

STATE OF WISCONSIN
TAX APPEALS COMMISSION

SANMINA CORPORATION,

Petitioner,

DOCKET NOS. 10-M-055,
11-M-156, 12-M-106,
AND 12-M-245

vs.

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

DECISION AND ORDER

*Per Curiam:*¹

The Commission conducted a trial in these cases in Madison, Wisconsin, on February 5-6, 2014. The Petitioner was represented by Attorney Don M. Millis of Reinhart Boerner Van Deuren S.C., Madison, Wisconsin. The Respondent, the Wisconsin Department of Revenue ("the Department") was represented by Attorney La Keisha Wright Butler.² Both parties filed post-trial briefs. Based upon the proceedings at trial, the exhibits received at trial, and the entire record, the Commission finds, decides, concludes and orders as follows:

¹ This case was heard before Commissioner Roger W. LeGrand. Following the trial but prior to the final decision, Commissioner LeGrand retired from the Tax Appeals Commission. However, prior to his retirement, Commissioner LeGrand reported to the Commission his impressions of the facts and testimony from the trial.

² On October 20, 2014, the Commission was notified that these cases have been reassigned from Attorney La Keisha Wright Butler to Attorney Axel F. Candelaria.

FINDINGS OF FACT

1. Petitioner, Sanmina Corporation ("Sanmina" or "Petitioner"), is the owner of real property located at 8701 100th Street, Village of Pleasant Prairie, Wisconsin, State Identification Number 77-30-174-R000005769. The property is comprised of 19.76 acres of land upon which sits an improvement that is 176,100 square feet (SF) in size ("Subject Property"). This is the property which is the subject of the above-referenced docketed cases.

2. The Department's assessments for 2009 through 2012, the years at issue, were as follows:

Assessment Year	Land	Improvement	Total
2009	\$2,553,200	\$6,228,200	\$8,781,400
2010	\$2,553,200	\$5,543,100	\$8,096,300
2011	\$2,553,200	\$5,543,100	\$8,096,300
2012	\$2,553,200	\$5,265,900	\$7,819,100

3. Petitioner timely filed objections to the assessments for 2009, 2010, 2011, and 2012 with the State Board of Assessors. On the objection forms, Petitioner indicated that it believed the value of the Subject Property was as follows:

Assessment Year	Total Value
2009	\$6,953,200
2010	\$6,750,000
2011	\$6,750,000
2012	\$6,750,000

4. The Board of Assessors upheld the assessments for each of the years in question, and Petitioner timely filed Petitions for Review with the Tax Appeals Commission.

5. The Subject Property is located in the Lakeview Corporate Park, a 2,391 acre mixed use development with industrial office and retail uses located adjacent to I-94 in the Village of Pleasant Prairie, Kenosha County. The Subject Property is located about two miles from I-94 and has Highway 165 running through it. It is approximately 45 minutes from Chicago O'Hare Field, 30 minutes from Milwaukee's Mitchell International Airport, and 10 minutes from two regional airports.

6. By virtue of its location in Kenosha County, the Subject Property is in both the Chicago industrial real estate market and the Milwaukee industrial real estate market, which is a good industrial location.

7. Sanmina offered two appraisal reports — one for 2009 and one for 2012 — and two supplemental appraisal reports — one for 2010 and 2011. The appraisal reports presented opinions of the fair market value of the Subject Property for each of the years at issue. The appraisals were retrospective appraisals as of January 1 of each of the years at issue, meaning that the goal was to estimate the fair market value of the Subject Property as of those dates by looking only at the information that would be available as of each date of value.

8. The appraisal reports were authored by Bradley R. Braemer of Real Estate Analysis Corporation, Chicago, Illinois ("Petitioner's appraiser"). Mr. Braemer has undergraduate and graduate degrees from the University of Wisconsin, Madison, is a certified general real estate appraiser from the State of Illinois and the State of Michigan, is a Member of the Appraisal Institute, and has experience in appraising industrial properties in Southeast Wisconsin.

9. Petitioner's appraiser concluded that the market value of the Subject Property was as follows for the years at issue:

Assessment Year	Total Value
2009	\$6,750,000
2010	\$6,750,000
2011	\$5,925,000
2012	\$5,925,000

10. Petitioner's appraiser twice inspected the Subject Property, once in 2010 and again in 2013, to gather information necessary for the appraisal reports he authored.

