

**OHIO BOARD OF TAX APPEALS**

Wal-Mart Real Estate Business Trust, )  
 )  
 ) Appellant, ) CASE NO. 2003-T-913  
 )  
 vs. ) (REAL PROPERTY TAX)  
 )  
 ) DECISION AND ORDER  
 Fulton County Board of Revision )  
 and Fulton County Auditor, )  
 )  
 Appellees. )

APPEARANCES:

For the Appellant - Siegel, Siegel, Johnson & Jennings Co., L.P.A.  
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Entered July 15, 2005

Ms. Margulies, Mr. Eberhart, and Mr. Dunlap concur.

The Board of Tax Appeals considers this matter pursuant to a notice of appeal filed by Wal-Mart Real Estate Business Trust. Wal-Mart appeals from a decision of the Fulton County Board of Revision, in which the BOR found the true value of certain real property to be \$5,199,200 for tax year 2002. Wal-Mart claims that the correct true value should be \$2,750,000.

The subject property is listed in the Fulton County Auditor's records as permanent parcel number 06-02D-013-01 and is located in the city of Wauseon-Wauseon schools taxing district. The subject consists of approximately 19.75 acres of land. The land is improved with a one-story building of steel and concrete block construction. The 109,973 square foot building was erected in 1995 and is used as a retail discount storeroom. Other site improvements include a parking area, with lighting.

In support of its contention of value, Wal-Mart relies upon the testimony and written appraisal report of Mr. Robin L. Lorms, an Ohio-certified general appraiser and a member of the Appraisal Institute. Mr. Lorms utilized all three of the traditional approaches to value: (1) the cost approach, (2) the market data approach (also known as the sales comparison approach), and (3) the income approach. See, generally, Ohio Adm. Code 5703-25-07.

In applying the three approaches, however, Mr. Lorms testified that an important element of his analysis was the fact that the subject represented what is commonly known as a "big-box" retail store. Retailers who utilize the big-box concept construct single use properties that have a large footprint. Examples of this type of retailer are Meijer, Target, Lowe's, and Wal-Mart. Mr. Lorms indicated that many of these properties range in size from 60,000 square feet to nearly 300,000 square feet. H.R. at 16-21.

Mr. Lorms indicated that the supply of big-box retail space is growing; however, the market demand for such properties is limited. Mr. Lorms indicated that a

recent string of bankruptcies by some big-box users has placed several big-box properties on the market. At the same time, as marketing strategies shift, current users may leave one property for another. As an example, Mr. Lorms testified that Wal-Mart is in the process of developing stores known as “super centers.” These properties combine both retail and grocery operations in one building, the size of which can be between 200,000 and 300,000 square feet. As it does so, Wal-Mart vacates smaller properties, placing them on the market for sale or lease. H.R. at 17; Ex.1 at 18.

In contrast to the growth in available big-box space, represents Mr. Lorms, the demand for this type of space in the market by potential purchasers is limited. Mr. Lorms indicated that other retailers capable of operating on such a large scale are typically not interested in someone else’s property because of differences in merchandizing plans. H.R. at 20. “National retailers \*\*\* thrive on efficiency knowing that their stores are of identical dimensions for purposes of store design, product placement and restocking. Costs to retrofit existing big-boxes to accommodate these user’s [sic] store design is too high for financial feasibility \*\*\*.” Appellant’s Ex. 1 at 19. In support, Mr. Lorms testified about a situation in which a new building was constructed for a big-box retailer. That retailer went bankrupt before it could occupy the building. Another national retailer was interested in the site, but found the building unsuitable to its merchandising plan. Ultimately, this retailer entered into an agreement in which the retailer purchased the land, had the newly constructed store razed, and built a new building that conformed to the retailer’s intended use. H.R. at 21.

Mr. Lorms noted that the result of the big-box phenomenon is that demand for existing space is limited to “2<sup>nd</sup> and 3<sup>rd</sup> generation users.” Appellant’s Ex. 1 at 19. These users are typically specialty type retailers, whose product demand is not large enough to support a building of the size in question. As a result, “[r]etailers interested in occupying the former [big-box] space are not interested in paying a rental rate based on the replacement costs because the store format does not meet their needs and the costs to conform to their own prototype are too high.” Id. at 20. The result, Mr. Lorms testified, is that big-box properties tend to have an extended marketing period before they sell or rent and, because demand for such space is limited, they tend to sell for less or rent at a lower rate than would be supported by the cost of developing a similar property. H.R. at 20.

