massac County Courthouse office in Metropolis pursuant to prior written notice dated May 24, 2022, but was postponed to January 29, 2024. References to the transcript of the hearing will be indicated by "TR" followed by the page number(s).

Appellant's Motion to Strike

The appellant renewed its January 17, 2024 written motion to strike Section 4 of the Massac County Board of Review's Disclosure of Witnesses, which the appellant contended was not in compliance with Section 1910.93 of the Board's procedural rules (86 Ill. Admin. Code § 1910.93). In its Disclosure of Witnesses, the Massac County Board of Review (the "board of review") disclosed witnesses Russell Sloan in Section 1, Gary Hamm in Section 2, Irene Sokoloff in Section 3, and rebuttal witnesses, "Unknown witnesses; Addresses unknown; Qualifications unknown" in Section 4. The Administrative Law Judge ("ALJ") reserved ruling on this motion.[2] At the hearing, the board of review called Sloan, Hamm, and Sokoloff as witnesses. Thus, the Board finds the appellant's motion to strike Section 4 of the board of review's Disclosure of Witnesses is moot as the board of review did not seek to call any witness other than those witnesses disclosed in Sections 1, 2, and 3 of its Disclosure of Witnesses.

Board of Review's Motion/Request to Increase Assessment

At hearing, the ALJ asked the board of review whether its request for an increase was intended to be a motion for judgment on the written record or as a request following a hearing on the merits of this appeal.[3] The board of review confirmed its request was intended as its requested relief following a hearing on the merits of this appeal. The appellant filed a response to the board of review's request for an increase, in which the appellant contended only Exhibit C of the board of review's 24 exhibits concerns the value of the subject property. The board of review stated it had no objection to the inclusion of the appellant's response to its request for an increase, which was filed on January 17, 2024, in the written record. The ALJ admitted the appellant's response into the record. Thus, after a recitation of the facts necessary to issue a ruling, the Board will determine whether either an increase or a decrease in the subject's assessment is warranted on the record.

Findings of Fact

The subject property consists of a 1-story free-standing commercial building of brick and block exterior construction with 13,695 square feet of gross building area.[4] The building was constructed in 2009. Features of the building include a concrete slab foundation and drive-up window. The property has a 66,982 square foot, or 1.5377 acre, site with a land-to-building ratio of 4.89:1 and is located in Metropolis, Massac County.

Appellant's Evidence

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal prepared by Robert D. Becker, MAI, SRA, AI-GRS, a certified

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[2] TR p. 5-6.
[3] TR p. 6-7.
[4] The parties differ regarding the subject's building size. Both the appellant's and the board of review's appraisers testified they measured the subject building. The Board finds the best evidence of building size is found in the appellant's appraisal, which the Board finds to be overall more credible. Moreover, the measurements of the board of review's appraiser were undermined by the testimony of another board of review witness, Gary Hamm, Supervisor of Assessments, who testified he measured the subject building and concluded a different building size.

general real estate appraiser, estimating the subject property had a market value of $1,200,000 as of January 1, 2020 (the "Becker Appraisal").

At hearing, the appellant presented its witness, Robert D. Becker, who testified he has approximately 20 years of experience in the appraisal field, holds MAI, AI-GRS, SRA, and ASA designations, and is licensed as a general real estate appraiser in Illinois, Indiana, Missouri, and Kansas. Becker stated he is affiliated with professional organizations and is an instructor for the Illinois Property Assessment Institute. Becker asserted he has appraised hundreds of properties similar to the subject and has been previously qualified as an expert witness before the Property Tax Appeal Board and similar boards in other states. Upon the appellant's request, the ALJ qualified Becker as an expert in the valuation of commercial properties, including the valuation of the subject property, with no objection by the board of review.[5]

Becker prepared the Becker Appraisal for ad valorem tax purposes and estimated the fee simple value of the subject as of January 1, 2020. For the appraisal, Becker conducted an inspection of interior and exterior of the subject property on December 18, 2020, including measuring the subject building.[6]

The Becker Appraisal defines fair market value as the "most probable price which a property should bring in a competitive and open market under all condition's [sic] requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably, and assuming that the price is not affected by undue stimulus." Becker cited to the regulations of the Office of the Comptroller of the Currency as the source of this definition.[7]

The Becker Appraisal values the fee simple interest, which is defined as "[a]bsolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power and escheat." Becker cited to The Dictionary of Real Estate Appraisal, Sixth Edition as the source of this definition.[8]

At hearing, Becker explained fair cash value is used for assessment in Illinois and the definition of market value used in the Becker Appraisal is synonymous with fair cash value defined in Illinois law. Becker testified a leased fee interest considers the actual lease in place, whereas a fee simple interest considers the most likely lease and sale price in the market, with market rent, market vacancy, and market expenses. Becker stated the Illinois Property Tax Code requires a valuation of the fee simple interest.[9]

The Becker Appraisal describes the subject as constructed in 2009 under a long term build-to-suit agreement. The appraiser forecasted a marketing time of 12 to 18 months for the subject.[10]

The appraiser stated Metropolis has few commercial uses and has below average demographics and income. Becker testified Metropolis has a casino and has some tourism, but is mostly a

[5] TR p. 11-15.
[6] Becker Appraisal, p. 9.
[7] Becker Appraisal, p. 7.
[8] Becker Appraisal, p. 8.
[9] TR p. 15-18.
[10] Becker Appraisal, p. 6-7.

residential community whose residents have agricultural work or travel to other job centers in the area. Becker further stated the subject's neighborhood consists of a mix of commercial properties with adjacent commercial and residential uses. The appraiser forecasted the subject's market area would decline in the future as is common for small towns in Illinois. The appraiser stated the vacancy rate for the nearby Paducah area is 4%, but there is limited data for Metropolis due to a lack of commercial properties.[11]

Becker identified the current use of the subject as "Free Standing Retail – drug store (pharmacy)." Becker concluded the highest and best use of the subject as vacant is for improvement with a retail related use; however, Becker explained the market would not support a speculative build and construction would likely be for a specific user. Becker concluded the highest and best use of the subject as improved is a continued use as a junior box retail store. Becker testified the subject was not physically or functionally unusable. Becker explained the most likely buyer for the subject is a regional or national institutional investor.[12] On cross-examination, Becker explained he determined a drugstore was too narrow for the subject's highest and best use and that the only market for drugstores were as leased fee sales.[13] On questioning by the ALJ, Becker clarified the most likely buyer of the subject would be a national or regional chain like Aldi or Harbor Freight. Becker stated it was unlikely the only other national drugstore chain, CVS, would purchase the property.[14]

Under the cost approach to value, the appraiser selected three land comparables located in Metropolis which are fee simple sales or listings. The comparables have sites ranging in size from 30,144 to 104,544 square feet, or 0.692 to 2.4 acres, of land area. One comparable sold in March 2019 for $200,000 or $1.91 per square foot of land area[15] and two comparables were listed for sale for $238,000 and $125,000 or $3.33 and $4.15 per square foot of land area, respectively. Becker made adjustments to these comparables for differences from the subject in location to conclude a value for the subject's land of $4.00 per square foot of land area, or $270,000 rounded.[16] Upon questioning by the ALJ, Becker stated he gave comparable #3 the most weight even though it was a listing.[17]