11. Petitioner's appraiser conducted a highest and best use analysis of the Subject Property that was consistent with professionally accepted appraisal practices.

12. Petitioner's appraiser concluded that the highest and best use of the Subject Property was continued use as an industrial property. The Department's assessor who assessed the Subject Property agreed with this conclusion.

13. There has been no recent sale of the Subject Property.

14. Petitioner's appraiser utilized the sales comparison approach to determine the fair market value of the Subject Property.

15. Because the Subject Property is owner-occupied, Petitioner's appraiser looked for sales of owner-occupied properties; that is, fee simple sales as opposed to sales of properties that are subject to a lease. He looked for properties that most closely resembled the Subject Property, in terms of location, physical characteristics, and other factors.

16. As part of his analysis, Petitioner's appraiser had to adjust for differences between the comparable properties and the Subject Property.

17. The Wisconsin Property Assessment Manual ("WPAM") provides examples of the elements of comparison that assessors and appraisers can use as part of the sales comparison approach:

- A. Real property rights conveyed;
- B. Financing terms;
- C. Time (market conditions);
- D. Location;
- E. Physical characteristics (e.g., size, construction quality, age, condition, features);
- F. Economic characteristics.

18. In expressing differences between the Subject Property and the various comparable properties, Petitioner's appraiser employed both qualitative adjustments and quantitative analysis. For the qualitative adjustments, a positive (+) adjustment means that the Subject Property is superior to the comparable with respect to a particular element of comparison. A negative (-) adjustment means that the Subject Property is inferior to the comparable with respect to a particular element of comparison. A neutral (=) or no adjustment means that the Subject Property is similar to the comparable with respect to a particular element of comparison. These adjustments are made to the unit value of the comparable, i.e., the sale price per square foot.

19. An alternative to expressing adjustments in qualitative terms is to use quantitative terms. A positive adjustment might be expressed by using a value per square foot (e.g., \$2.50/square foot) or percentage (5%). A negative adjustment may be

expressed in a negative value per square foot (e.g., -\$2.50/square foot) or percentage (-5%).

20. Both qualitative and quantitative adjustments are consistent with professionally accepted appraisal practices.

Sanmina's Appraisal—2012

21. In his appraisal that laid the basis for his opinion of value for 2012, Petitioner's appraiser located four sales of reasonably comparable properties that informed his sales comparison analysis.

22. **2012 Sale No. 1** is the July 2011 arm's-length sale of the fee simple interest in a 78,370 square foot, industrial building located in Racine for \$21.05 per square foot. This property had:

- A. A clear ceiling height of 21 feet (compared to 18 feet for the Subject Property);
- B. An average age of 12 years (compared to 17 years as of January 1, 2012, for the Subject Property);
- C. Six dock doors and six grade doors (compared to two exterior and three interior dock doors for the Subject Property); and,
- D. Like the Subject Property, average condition.

23. In comparing 2012 Sale No. 1 to the Subject Property, Petitioner's appraiser made the following observations and adjustments:

- A. No qualitative adjustment to the sale price of 2012 Sale No. 1 was needed to account for:
 - The difference in chronological age (12 years vs. 17 years);
 - Condition, both were average; and
 - The portion of the building used for office space (9% for 2012 Sale No. 1 vs. 18% for the Subject Property);
- B. A positive adjustment to the sale price of 2012 Sale No. 1 was needed to account for the following differences:

- The difference in time between the sale date (July 2011) and the assessment date did not give rise to a qualitative adjustment, although Petitioner's appraiser made a quantitative adjustment of 8.33% to account for the difference in time, indicating the market had improved between July 2011 and January 2012;
- The Subject Property had a superior location, mandating a positive qualitative adjustment or a 5.0% quantitative adjustment; and
- The Subject Property had a superior land-to-building ratio (4.89:1 vs. 2.86:1), mandating a positive qualitative adjustment or a 5.0% quantitative adjustment.

C. A negative adjustment to the sale price of 2012 Sale No. 1 was needed to account for the following differences:

- 2012 Sale No. 1 was considerably smaller than the Subject Property (78,370 vs. 176,100) and, because smaller properties typically sell for a higher unit value than larger properties, a negative qualitative adjustment or a -11.0% quantitative was warranted; and
- The Subject Property had a lower (i.e., inferior) clear ceiling height than 2012 Sale No. 1 (18 feet vs. 21 feet), mandating a negative qualitative adjustment or a -5.0% quantitative adjustment.