Mr. Lorms describes the subject as being in what he calls a “3<sup>rd</sup> tier market,” i.e., one that is considered a rural market in an area with a population of less than 50,000. The subject represents one of the few major retail developments in this area. However, Mr. Lorms predicts that further development is likely, resulting in higher real estate values at some future period. Appellant’s Ex.1 at 30.

Under the cost approach, value is derived by estimating the current cost of replacing or reproducing the improvements, deducting from that cost the estimated physical depreciation and all forms of obsolescence, if any, and then adding the market value for land. Ohio Adm. Code 5703-25-05(D); The Appraisal of Real Estate (12<sup>th</sup> Ed. 2001), at 50. Mr. Lorms’ cost approach began with an estimation of land value. Mr. Lorms reviewed the sales of four parcels of unimproved land. The sales took place

between September 1997 and September 2000, and sold for a price-per-acre of between \$21,945 and \$33,181. Mr. Lorms placed minimal weight on sale no. 1, as this was the purchase of the subject property by the current owner. Placing primary weight on the remaining three sales, and taking into consideration their locations and sale dates, he concluded that a value of \$30,000 per acre was appropriate for the subject property. This equated to a land value of approximately \$590,000.

Mr. Lorms next determined a replacement cost for the subject's improvements by utilizing construction costs from the Marshall & Swift Valuation Manual. From this service, he determined a replacement cost new of \$6,110,370, including hard costs, soft costs, and additional site improvements.

Under the cost approach, simply adding all of the costs does not necessarily reflect the value of an improvement. "In determining the value of property for the purposes of taxation, the assessing body must take into consideration all factors which affect the value of the property." *The B.F. Keith Columbus Co. v. Franklin Cty. Bd. of Revision* (1947), 148 Ohio St. 253, at paragraph one of the syllabus. Factors such as depreciation, deficiencies, superadequacies, and other forms of obsolescence may be present. The determination of obsolescence is a two-step inquiry. First, the appraiser must identify the causes of the obsolescence. Second, the appraiser must quantify the amount of obsolescence to be applied. See *Meijer, Inc. v. Montgomery Cty. Bd. of Revision* (1996), 75 Ohio St.3d 181, 186. See, also, *Clark v. State Bd. of Tax Comm'rs* (Indiana Tax Ct. 1999), 694 N.E.2d 1230.

Based upon the subject's effective age of seven years out of a useful life of thirty-five years, Mr. Lorms found the total physical depreciation present to be 20 percent for the building. He also found physical depreciation present for other site improvements that have a shorter economic life of thirty-five percent.

Mr. Lorms then concluded that the subject also suffered from functional and external obsolescence.<sup>1</sup> He based this conclusion upon the size and design of the big-box property. As discussed, *supra*, Mr. Lorms concluded that the size and design of the subject property makes it difficult to sell to another user. He also noted that most markets cannot readily absorb this type of property, given the limited number of second and third generation users available and their inability to pay high rent. "In summary, the fee simple market value of these properties is substantially lower than replacement costs not only due to physical depreciation but also to functional obsolescence." Appellant's Ex.1 at 25.<sup>2</sup>

To quantify the amount of obsolescence applicable to the subject, Mr. Lorms relied upon the "capitalization of income loss" approach. The approach requires two steps. First, market rents are analyzed to quantify the income loss. Second, the income loss is capitalized to obtain the value loss affecting the property. *The Appraisal of Real Estate*, at 414. In his calculations, Mr. Lorms began with the

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<sup>1</sup> Functional obsolescence is a flaw in the structure, materials, or design that diminishes the function, utility, and value of an improvement. *The Appraisal of Real Estate* (12<sup>th</sup> Ed. 2001), at 363. External obsolescence is a loss in value caused by factors outside the property. These factors may be either economic or locational in nature and are not usually considered curable by an owner, landlord, or tenant. *The Appraisal of Real Estate*, at 412.

<sup>2</sup> Although Mr. Lorms refers only to functional obsolescence in his report, he testified that his obsolescence discussion also includes economic obsolescence. H.R. at 42.

total replacement cost and land value for the subject of \$6,700,370. He next determined that a rental rate needed to support this value would be 10.5% of value, or \$703,539 per year. Next, Mr. Lorms turned to his income approach to value, which demonstrates that market rents for properties similar to the subject produce approximately \$329,919 in rental income. This difference in income is \$373,620. To this figure, he applied the 10.5% overall capitalization rate derived in his income approach (discussed, *infra*) to arrive at a total depreciation for the subject of \$3,558,284. After removing \$1,320,084 attributable to physical depreciation, Mr. Lorms determined obsolescence in the amount of \$2,238,200. See App. Ex. 1 at 35.