The appraiser next computed the subject building's replacement cost new of $1,244,978 using Marshall Valuation Service cost schedules for a Class C Jr. Box Retail Store. Becker testified a Jr. Box Retail Store is a freestanding retail store under 50,000 square feet. Becker explained he did not use the Marshall & Swift drugstore category because it requires a larger adjustment for functional depreciation than a retail store. Becker asserted the adjusted drugstore and retail store would have about the same overall costs if depreciated correctly.[18] On cross-examination, Becker testified that a junior box store was originally described as a freestanding store of 30,000

[11] Becker Appraisal, p. 14-15, 20-22, 31; TR p. 18-19.
[12] Becker Appraisal, p. 33-34; TR p. 20-21.
[13] TR p. 38-40.
[14] TR p. 51-52.
[15] Although the grid analysis of the comparables depicts a price of $20,000, Becker clarified at hearing that the price was $200,000 or $1.91 per square foot. TR p. 23.
[16] Becker Appraisal, p. 38-40; TR p. 23.
[17] TR p. 52-53.
[18] Becker Appraisal, p. 42; TR p. 23-25.

square feet or less, but as freestanding stores have declined in popularity, the definition has moved to 50,000 square feet. [19]

Becker then estimated accrued depreciation of 27.5 % or $342,369 based on an economic life of 40 years for the subject building, using the Marshall & Swift Cost Manual; an effective age of 11 years, given the lack of significant renovations or remodeling that would reduce its effective age; and a remaining economic life of 29 years. The appraiser also estimated functional obsolescence of 10% or $90,261 due to declining demand for second generation junior box stores. Becker stated first generation junior box stores are typically owner-occupied or built to suit. Becker used an extracted deprecation method to confirm the functional obsolescence estimate. Based on the foregoing, Becker computed $432,630 of total depreciation for the subject building with a depreciated building value of $812,348.[20] On cross-examination, Becker explained the subject has functional obsolescence due to higher placed windows, as most retailers would prefer larger windows to display merchandise, and a Walgreens specific design, which would need to be modified for another user. Becker agreed Walgreens stores are similarly built.[21]

For the site improvements, such as paving and landscaping, Becker calculated a replacement cost new of $219,000, subtracted 55% or $118,800 of depreciation, to arrive at a depreciated value of the site improvements of $97,200.[22] The appraiser added the depreciated values of the building and site improvements to the land value to arrive at a value for the subject of $1,200,000 rounded under the cost approach.

Under the sales comparison approach, Becker selected nine comparable fee simple sales located in North Aurora, Batavia, Peoria, Freeport, Quincy, Champaign, St. Charles, and Downers Grove. The comparables are improved with commercial buildings ranging in size from 12,486 to 36,866 square feet of gross building area that were built from 1985 to 2008.[23]

Becker testified he selected fee simple sales of similarly sized properties in Illinois due to different tax structures and political environments in other states. Becker further testified adjustments to leased fee sales would require access to and review of the leases.[24] Becker stated there were not many sales of commercial freestanding buildings in southern and central Illinois.[25] However, Becker acknowledged sales in Marion and Carbondale have occurred since the valuation date.[26]

Becker testified comparable #1 was a former La-Z-Boy store that became a different furniture store. Comparable #2 was a former Aldi store with a restriction against grocery store use that Becker determined did not alter its highest and best use. Comparable #3 was a former Aldi store that became a Save-a-Lot store. Becker testified comparable #4 was a former Aldi store that became a mission food center and thrift store. Becker denied this property had a deed restriction

[19] TR p. 38-40.
[20] Becker Appraisal, p. 43-46; TR p. 21.
[21] TR p. 40-41.
[22] Becker Appraisal, p. 44-45.
[23] Becker Appraisal, p. 48.
[24] Becker Appraisal, p. 48-53; TR p. 30-35.
[25] TR p. 51.
[26] TR p. 35.

but acknowledged marketing materials referred to a restriction. Becker determined such a restriction would not alter the highest and best use of this property. Comparable #5 was a former Staples that became a Harbor Freight store.[27] Becker explained he determined this sale was a fee simple sale based on a review of the marketing brochure for the subsequent lease which he found represented market terms.[28] Comparable #6 was a former Best Buy that was occupied at the time of marketing and became a Veteran's Administration clinic. Comparable #7 was a former Toys R Us and became a fitness center. Comparable #8 was a former Toys R Us. Comparable #9 was a former Barnes & Noble and became a fitness center.[29]

On cross-examination, Becker acknowledged the Becker Appraisal does not explain why no Walgreens stores were selected and the restrictions relating to some of the comparables were not disclosed. Becker determined no adjustments were needed for restrictions as restrictions are common in shopping centers. Becker acknowledged comparables #2, #3, #4, and #6 were marketed for periods different than the subject's estimated marketing period, but explained the comparable sales develop the marketing period. Becker testified the effective ages for the comparables were considered as many of these properties have been renovated. Becker explained deed restrictions are not a significant factor in the market and provided an example of two big box store sales that sold for similar prices although one sold with deed restrictions.[30]

Upon questioning by the ALJ, Becker testified he gave the most weight to comparables #5, #6, #8, and #9, which required the fewest adjustments. Becker explained he did not make adjustments to the comparables for building size as they were within the junior box range and adjustments were not warranted by the market.[31]

The comparables sold from March 2016 to May 2020 for prices ranging from $525,000 to $3,300,000 or from $42.05 to $99.78 per square foot of gross building area, including land. Becker made adjustments to the comparables for differences in market conditions from the January 1, 2020 assessment date and for differences from the subject in location, age and/or quality to compute adjusted prices ranging from $46.23 to $101.07 per square foot of gross building area, including land. Based on the foregoing, Becker concluded a value for the subject under the sales comparison approach of $1,164,075 or $85.00 per square foot of gross building area, including land, which was rounded to $1,200,000 or $88.00 per square foot.[32]

Under the income capitalization approach, the appraiser first examined the subject's lease to determine whether it was a market lease. Becker determined the subject's lease was not a market lease given it was a built-to-suit lease signed before the building was constructed and includes terms and conditions that are not reflective of the market.[33]

Becker selected eight rent comparables located in Champaign, Aurora, Belleville, Granite City, St. Charles, and Yorkville. The comparables are improved with commercial buildings ranging in

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[27] Becker Appraisal p. 48-53; TR p. 32-34.
[28] TR p. 53-54.
[29] Becker Appraisal p. 48-53; TR p. 32-34.
[30] TR p. 41-49
[31] TR p. 54-55.
[32] Becker Appraisal p. 47-54.
[33] TR p. 27.

size from 22,125 to 136,409 square feet of gross building area that were built from 1954 to 2008. Comparables #1 through #5 were occupied by retail stores with rentable building area ranging from 10,394 to 22,209 square feet and rents ranging from $7.00 to $14.00 per square foot of rentable building area under leases commencing from January 2018 to June 2020 for terms ranging from 3 to 10 years. Comparables #6 through #8 were vacant retail spaces offered for lease ranging from 5,500 to 65,636 square feet of rentable building area and were listed for rents ranging from $5.25 to $10.00 per square foot of rentable building area. Becker made adjustments to the rent comparables for differences from the subject to conclude market rent for the subject of $10.00 square foot of gross building area on a triple net basis. Based on this market rent estimation, Becker concluded potential gross income of $136,950.[34]

On cross-examination, Becker testified some rent comparables were inline multi-tenant shopping center properties and some were freestanding stores. Becker denied that inline rents are lower than freestanding store rents.[35]

Upon questioning by the ALJ, Becker acknowledged none of the rent comparables are drugstores. Becker explained drugstores use build-to-suit or sale-leaseback agreements that do not represent market rents. Becker identified rent comparables #1, #3, #4, #7 and #8 as located in strip centers or other multi-tenant shopping centers, whereas rent comparables #2, #5, and #6 are freestanding stores. Becker gave the most weight to rent comparables #3, #4, #7, and #8, which Becker identified as most similar to the subject.[36]

The appraiser next estimated vacancy and credit losses of 10% or $13,695. Becker estimated a vacancy rate from 5% to 15% for the market and concluded 10% for the subject, which he testified was relatively standard. After subtracting vacancy and credit losses ($13,695) from the potential gross income ($136,950), the appraiser computed effective gross income of $123,255.[37] Upon questioning by the ALJ, Becker explained he developed the vacancy rate based on surveys, overall vacancy trends within the state, and marketing times of the comparable sales based on a typical 10-year investor holding period.[38]

Becker estimated operating expenses for the subject of $10,682, which included insurance, repairs and maintenance, management fees, and reserves, based on surveys and the appraiser's database. After subtracting expenses ($10,682) from the effective gross income ($123,255), Becker computed net operating income of $112,573.[39]

To determine the capitalization rate, the appraiser examined market extraction from the sales comparables, national surveys, and band of investment. Market extraction of the comparable sales yielded a range from 9.17% to 14.42%, with an average of 10.98%. The surveys indicated ranges from 4.00% to 8.00%, with an average of 6.16%, and from 4.78% to 13.31%, with an average of 9.91%. Using the band of investment method, Becker computed a rate of 9.90%. Becker noted one survey appeared to be the outlier as it included properties in metropolitan areas

[34] Becker Appraisal, p. 55-59.
[35] TR p. 49-50.
[36] TR p. 55-56.
[37] Becker Appraisal, p. 59; TR p. 27-28.
[38] TR p. 56-57.
[39] Becker Appraisal, p. 59-60; TR p. 28.

and build-to-suit and sale-leaseback transactions, and was given little weight. Based on the foregoing, the appraiser arrived at a capitalization rate for the subject of 10.00%. After dividing the net operating income ($112,573) by the capitalization rate (10.00%), Becker arrived a value for the subject of $1,100,000, rounded, under the income capitalization approach.[40]

In reconciling the three approaches to value, the appraiser gave most weight to the sales comparison approach, with secondary weight given to the income approach. Becker stated the cost approach has limited value as it does not represent the actions of market participants, but is applicable to property assessment and supports the value conclusion under the sales comparison approach. Becker concluded a value for the subject of $1,200,000 as of January 1, 2020.[41] Becker testified the value conclusion as of January 1, 2020 would not be significantly different as of January 1, 2022.[42] On cross-examination, Becker clarified he estimated a 2% market decline per year so a 2% decline per year would be appropriate.[43]

Upon the appellant's request, the Becker Appraisal was admitted into evidence without objection from the board of review.[44]

In its closing argument, the appellant contended the Becker Appraisal relies on more appropriate comparables despite being located more distant from the subject given the lack of market activity downstate. The appellant contended Sloan's selection of leased fee sales was not appropriate and the adjustments were not supported to arrive at a fee simple value.[45]

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the Becker appraised value conclusion.

Board of Review's Evidence

The board of review submitted its "Board of Review Notes on Appeal" (Exhibit A) disclosing the total assessment for the subject of $866,665, which would reflect a market value of $2,683,173 or $195.92 per square foot of gross building area, including land, using the 2022 three year average median level of assessment for Massac County of 32.30% as determined by the Illinois Department of Revenue.

In support of its request for an increase, the board of review submitted the subject's property record card (Exhibit B); an appraisal prepared by Russell M. Sloan, MAI, a certified general real estate appraiser (the "Sloan Appraisal") (Exhibit C) estimating the subject had a market value of $2,850,000 as of January 1, 2022; a review appraisal prepared by Irene Sokoloff, a certified general real estate appraiser, and related documents (the "Sokoloff Review Appraisal") (Exhibits C-1 to C-3); copies of various court cases from other states (Exhibits D, E, F, G, H, I, and J); and copies of various articles (Exhibits K, L, M, N, O, P, Q, R, S, T, and U).

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[40] Becker Appraisal, p. 60-64; TR p. 28-30.
[41] Becker Appraisal, p. 65-66.
[42] TR p. 36.
[43] TR p. 37.
[44] TR p. 36.
[45] TR p. 174-175.

Sloan Appraisal and Testimony

At hearing, the appellant presented its first witness, Russell M. Sloan, who testified he has worked as an appraiser for approximately 38 years, is certified as a general real estate appraiser in Illinois, Kentucky, Missouri, Tennessee, Indiana, and South Carolina, and has prepared thousands of appraisals. Sloan holds the MAI designation, is a member of professional organizations, and has taught at a community college. Sloan has previously been qualified as an expert in various Illinois county proceedings, state agencies in other states, federal courts, and Kentucky circuit courts. Upon the board of review's request, the ALJ qualified Sloan as an expert in the valuation of real estate, commercial properties, and the subject property, with no objection by the appellant.[46]

Sloan testified he prepared the Sloan Appraisal for ad valorem tax purposes and inspected the interior and exterior of the subject property on October 13, 2021, including measuring the subject building.[47]

The Sloan Appraisal defines market value as "the amount at which a property would sell in a competitive and open market, presuming that: 1. Both the buyer and seller are knowledgeable about the sale and are using sound judgment by allowing sufficient time for the sale, and 2. the sale is not affected by undue pressures (e.g., foreclosure, bankruptcy)." Sloan cited to The Illinois Property Tax System published by the Illinois Department of Revenue as the source of this definition.[48]

The Sloan Appraisal values the fee simple interest, which is defined as "absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat." Sloan cited to The Dictionary of Real Estate Appraisal, Sixth Edition, as the source of this definition.[49]