After removing depreciation from all sources, Mr. Lorms determined a depreciated value for the subject's improvements of \$2,552,086. To this he added the land value of \$590,000 to arrive at a value under the cost approach of approximately \$3,150,000.

The sales comparison approach, often referred to as the market data approach, derives an estimate of value by comparing the subject property to the sale prices of similar properties. The sale prices of properties considered to be most comparable generally establish a range in which the value of the subject will fall. The Appraisal of Real Estate, at 417; Ohio Adm. Code 5703-25-05(G). Mr. Lorms analyzed sales of six properties that he found similar to the subject. He also reviewed three other properties that are currently placed for sale in the market. The sales occurred between November 1999 and August 2004 and ranged in price from a low of \$20.38 per square foot to a high of \$37.48 per square foot. Those properties listed

were offered at a price between \$14.52 and \$34.86 per square foot. Taking into account the dates of the sales, age, and differences in market conditions, Mr. Lorms determined a value for the subject property of \$25.00 per square foot. This was based on his primary reliance upon sale no. 1 and listings nos. 6 and 9, which he found to be most comparable to the subject property. Applying this information, he determined a total value under the market data approach of \$2,750,000.

In employing the income approach, Mr. Lorms found value under the direct capitalization method. Direct capitalization converts a single year's income expectancy into a value by estimating a net income for the property and dividing it by a market-derived income factor, known as an "overall capitalization rate." *The Appraisal of Real Estate*, at 529.

To arrive at income expectancy, an appraiser reviews the subject property's historical income and expenses. These are then combined with an analysis of typical income and expense levels found for comparable properties. *The Appraisal of Real Estate*, at 493. The subject property is owner-occupied and thus does not generate rental income. To determine an income, Mr. Lorms estimated a market rent for the subject by surveying rental rates being asked at several properties, which he considered to be comparable to the subject. Each of these available properties had been developed as a discount storeroom, which had been vacated by the owner-occupant. The five comparables indicated a market rental range between \$2.50 to \$4.50 per square foot. Mr. Lorms gave primary weight to comparable nos. 3 and 5 due to their location. Based upon this, he determined that a market rental rate for the

subject would be \$3.00 per square foot. To this figure, he added expense reimbursement income of \$1.54 per square foot to arrive at a potential gross income for the subject of \$499,574. A ten percent vacancy and credit loss was deducted to arrive at an effective gross income of \$449,617. From this amount, expenses were deducted to arrive at a net operating income for the subject of \$244,479. Income was capitalized at 10.5%. The overall capitalization rate was derived from investor surveys and the band of investment method. When applied to the net operating income, this equated to a value under the income approach of \$2,350,000.

In reconciling his three approaches to value, Mr. Lorms placed greatest weight upon the sales comparison approach. Mr. Lorms also placed weight upon the income approach, as he concluded that an investor would be the likely purchaser of the subject property. The least amount of weight was placed upon the cost approach. He noted the high obsolescence rate limited the accuracy of the approach; however, he concluded that the age of the improvements made the approach a reliable check on his other two approaches to value. Accordingly, Mr. Lorms opined a final true value for the subject property of \$2,750,000 for tax year 2002.

The county appellees did not offer any additional evidence of value in response to Wal-Mart's appraisal evidence. Rather, the county chose to rely primarily upon its cross-examination of Wal-Mart's witness to establish that the appraisal report and related testimony do not constitute competent and probative evidence of value.

We begin our review of this matter by noting that a party who asserts a right to an increase or a decrease in the value of real property has the burden to prove

its right to the value asserted. *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1994), 68 Ohio St.3d 336; *Crow v. Cuyahoga Cty. Bd. of Revision* (1990), 50 Ohio St.3d 55; *Mentor Exempted Village Bd. of Edn. v. Lake Cty. Bd. of Revision* (1988), 37 Ohio St.3d 318. Consequently, it is incumbent upon an appellant challenging the decision of a board of revision to come forward and offer evidence that demonstrates its right to the value sought. *Cleveland Bd. of Edn.*, supra; *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493.