The appraiser stated the subject was built for use as a Walgreens store. Sloan stated he observed no deferred maintenance and the subject's functional utility is average compared to competing properties and could be adapted to a range of retail uses.[50]

The appraiser identified Paducah as the commercial core of the subject's area with commercial demand in Metropolis limited to local residents or those visiting the casino. The appraiser stated land use near the subject is mixed. Sloan projected slow development and a stable to positive market for the downtown area.[51]

Sloan determined the highest and best use of the subject as vacant is for commercial development for a retail use. Sloan noted there is little demand for upper level space and large

[46] TR p. 58-62.
[47] TR p. 64-66.
[48] Sloan Appraisal, p. 5.
[49] Sloan Appraisal, p. 9.
[50] Sloan Appraisal, p.17.
[51] Sloan Appraisal, p. 11-15.

single-tenant buildings, but demand for smaller units has been stable. Sloan concluded the highest and best use of the subject as improved is for continued commercial use.[52]

Under the cost approach, Sloan selected four land sales located in Metropolis. The comparables range in size from 30,000 to 104,500 square feet of land area and sold from June 2014 to May 2021 for prices ranging from $159,000 to $200,000 or from $1.91 to $5.30 per square foot of land area. Sloan made adjustments to the comparables for market conditions and for differences from the subject in corner influence/access and size.[53] Sloan testified 2014 sales were selected due to a lack of more recent sales of comparable land sales.[54]

The adjustments for market conditions were developed using a paired sales analysis of six sales in Kentucky and one sale in Illinois which sold from 2017 to 2021 and again in 2021 or 2022, resulting in changes from -1.5% to 7.9%. Three sales were retail properties, one sale was vacant land, one sale was a single-tenant office, one sale was a mixed retail/residential property, and one sale was a resort. Sloan determined these sales indicated an upward adjustment of 1% per year.[55] The adjustments for corner influence location were developed by comparing sales #3 and #4, which Sloan explained are similarly sized tracts that sold proximate to each other. Sloan determined an adjustment of $1.60 per square foot based on these two sales. The adjustments for size were developed by comparing sales #1 and #2 in Metropolis, consisting of 71,450 and 104,500 square feet of land area. Sloan determined an adjustment of $0.75 per square foot based on these two sales. After making these adjustments to the comparable land sales, the appraiser concluded a land value for the subject of $5.50 per square foot of land area or $370,000 rounded.[56]

On cross-examination, Sloan agreed there was little commercial development in the three years before January 1, 2020. Sloan acknowledged that land sale comparable #2 sold to an adjoining landowner, land sale comparables #3 and #4 sold five years before the assessment date, and land sale comparable #4 is more or less 50% smaller than the subject. Sloan testified the adjustment for a corner lot was developed from two of the land sales, but admitted these sites were not the same size. Sloan acknowledged the sales used for the market adjustment were not located in Illinois.[57]

Under questioning by the ALJ, Sloan agreed he used primarily Kentucky sales to make adjustments to the land sales because he found data for sales and resales that happened to be in Kentucky during the relevant time period.[58]

For the cost approach, the appraiser next calculated a replacement cost new for the subject building of $2,136,675, using Marshall Valuation Service cost schedules for a Class C "Good" Retail Store.[59] The appraiser estimated indirect costs of 5% or $106,834 and entrepreneurial

[52] Sloan Appraisal, p. 20-21.
[53] Sloan Appraisal, p. 22-26.
[54] TR p. 69.
[55] Sloan Appraisal, p. 24-25.
[56] Sloan Appraisal, p. 26.
[57] TR p. 90-94.
[58] TR p. 103-106.
[59] Sloan Appraisal, p. 28.

profit of 10% (of the building cost, site improvement cost, and land value) or $291,000.[60] Under questioning by the ALJ, Sloan testified he estimated indirect costs based on the quoted range in Marshall Valuation Service. Sloan testified he used a minimal 10% for entrepreneurial profit to reflect limited demand for similar properties.[61]

In estimating depreciation, the appraiser used an economic life for the subject of 50 years and an effective age of 12 years to compute accrued depreciation of 24% or $608,282.[62] Sloan testified the subject has a fairly functional design and did not have any significant functional obsolescence.[63] Under questioning by the ALJ, Sloan testified he used Marshall Valuation Service for a drugstore property to determine a 50 year economic life for the subject.[64]

The appraiser next computed a replacement cost new of the site improvements of $300,000 and estimated depreciation or 48% to compute the depreciated value of the site improvements of $156,000.[65] After adding the value of the depreciated improvements to the site value, Sloan concluded a value for the subject of $2,452,000, rounded, under the cost approach.

Under the sales comparison approach, Sloan stated he used a regional search for comparables due to limited sales in the subject's area. Sloan further stated Madisonville and Murray are small markets like the subject but have larger populations than Metropolis. Sloan testified the sales were all leased fee sales which were adjusted downward for property interest. Sloan explained adjustments for the sale-leaseback or build-to-suit transactions were based on the market. Sloan testified no adjustments for location were made to the comparables because they are located in markets with populations of 25,000 or less, which is slightly larger than Metropolis, but determined to be minimal given Metropolis is in the Paducah area. Sloan asserted a buyer would not be limited to state lines.[66]

The appraiser selected four comparable sales, one of which is located in Carbondale and three of which are located in Kentucky, namely Paducah, Murray, and Madisonville.[67] The parcels range in size from 48,500 to 78,643 square feet, or from 1.11 to 1.81 acres, of land area and Sloan allocated site contribution values to these comparables ranging from $14.91 to $29.88 per square foot of land area.[68] The comparables are improved with 1-story commercial buildings of brick and EIFS, concrete block, or brick exterior construction. The buildings range in size from 10,722 to 13,928 square feet of gross building area and were built from 1997 to 2005. The comparables were built to suit for Walgreens or CVS and are subject to long term leases, with comparables #1 and #2 being sale-leasebacks. The comparables sold from April 2018 to July 2020 for prices ranging from $2,225,000 to $5,434,000 or from $207.52 to $390.15 per square foot of gross building area, including land.

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[60] Sloan Appraisal, p. 27-29.
[61] TR p. 102-108.
[62] Sloan Appraisal, p. 28-29.
[63] TR p. 73.
[64] TR p. 102-103.
[65] Sloan Appraisal, p. 29.
[66] TR p. 74-76.
[67] Sloan Appraisal, p. 30-35.
[68] Sloan Appraisal, Comparable Market Data Addendum.

Sloan made adjustments to the comparables for property rights conveyed, date of sale, and for differences from the subject in age and condition to compute adjusted sale prices ranging from $222.62 to $247.45 per square foot of gross building area, including land. The appraiser developed the adjustment for property rights conveyed through a paired sales analysis of two Carbondale sales occurring in 2014 and 2018, which indicated an adjustment of 35%.[69] The appraiser developed the adjustment for market conditions through a paired sales analysis of six sales of properties in Kentucky and one sale in Illinois, which indicated an adjustment of 1% per year.[70] The appraiser developed the adjustment for age through a paired sales analysis of the sale comparables, indicating a depreciation rate of $10.00 per square foot per year.[71] Based on the foregoing, Sloan concluded a value for the subject of $222.75 per square foot of gross building area or $3,040,000, rounded, under the sales comparison approach.

On cross-examination, Sloan testified that the comparable sales were leased fee sales of Walgreens or CVS stores, but acknowledged he did not review the specific lease terms of those properties. Sloan acknowledged there can be a premium for a leased fee sale so he made adjustments to the comparables for the sale of a leased fee interest. Sloan did not know whether the lease payments for the comparables had time adjustments. Sloan explained two sales were used to develop an adjustment for property rights, but agreed these two sales were not drugstores.[72]

Upon questioning by the ALJ, Sloan testified leased fee sales were chosen for the sales comparison approach due to their similarity to the subject in physical features, location in markets of less than 30,000 population, and location within 100 miles of the subject. Sloan acknowledged there may have been sales in Illinois but stated he used the sales most comparable to the subject. Sloan testified it was his opinion that this percentage adjustment for property rights derived from 2014 and 2018 sales was valid for the assessment at issue.[73]

Under the income capitalization approach, the appraiser selected four rent comparables located in Metropolis, Herrin, Murphysboro, and Murphysboro, with comparable #1 having three leases that were used as comparables.[74] Sloan stated that due to limited rent comparables in the subject's area a regional search was used. The parcels range in size from 18,818 to 191,200 square feet, or from 0.43 to 4.39 acres, of land area[75] and are improved with 1-story commercial buildings of a combination of EIFS, concrete block, and/or metal exterior construction. Comparable #1 is a multi-tenant strip center and comparables #2, #3, and #4 are single-tenant free-standing buildings. The buildings range in size from 6,010 to 9,993 square feet of gross building area and were built from 2004 to 2021. The comparables have leases commencing from January 2010 to August 2021 for 36 to 192 month terms, with three leases on a modified gross basis and three leases on a triple net basis, for rentable building area ranging from 1,100 to 9,993 square feet and rents ranging from $9.45 to $16.46 per square foot of gross building area. Sloan noted comparable #4 is adjacent to a shopping center. Sloan made adjustments to the

[69] Sloan Appraisal, p. 32.
[70] Sloan Appraisal, p. 33.
[71] Sloan Appraisal, p. 34.
[72] TR p. 95-98.
[73] TR p. 101-106.
[74] Sloan Appraisal, p. 36-38.
[75] Sloan Appraisal, Comparable Market Data Addendum.

comparables for lease terms and for differences from the subject, such as location, quality, and age, and concluded potential gross income for the subject of $15.00 per square foot of gross building area or $205,000 rounded. At hearing, the appraiser testified rent comparables #2, #3, and #4 were built-to-suit leases, which Sloan stated was considered in the analysis.[76]

The appraiser next estimated vacancy and collection losses of 5% or $10,250 based on a survey of local vacancy rates for 45 commercial properties in Metropolis, indicating a vacancy rate of 11%.[77] Because older properties tended to be vacant, Sloan estimated a lower vacancy rate for the subject. After subtracting vacancy and collection losses ($10,250) from potential gross income ($205,000), Sloan calculated effective gross income of $194,750.

Sloan estimated expenses totaling $5,300 for management fees and reserves, stating that other expenses would not be an owner's responsibility under a triple net lease.[78] After subtracting expenses ($5,300) from effective gross income ($194,750), Sloan computed net operating income of $189,450.

To calculate the capitalization rate, the appraiser examined the market extraction and band of investment methods. Sloan developed a range from 5.2% to 7.7% through market extraction of 8 single-tenant retail property sales, one located in Ullin, one in Thompsonville, five in Kentucky, and one in Tennessee. Sloan also developed a rate of 8.12% through the band of investment method. Sloan stated investor surveys had lower rates. At hearing, Sloan testified adjustments for location may be warranted but not based solely on their location in a different state.[79] After dividing the net operating income ($189,450) by the determined capitalization rate (7.75%), Sloan concluded a value for the subject of $2,445,000 rounded under the income capitalization approach.[80]

On cross-examination, Sloan testified one of the rent comparables had four units, with one unit being leased at non-market rent along with the other three units used as rent comparables. Sloan agreed comparables #3 and #4 were built-to-suit in 2018 and 2020 and comparable #3 was a third of the size of the subject. Sloan agreed the sales used to determine the capitalization rate were leased fee sales.[81] Under questioning by the ALJ, Sloan testified he gave the market extraction method the most weight given the surveys represent sales in larger national or regional markets.[82]

In reconciling the three approaches to value, the appraiser gave most weight to the sales comparison approach, with secondary weight given to the income approach. Sloan advised he developed the cost approach only as a check on the other two approaches. Sloan acknowledged the sales comparison approach is limited due to a lack of a large number of sales and the income approach is limited due to this type of property typically being owner-occupied. Under the three approaches, Sloan estimated a range of values for the subject from $2,445,000 to $3,040,000,

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[76] TR p. 85.
[77] Sloan Appraisal, p. 38.
[78] Sloan Appraisal, p. 38-39.
[79] TR p. 85.
[80] Sloan Appraisal, p. 40-42.
[81] TR p. 98-99.
[82] TR p. 106-107.

with $595,000 or 19.6% between the low and the high values. When asked at hearing whether the three approaches fell within a reasonable range, Sloan testified the range was larger than ideal.[83] The appraiser concluded a value for the subject of $2,850,000 as of January 1, 2022.[84]

Hamm Testimony

The board of review then called its witness, Gary Hamm, Supervisor of Assessments of Massac County, who testified he is a licensed residential real estate appraiser and has CIAO designation. Hamm identified the subject's property record card (Exhibit B to the board of review's evidentiary submission), which describes the subject as having 14,740 square feet of gross building area. Hamm testified he was involved with measuring the subject property and developing the subject's assessment based on a cost approach. Hamm stated he has measured the exterior of the subject several times and recalled measuring it in 2015.[85]

Sokoloff Review Appraisal and Testimony

The board of review next called its next witness, Irene Sokoloff, who testified she became a licensed Illinois real estate appraiser approximately two years ago,[86] is also licensed as a real estate appraiser is approximately 14 other states, and has been involved in real estate appraisals for approximately 25 years. Sokoloff testified she has prepared both appraisals and review appraisals and is member of professional organizations. Sokoloff stated she has previously been qualified as an expert witness in Florida, Michigan, Indiana, Minnesota, and Iowa and has written papers on big box retail stores and fee simple property rights. Upon the board of review's request, Sokoloff was qualified as an expert in real estate valuation, with no objection by the appellant.[87]

Sokoloff prepared a review appraisal of the Becker Appraisal. The review appraiser critiqued Becker's identification of the subject as a junior box store. Sokoloff defined a junior box store as an anchor store ranging from 20,000 to 40,000 square feet of gross building area, whereas drugstore properties range in size from 8,000 to 15,000 square feet of gross building area. Sokoloff stated the highest and best use of the subject is a continued use as a drugstore and the sales and rent comparables should be drugstore properties. Sokoloff included copies of articles with the Sokoloff Review Appraisal as Exhibit A, discussing the distinguishing characteristics of a junior box store from other retail properties.[88]