It is not enough, however, to simply come forward with some evidence of value. Neither is it sufficient to grant the requested increase or decrease merely because no evidence is adduced in contradiction to the claim. *Western Industries, Inc. v. Hamilton Cty. Bd. of Revision* (1960), 170 Ohio St. 340. In short, there is a burden of persuasion that rests with the appellant to convince this board that the appellant is entitled to the value which it seeks. *Cincinnati School Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (1997), 78 Ohio St.3d 325. Accordingly, this board must proceed to examine the available record and to determine value based upon the evidence before it. *Coventry Towers, Inc. v. Strongsville* (1985), 18 Ohio St.3d 120; *Clark v. Glander* (1949), 151 Ohio St. 229. In so doing, we will determine the weight and credibility to be accorded to the evidence presented. *Cardinal Fed. S. & L. Assn. v. Cuyahoga Cty. Bd. of Revision* (1975), 44 Ohio St.2d 13.

Initially, the county argues that the appraisal evidence is unreliable because Mr. Lorms' theory that first generation big-box retail properties would sell to or be leased by second and third generation users is unsupported opinion. First, the

county asserts that we have previously rejected the specific theory now put forth by Wal-Mart in *Lefkowitz v. Wayne Cty. Bd. of Revision* (Feb. 2, 2001), BTA No. 1998-L-688, unreported, value stipulated upon remand of appeal (2001), 91 Ohio St.3d 1516, and *Forest Park City v. Hamilton Cty. Bd. of Revision* (June 20, 2003), BTA No. 2003-V-76, unreported, appeal dismissed (2003), 100 Ohio St.3d 1427, 2003-Ohio-5370.

We find *Lefkowitz* to be inapposite. In that case, we did indeed reject the appraisal evidence offered by the property owner. However, we did so by finding the background material relied upon by the appraiser to be unpersuasive. Among our findings, we concluded that many of the comparable sales and properties used to develop market rents used in *Lefkowitz* were not sufficiently comparable to the property at issue. While we did determine that the appraiser had failed to accurately estimate “the potential of the subject property and its market,” we neither addressed nor expressly rejected the theory now advanced by Wal-Mart. In *Forest Park*, we again criticized the appraisal evidence, finding that the underlying data used to develop an opinion of value did not adequately compare to the property in issue. We also found specific flaws in the method employed in developing the appraiser’s approaches to value. As in *Lefkowitz*, *Forest Park* did not expressly address the theory that the market of big-box property would be limited to second and third generation users.

Next, the county argues that, by eliminating other first generation users such as Target, Meijer, and Lowe’s from the pool of potential buyers of a property like

the subject, Mr. Lorms has been able to lower both the subject's potential gross income and its potential sale price. The county asserts that this is nothing more than unsupported opinion used to artificially lower the value of the subject. We disagree.

Mr. Lorms testified that his research did not disclose any sales between first generation users. In addition, he testified that discussions with several first generation users suggested that such a user would not be interested in an existing big-box property. Finally, Mr. Lorms gave specific examples of this phenomenon, including the case where one retailer had a recently completed big-box storeroom razed because the building, developed by a competitor, did not meet its marketing strategy. We find Mr. Lorms' evidence to be competent and well corroborated.

The county may speculate as to the reasons why there are no sales between first generation users.<sup>3</sup> However, these conjectures are without substance. Ultimately, we cannot ignore the fact that the county has not offered into evidence any sale or lease between first generation users that would either impeach Mr. Lorms' testimony or rebut the evidence presented by Wal-Mart.

Nor do we agree with the county's implication that Wal-Mart, by abandoning smaller stores as it develops its super centers, seeks to inappropriately take advantage of a self-generated oversupply to undervalue big-box properties like the subject. We find such motivations to be irrelevant to the appraisal problem presented

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<sup>3</sup> The county also argues that lease and deed restrictions placed on big-box properties owned by entities like Wal-Mart may also create problems with later sales and leases. However, the county has presented no information concerning this issue either through cross-examination or its own direct evidence. We therefore decline to address the supposition raised thereby.

in this matter. The question before us is the true value of the subject property. Issues of oversupply in a market that has limited investors are proper issues to be weighed and, if found probative, considered. See, e.g., *The Appraisal of Real Estate*, at 472 (“\*\*\* if the demand for space is less than the existing supply, rents may decline and vacancy rates may increase.”).

Moreover, although the county asserts that it is not likely that the situation put forth by Wal-Mart would impact all big-box stores in Ohio, appraisal practice explicitly recognizes that external obsolescence, such as that applied by Mr. Lorms, “\*\*\* usually carries a marketwide effect and influences *a whole class of properties*, rather than just a single property.” *The Appraisal of Real Estate*, at 412. (Emphasis added.) Thus, in the absence of evidence to the contrary, we must agree with Wal-Mart that Mr. Lorms’ survey of market sales and leases indicates that second and third generation users are the most likely potential users of big-box space.