The review appraiser reported that it is generally recognized that there is a national submarket for freestanding drugstores.[89] Sokoloff testified the national market for drugstore properties includes Walgreens, CVS, Duane Reade, and Rite Aid.[90] On cross-examination Sokoloff

[83] TR p. 85.
[84] Sloan Appraisal, p. 47.
[85] TR p. 109-111.
[86] The Board notes that it appears from the Sokoloff Review Appraisal that Sokoloff had a temporary practice real estate appraiser license in Illinois at the time the review appraisal was prepared.
[87] TR p. 112-116.
[88] Sokoloff Review Appraisal, p. 6-8.
[89] Sokoloff Review Appraisal, p. 7.
[90] TR p. 121.

disagreed that the only other national drugstore chain was CVS. Sokoloff identified Rite Aid and Duane Reade as other chains, but was uncertain on cross-examination whether Rite Aid was in bankruptcy and whether Duane Reade and Locatel, which are located in Florida, are national chains with a market presence in Illinois.[91] Upon questioning by the ALJ, Sokoloff testified that a potential buyer for the subject as a freestanding retail store would be another national drugstore chain, a bank, or a fast food restaurant.[92]

Sokoloff testified that any valuation of the subject that ignores the subject's current use as a drugstore pharmacy is incorrect. Sokoloff contended market rents should be considered in valuing a fee simple interest for a commercial property.[93]

Under the cost approach, the review appraiser criticized Becker's use of a base cost for a retail store rather than a drugstore. Sokoloff contended the Marshall Valuation Service cost schedules for Drug Stores, Sec. 13, Page 20 (included as Exhibit B to the Sokoloff Review Appraisal) indicate a base cost of $131.00 per square foot for a Class C, Good Quality, Drug Store and should have been used for the cost approach.[94]

Sokoloff asserted Becker's estimated 10% of functional depreciation was not supported because similar drugstore properties continue to be built by Walgreens as demonstrated by a map of Walgreens stores near the subject (included in the Sokoloff Review Appraisal as Exhibit C). Sokoloff stated Becker did not present any paired sales analysis to demonstrate functional obsolescence. At hearing, Sokoloff testified that a buyer's costs in customizing a property are not functional obsolescence. Sokoloff disagreed that a built-to-suit building has inherent functional obsolescence.[95]

Under the sales comparison approach, the review appraiser critiqued the comparable sales selected by Becker. Sokoloff asserted the comparables differ from the subject in use, are distant from the subject, and/or are older buildings than the subject without adjustments for age. Sokoloff stated Becker did not disclose restrictive covenants and/or deed restrictions for comparables #1, #2, #4, #5, and #6, as documented by Exhibit D to the Sokoloff Review Appraisal, which contains full or partial copies of restrictions contended to relate to these comparables. Sokoloff stated certain comparables were listed for longer than the estimated marketing time identified by Becker, indicating these properties suffer from obsolescence. The review appraiser included photographs of the comparables as Exhibit E to the Sokoloff Review Appraisal.[96]

At hearing, Sokoloff asserted the restrictions were substantial as some prohibit or limited pharmacy or grocery use, which would prevent them from being a suitable substitute for the subject.[97] On cross-examination, Sokoloff disagreed with Becker's selection of some vacant

[91] TR p. 143-146.
[92] TR p. 147.
[93] TR p. 122-125. The Board notes this definition of a fee simple interest was not quoted in or included with the Sokoloff Review Appraisal.
[94] Sokoloff Review Appraisal, p. 8-9.
[95] TR p. 127.
[96] Sokoloff Review Appraisal, p. 9-11.
[97] TR p. 128-134.

comparables and stated vacant comparables are more suited to a vacant subject property rather than an occupied one because an occupied property is still in its current highest and best use whereas a vacant property may not be.[98] Upon questioning by the ALJ, Sokoloff testified there were other sales of similar properties that Becker could have selected and that an appraiser should determine when leases were negotiated and whether they are reflective of market rent. Sokoloff clarified these other sales are presented in Exhibit F to the Sokoloff Review Appraisal, which includes approximately 160 sales of retail pharmacies in neighboring states with built-to-suit leases. Sokoloff explained the built-to-suit leases are in place for 60 years with 20-year renewal options and often have a flat rent for the lease term.[99]

Under the income capitalization approach, the review appraiser criticized Becker's selection of rent comparables as inline rents from multi-tenant shopping centers, which tend to be lower and had differing lease terms.[100] Sokoloff contended Becker's vacancy rate was overstated as a single-tenant building is either 100% occupied or vacant and a nominal rate of 0% to 5% should have been used. Sokoloff further contended Becker's estimated expenses are not consistent with a single-tenant property and are more appropriate for a multi-tenant property.[101] Sokoloff testified common area maintenance, typical of shopping centers, would not be an expense of a freestanding retail building.[102]

The review appraiser stated the capitalization rate used by Becker is higher than for drugstore properties. Sokoloff presented a list of national drugstore sales from 2017 to April 2020 in Illinois, Indiana, Kentucky, Ohio, Michigan, Missouri, and Wisconsin, included in the Sokoloff Review Appraisal as Exhibit F, with an average capitalization rate of 6.55%.[103]

For the reasons outlined in the Sokoloff Review Appraisal, Sokoloff concluded the Becker Appraisal does not state a credible opinion of value.[104]

For its closing argument, the board of review contended the Sloan Appraisal relies on sales of national chain drugstores like the subject. The board of review further contended the Becker Appraisal did not value the subject as it is, but rather downgraded its highest and best use and used comparables that are distant from the subject.[105]

Based on this evidence, the board of review requested an increase in the subject's assessment to $950,000, which would reflect a market value of $2,941,176 or $214.76 per square foot of gross building area, including land, using the 2022 three year average median level of assessment for Massac County of 32.30% as determined by the Illinois Department of Revenue.

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[98] The board of review objected to the appellant's question (asking whether under Illinois law vacant properties are the best comparables in an appraisal) as calling for a legal conclusion. The appellant explained the question asked for a factual conclusion based on the witness' expertise as an appraiser. The ALJ overruled the objection. TR p. 143-144.
[99] TR p. 148-150.
[100] Sokoloff Review Appraisal, p. 11-13.
[101] Sokoloff Review Appraisal, p. 13.
[102] TR p. 135.
[103] Sokoloff Review Appraisal, p. 14.
[104] Sokoloff Review Appraisal, p. 15.
[105] TR p. 175-177.

Appellant's Rebuttal

In rebuttal, the appellant presented a review appraisal of the Sloan Appraisal, which was prepared by Terrance P. McCormick, MAI, AI-GRS, a certified general real estate appraiser (the "McCormick Review Appraisal").

At hearing, the appellant called McCormick as a rebuttal witness. McCormick testified he has been a full time appraiser since 1979 and has been appraising similar properties since 1999. McCormick testified he has been qualified as an expert before the Illinois Circuit Court in Cook County, Property Tax Appeal Board, zoning boards of appeals, and boards of review. Upon the appellant's request, the ALJ qualified McCormick as an expert in appraisal theory and practice and in review appraisals, without objection.[106]

McCormick testified he prepared the McCormick Review Appraisal. McCormick stated the highest and best use analysis drives the entire appraisal, including selecting comparable sales, rent comparables, and vacancy rates.[107]

Under the cost approach, the review appraiser asserted Sloan selected two older land sales occurring in 2014, which makes the land value conclusion less reliable.[108] At hearing, McCormick testified a lack of recent sales indicates a lack of market activity.[109] McCormick pointed out Sloan concluded a land value that is higher than the range established by the comparables on per square foot basis. McCormick asserted the 2021 land sale in Sloan's report did not lend any credibility to the land value conclusion as this property also sold for less than Sloan's conclusion of the subject's land value.

Furthermore, for the cost approach, the review appraiser stated the Sloan Appraisal contains no support for entrepreneurial profit which is not always present.[110] McCormick testified entrepreneurial profit must come from market extraction not from a cost manual or rule of thumb.[111]

McCormick also asserted the Sloan Appraisal contains no market data to support the rate of depreciation.[112] McCormick testified Sloan used an effective age slightly below the actual age and used an economic life of the building that is above the range presented in the Marshall Valuation Service, which would range from 35 to 45 years. For the site improvements, McCormick stated Sloan used an economic life of 25 years which is above the range presented in the Marshall Valuation Service, which would range from 7 to 17 years. McCormick asserted Sloan's depreciation estimate was weakened by not considering other forms of depreciation where the land sales indicate some external obsolescence due to a lack of development.[113]

[106] TR p. 151-153.
[107] TR p. 154-156.
[108] McCormick Review Appraisal, p. 5.
[109] TR p. 156-157.
[110] McCormick Review Appraisal, p.5.
[111] TR p. 158.
[112] McCormick Review Appraisal, p. 5.
[113] TR p. 158-160.

Under the sales comparison approach, the review appraiser critiqued Sloan's comparables as located distant from the subject and/or located in Kentucky. Comparable #1 was a leased fee sale of a built-to-suit CVS, for which no rental data was provided, and was also a 1031 exchange. Comparable #2 was part of a portfolio sale-leaseback transaction of a built-to-suit Walgreens, for which no rental data was provided. Comparable #3 was part of a portfolio sale-leaseback transaction of a built-to-suit Walgreens, for which no rental data was provided. Comparable #4 was a leased fee sale of a built-to-suit CVS, for which no rental data was provided. McCormick stated buyers who acquire a leased fee interest consider the tenant's credit rating, the annual net rent, and remaining lease terms. Furthermore, McCormick stated construction costs and return to the developer are factored into built-to-suit leases. McCormick included CoStar reports for Sloan's comparable sales as an addendum to the review appraisal.[114]

At hearing, McCormick testified the effective tax rate in Illinois is approximately twice the effective rate in Kentucky. McCormick explained that for a built-to-suit lease transaction a developer acquires a site that may or may not be on the market but that has been identified as appropriate for the drugstore's needs.[115] Upon questioning by the ALJ, McCormick explained build-to-suit transactions are not appropriate comparables due to their rental rates reflecting the developer capitalizing costs over a firm lease term, from 20 to 30 years, with the majority of 25 years, and subsequent 5-year term lease options. McCormick stated the lease terms were 60 or 70 year lease terms in the past.[116]

The review appraiser further asserted the Sloan Appraisal lacks market data to support adjustments for property rights, market conditions, and age. McCormick pointed out Sloan made no adjustment for location even though Sloan concluded a per square foot land value for the subject that was much lower than the per square foot site values of the comparable sales as disclosed in addenda to the Sloan Appraisal. McCormick explained construction costs, costs associated with acquiring a site, financing costs, and the developer's rate of return are factored into built-to-suit leases.[117]

McCormick testified Sloan's property rights adjustment was based on old sales occurring in 2014 and 2018 rather than the contract rent and terms for the comparables, which are needed to determine the adjustments to these comparables. McCormick stated risk is highest near the end of a lease term, and near the end of the lease term the landlord and tenant will typically begin to negotiate a continuation of the lease term.[118] Upon questioning by the ALJ, McCormick clarified the adjustment for property rights that was developed was an adjustment to the two sales used in the report and was not a valid adjustment for the comparable sales. McCormick testified rental data is needed to make an adjustment to the comparables for property rights.[119]

Under the income capitalization approach, the review appraiser criticized Sloan's rent comparables as older leases, built-to-suit leases, distant locations from the subject, and/or

[114] McCormick Review Appraisal, p. 5-7.
[115] TR p. 162-163.
[116] TR p. 172-173.
[117] McCormick Review Appraisal, p. 5-7.
[118] TR p. 164-165.
[119] TR p. 170-171.

locations in Kentucky. McCormick concluded the potential gross income in the Sloan Appraisal is not supported due to a lack of comparable data.[120]

The review appraiser also asserted Sloan's vacancy rate was not supported by market data.[121] McCormick testified the Sloan Appraisal included a survey of vacant properties but the survey did not include square footage to determine a vacancy rate.[122] For expenses, McCormick found the management fee to be reasonable, but reserves were not supported by market data in the report.[123] On questioning by the ALJ, McCormick clarified an appraisal should cite to a published source or data from other appraisals to develop reserves.[124]

McCormick stated Sloan's market extraction comparables used to develop the capitalization rate are distant from the subject, with the majority located outside Illinois and in larger metropolitan areas than the subject. McCormick stated the wide range of rates, from 5.2% to 7.7%, demonstrates the many factors involved in a leased fee sale, such as tenant credit rating, annual rent, and remaining lease term. McCormick further stated the comparables are not similar in location to Metropolis, which has a population of 6,000 and a county population of 14,200.[125]

At hearing, McCormick testified the capitalization rate comparables presented in the Sloan Appraisal lack rental data. McCormick explained rental data is needed to determine the remaining term of a lease which would drive the capitalization rate.[126] On cross-examination, McCormick confirmed he has performed appraisals and review appraisals for Walgreens since the late 1990s.[127]

For these reasons outlined in the McCormick Review Appraisal, McCormick concluded the Sloan Appraisal does not state a credible value conclusion. Moreover, McCormick asserted the sales comparison approach that was given the most weight in the Sloan Appraisal yields a value 24% higher than the other two approaches, which is not considered an acceptable range.[128]

Conclusion of Law

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

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[120] McCormick Review Appraisal, p. 8-9.
[121] McCormick Review Appraisal, p. 8.
[122] TR p. 168.
[123] McCormick Review Appraisal, p. 8.
[124] TR p. 171.
[125] McCormick Review Appraisal, p. 9.
[126] TR p. 169-170.
[127] TR p. 171.
[128] McCormick Review Appraisal, p. 9.