We begin our review of Mr. Lorms’ three approaches to value with the sales comparison, or market data, approach. This approach was the one most heavily relied upon by Mr. Lorms in reaching his final opinion of value. The county argues that the sales used by Mr. Lorms are abandoned and vacant properties, which should not be considered comparable to the subject. We disagree. The vacant condition of a property does not, in and of itself, render it unrepresentative in determining the value of the subject property. The comparables used are all considered to be big-box properties that are similar to the subject.

Upon review, we find Mr. Lorms' market data approach to be reliable. The sales utilized to determine value were all located in markets similar to the subject's and appear to be sufficiently comparable. Mr. Lorms' adjustments to account for differences in age, location, and condition appear to be reasonable and are supported by his testimony and the remainder of the record. While the county has criticized some of the sales utilized by Mr. Lorms, it has offered no specific evidence to rebut the reliability of the data.

We do concur with the county that three of the comparables relied upon by Mr. Lorms were not actual sales. They are properties that are currently listed for sale. We do not find these listings to be persuasive evidence of value. Cf. *Gupta v. Cuyahoga Cty. Bd. of Revision* (1997), 79 Ohio St.3d 397, at 400. Nevertheless, even after removing the three listings from consideration, Mr. Lorms' value under the market data approach falls within the range of values suggested by the remaining, actual sales. Consequently, we find that Mr. Lorms' market data approach is reasonable and is reflective of the subject property's value as of tax lien date.

We place minimal weight on the remaining two approaches to value. In developing his income approach, Mr. Lorms relied upon asking rental rates rather than actual rentals.<sup>4</sup> While we agree that the income approach seeks to consider the anticipated future benefits generated by a property and to estimate their present value, see *The Appraisal of Real Estate*, at 471, the use of asking rents is more speculative

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<sup>4</sup> Mr. Lorms testified that one of his rent comparables had been leased following preparation of his report; however, he was unable to provide us with details of that lease arrangement.

than probative. In this case, we find that Mr. Lorms' income approach lends support to his market data analysis by verifying a range of value for the subject property. However, we do not find it to be persuasive of value on its own.

As to Mr. Lorms' cost approach, we find his land valuation to be reliable. He looked at several properties that he found to be similar to the subject parcel. The sales occurred reasonably close to tax lien date. Moreover, our review of Mr. Lorms' adjustments indicates that he took location and other factors into consideration.

Mr. Lorms based his replacement cost upon valuation services. Our review of the relevant portion of the Marshall and Swift Valuation Service indicates that his cost factors are within the range suggested thereby. Mr. Lorms further included soft costs in his calculations. Mr. Lorms' physical depreciation factor appears to be reasonable. He took into consideration the age and condition of the improvements. Mr. Lorms also found that there was considerable functional and external obsolescence affecting the property. As we discussed at length, *supra*, we find that his decision to include obsolescence is supported by the record.

With regard to the method employed by Mr. Lorms to quantify the amount of obsolescence applicable to the subject, we find that he appropriately applied the capitalization of income loss method.<sup>5</sup> We note, however, that he utilized the

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<sup>5</sup> We do note the use of an overall capitalization rate, such as used in Mr. Lorms' calculations, may overstate external obsolescence in situations where the external factors are to continue for a short period. See *The Appraisal of Real Estate*, at 414. In the absence of evidence to the contrary, however, the external factors impacting the subject do not appear to be short lived.

market rent from his income approach. We have already concluded that the rental data is of limited benefit, given that market rent was derived from asking rents. Given this, and given Mr. Lorms' own conclusion that the cost approach is of limited value due to the difficulty in estimating obsolescence, we place minimal weight upon the conclusion of value that results from the use of this approach.

Upon review of all of Wal-Mart's appraisal evidence, we find that the most reliable evidence is presented by the market data approach. We give only minimal weight to the income and cost approaches, finding them to be supportive of the conclusions reached under the sales comparison method. We conclude that Wal-Mart has satisfied its burden of persuasion and has come forward with competent and probative evidence that the value for the subject property was \$2,750,000 for tax year 2002. *Cincinnati*, supra.