As an initial matter, the Board overrules the appellant's objections to the board of review's exhibits raised in its response to the board of review's request for an increase. The Board finds Exhibit A (Notes on Appeal) and subject's property record card are required to be filed by the board of review pursuant to Section 1910.40(a) of the Board's procedural rules. (86 Ill. Admin. Code § 1910.40(a)). The Board finds Exhibits C-1 to C-3 (Sokoloff Review Appraisal) constitute written or documentary evidence to support the board of review's position that is permitted under Section 1910.40(a) of the Board's procedural rules. With regard to the remaining exhibits, the Board finds these documents are relevant to generally address approaches to the valuation of retail stores. The weight given to each exhibit is further discussed below.

The appellant presented the Becker Appraisal and the McCormick Review Appraisal and the board of review presented the Sloan Appraisal, the Sokoloff Review Appraisal, and various articles and court cases in support of their respective positions before the Board. The Board gave little weight to the articles presented by the board of review (Exhibits K, L, M, N, O, P, Q, R, S, T, and U),[129] as the opinions expressed in these articles were not supported by any expert testimony. The Board also gave little weight to the court cases presented by the board of review (Exhibits D, E, F, G, H, I, and J), as none of these cases are Illinois cases or rely on Illinois law.

The Board finds the Becker Appraisal, supported by Becker's testimony, is the best evidence of the subject's market value in this record. Becker and Sloan both determined the highest and best use of the subject as vacant is for commercial development with a retail use and as improved is for a continued commercial use. For the sales comparison approach that was given primary weight by Becker and Sloan, the Board finds that Sloan's selection of all drugstore sales contradicted these highest and best use conclusions, whereas Becker's selection of retail and commercial properties was consistent with the highest and best use conclusions.

The Board further finds Sloan's selection of leased fee sales without an examination of their leases calls into question whether the adjusted sale prices represent fee simple values. Becker, McCormick, and Sokoloff all testified that contract rents and terms must be examined to determine adjustments to leased fee sales for property rights.[130] Sloan acknowledged that he did not review the leases and did not develop adjustments based on those actual leases.

Although the Board recognizes both appraisers selected comparable sales that are located more distant from the subject, Becker and Sloan agreed there was little commercial development or market activity in Metropolis, requiring a larger geographical search for comparables. Nonetheless, the Board further finds Sloan's selection of comparable sales in Kentucky was questionable as Sloan acknowledged there were sales in Illinois that were not selected. The Board finds Sloan did explain why he considered the Kentucky sales to be more similar to the subject than the Illinois sales.

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[129] The Board notes Sokoloff testified she was on the committee that prepared Exhibit R, but Sokoloff was not specifically questioned about the opinions in this article and did not testify regarding her role on the committee or in preparing the article.

[130] The Board notes that Sokoloff was referring to Becker's selection of fee simple sales rather than leased fee drugstore sales which could have been adjusted based on their lease terms for market rent as a drugstore property.

In contrast, the Board finds Becker selected fee simple sales in Illinois and made appropriate adjustments to the comparables for market conditions and for differences from the subject in location, age, and quality, which were further explained by credible testimony.

For the income approach, which Becker and Sloan gave secondary weight, the Board finds Sloan's analysis of potential gross income was flawed due to the selection of built-to-suit leases as rent comparables that were not adjusted to reflect market rents. The Board finds McCormick's explanation of the factors involved in built-to-suit leases and why they may not reflect market rents was credible and instructive. Sloan testified the nature of these two comparables as built-to-suit leases was considered in the analysis. However, in making adjustments to the comparables, Sloan only adjusted for ages and quality of construction. The Board finds Sloan did not in fact consider the nature of these two leases as built-to-suit leases in making adjustments or did not properly document such adjustments. In contrast, Becker did not select any built-to-suit leases as rent comparables.

For the development of the capitalization rate, the Board finds Sloan's reliance on market extraction from capitalization rate comparables without supporting data to demonstrate the similarity of these properties to the subject, and without appropriate adjustments to these comparables, results in a less credible capitalization rate conclusion. The Board finds Becker examined market extraction from the sales comparables, national surveys, and band of investment, to conclude a capitalization rate that was supported by these three methods.

Under the cost approach, the Board gave little weight to the land value analysis in the Sloan Appraisal as two of the comparable land sales occurred in 2014, more distant from the assessment date, and the remaining sale sold to an adjoining landowner as Sloan admitted on cross-examination, calling into question the arm's length nature of the transaction. Moreover, as McCormick pointed out, Sloan concluded a land value that is higher than the range established by the land sale comparables on a per square foot basis. The Board finds Becker selected appropriate land comparables in Metropolis that either sold or were marketed for sale proximate to the assessment date.

The Board finds Sloan's computation of the replacement cost new for the subject contradicted the highest and best use determination, whereas Becker's computation of the replacement cost new for the subject was consistent with the determination of highest and best use.

The Board further finds Sloan's inclusion of entrepreneurial profit was not supported. The Board finds Sloan's testimony that he used a minimal 10% for entrepreneurial profit to reflect the limited demand for similar properties was inconsistent with his conclusions regarding the market for similar properties in the subject's area.

The Board finds the Sokoloff Review Appraisal, and Sokoloff's supporting testimony, to be overall less credible. The Board notes that many of Sokoloff's criticisms equally apply to the Sloan Appraisal, resulting in the board of review presenting inconsistent opinions of its two expert witnesses. Sokoloff disputed Becker's definitions of market value and fee simple, but Becker and Sloan used the same or substantially the same definitions. Sokoloff disagreed with Becker's conclusions of highest and best use for the subject, which were the same conclusion in the Sloan Appraisal.

Sokoloff contended Becker should have selected leased fee sales and made adjustments based on their contract rents, but Sloan selected leased fee sales and did not make adjustments based on contract rents. Sokoloff argued the subject's highest and best use should be for drugstore use, but on cross-examination, Sokoloff could only substantiate one other national chain drugstore does business in the subject's market area and she acknowledged other types of commercial users would be potential buyers of the subject. The Board finds these inconsistencies diminish the credibility of the Sokoloff Review Appraisal.

Based on the Board's examination of the two appraisals and the two review appraisals in this record, the Board finds the Becker Appraisal to be the best evidence of the subject's market value in this record. As a result of the deficiencies discussed above, the Board finds the Sloan Appraisal states a less credible and/or reliable opinion of value and the Board gave less weight to its conclusion of value.

The Board finds the subject property had a market value of $1,200,000 as of the assessment date at issue. Based on this evidence, the Board finds a reduction in the subject's assessment commensurate with the appellant's request is justified.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.

Chairman

Member

Member

Member

Member

DISSENTING:

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

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

Date: April 16, 2024

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

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COUNTY

Massac County Board of Review
Massac County Assessments
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