Where we determine that an appellant has come forward with competent and probative evidence of value, the appellees have a corresponding burden to present evidence that this board must review to determine whether it is competent and probative in rebutting the appellant's evidence. *Westhaven, Inc. v. Wood Cty. Bd. of Revision* (1998), 81 Ohio St.3d 67, 70; *Springfield and Mentor Exempted*, supra. Failure of an appellee to present rebuttal evidence may, upon our finding that the appellant has presented credible and probative evidence, result in our adoption of the appellant's evidence as the subject property's true value. *Mentor Exempted*, supra. See, also, *Fairlawn Assoc., Ltd. v. Summit Cty. Bd. of Revision*, Summit Cty. App. No. 22238, 2005-Ohio-1951 ("By not presenting any evidence, the BOR and county

auditor do risk that the court will find the appellant's evidence competent and probative, and therefore, determinative of value.”).

As we have previously stated, the county appellees have elected not to provide us with any additional evidence of value. Moreover, our review of the transcript certified to this board by the county auditor discloses no other evidence upon which we may base an opinion of value.

The county, however, argues that the case of *Meijer, Inc. v. Montgomery Cty. Bd. of Revision* (1996), 75 Ohio St.3d 181, establishes several legal principles that dispose of the issues in this case. Namely, the county argues that (1) the cost approach is the only valid approach that can be used to determine the subject's true value and (2) Wal-Mart is required to present evidence of comparable sales and rentals that are truly comparable to the subject in order to prove that the property suffers from obsolescence. As the appraisal evidence does not support the application of obsolescence, concludes the county, Mr. Lorms' cost approach, and thus all of Wal-Mart's evidence of value, must be rejected.

*Meijer* considered the valuation of a discount storeroom that was constructed less than one year prior to tax lien date. In that case, the cost approach was indeed found to be the best evidence of that property's value. Here, we are dealing with an older property. Moreover, market conditions have changed, and the development of build-to-suit big-box properties has become prevalent in the market. Along with this increase in the number of properties has come the difficulty in reabsorbing such properties back into the market as the first generation users move on.

Moreover, the county's position runs counter to the well-established principles that (a) this board is vested with wide discretion in determining the weight to be given to the evidence that comes before it, (b) this board may accept all, part, or none of the evidence presented, and (c) this board is not required to adopt the valuation fixed by any expert or witness. *Cardina*, supra, *Witt Co. v. Hamilton Cty. Bd. of Revision* (1991), 61 Ohio St.3d 155, and *Simmons v. Cuyahoga Cty. Bd. of Revision* (1998), 81 Ohio St.3d 47. In *Youngstown Sheet & Tube Co. v. Mahoning Cty. Bd. of Revision* (1981), 66 Ohio St.2d 398, the court determined that to require this board to adhere to one particular method of value, as the county now urges us to do in this matter, runs contrary to the above-stated principles. The court stated, "We decline to bind the BTA to a particular method of valuation because the imposition of rigid methodological strictures would necessarily impinge upon the BTA's wide discretion to weigh evidence and assess the credibility of witnesses." *Id.* at 402.

While it was determined in *Meijer*, supra, that the best indication of value for *that property* was found under the cost approach, our review of the evidence in this matter, including a consideration of the market factors introduced, leads us to conclude that the market data approach provides the best, most reliable indication of value for the subject property.

As to the county's second contention, we have previously concluded that the sales utilized by Mr. Lorms in his market data approach are indeed comparable to the subject property. We have also found that Mr. Lorms, unlike the appraiser in the *Meijer* appeal, has been able to identify and corroborate the external factors that

contribute to the obsolescence affecting the subject. Further review of the county's contention would be supererogatory.

In conclusion, we find that Wal-Mart has demonstrated through competent and probative evidence that the true value of the subject property should be \$2,750,000 for tax year 2002. We further find that the county appellees have failed to put forward evidence sufficiently competent to prove value and to rebut that presented by Wal-Mart. *Cincinnati, Springfield and Mentor Exempted*, supra. The Board of Tax Appeals therefore finds the true and taxable values of the subject property to be as follows for tax year 2002:

	<b>TRUE VALUE</b>	<b>TAXABLE VALUE</b>
Parcel 06-02D-013-01		
LAND	\$ 590,000	\$ 206,500
BUILDINGS	<u>\$2,160,000</u>	<u>\$ 756,000</u>
TOTAL	\$2,750,000	\$ 962,500

The Auditor of Fulton County is hereby ordered to list and assess the subject property in conformity with this board's decision and order and to carry forward the determined values in accordance with law.

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