D. Overall, Petitioner's appraiser judged Subject Property to be somewhat superior to 2012 Sale No. 1 as he adjusted upward the actual sale price of 2012 Sale No. 1 by 1.9%, from \$21.05 per square foot (i.e., the actual sale price) to \$21.44 per square foot, the adjusted sale price.

24. 2012 Sale No. 2 is the May 2011 arm's-length sale of the fee simple interest in a 129,970 square-foot, industrial building located in Sussex, Wisconsin, for \$20.39 per square foot. This property had:

- A clear ceiling height of 20 feet (compared to 18 feet for the Subject Property);
- An effective age of 19 years (compared to 17 years as of January 1, 2012, for the Subject Property);
- Six dock doors and four grade doors (compared to two exterior and three interior dock doors for the Subject Property); and

D. Like the Subject Property, average condition.

25. In comparing 2012 Sale No. 2 to the Subject Property, Petitioner's appraiser made the following observations and adjustments:

A. No qualitative adjustment to the sale price of 2012 Sale No. 2 was needed to account for:

- 2012 Sale No. 2's somewhat smaller size (129,970 vs. 176,100); Petitioner's appraiser made no qualitative adjustment, but, because smaller properties typically sell for a higher unit value than larger properties, a negative qualitative adjustment or a -10.0% quantitative was warranted;
- Age (19 years vs. 17 years);
- Condition, both were average;
- The difference in clear ceiling height (20 feet for 2012 Sale No. 2 vs. 18 feet for the Subject Property); and
- The portion of the building used for office space, (13% for 2012 Sale No. 2 vs. 18% for the Subject Property).

B. A positive adjustment to the sale price of 2012 Sale No. 2 was needed to account for the following differences:

- The difference in time between the sale date (May 2011) and the assessment date did not lead to a qualitative adjustment, although Petitioner's appraiser made a quantitative adjustment of 8.33% to account for the difference in time, indicating the market had improved between May 2011 and January 2012;
- The Subject Property had a superior location, mandating a positive qualitative adjustment or a 5.0% quantitative adjustment; and
- The Subject Property had a superior land-to-building ratio (4.89:1 vs. 1.94:1), mandating a positive qualitative adjustment or a 7.0% quantitative adjustment.

C. Overall, Petitioner's appraiser judged Subject Property to be superior to 2012 Sale No. 2 as he adjusted upward the actual sale price of 2012 Sale No. 2 by 10.17%, from \$20.39 per square foot (i.e., the actual sale price) to \$22.53 per square foot, the adjusted sale price.

26. 2012 Sale No. 3 is the December 2010 arm's-length sale of the fee simple interest in a 174,194 square foot, industrial building located in Racine, Wisconsin, for \$19.35 per square foot. This property had:

- A. A clear ceiling height of 27 feet (compared to 18 feet for the Subject Property);
- B. An effective age of 8 years (compared to 17 years as of January 1, 2012, for the Subject Property);
- C. Fourteen dock doors and one grade door (compared to two exterior and three interior dock doors for the Subject Property); and,
- D. Like the Subject Property, average condition.

27. Because 2012 Sale No. 3 included 932,409 square feet of excess land, the sale price of \$4,300,000 was adjusted to account for this excess land, which was valued at \$1 per square foot, to a sales price of \$3,370,000. In comparing 2012 Sale No. 3 to the Subject Property, Petitioner's appraiser made the following observations and adjustments:

- A. No qualitative adjustment to the sale price of 2012 Sale No. 3 was needed to account for:
 - Size, because the difference was minimal (174,194 vs. 176,100 for the Subject Property);
 - The condition, both were average; and
 - The portion of the building used for office space (9% for 2012 Sale No. 3 vs. 18% for the Subject Property).
- B. A positive adjustment to the sale price of 2012 Sale No. 3 was needed to account for the following differences:
 - The difference in time between the sale date (December 2010) and the assessment date did not merit a qualitative adjustment, although Petitioner's appraiser made a quantitative adjustment of 8.33% to account for the difference in time, indicating the market had improved between December 2010 and January 2012;

- The Subject Property had a superior location, mandating a positive qualitative adjustment or a 5.0% quantitative adjustment; and
 - The Subject Property had a superior land-to-building ratio (4.89:1 vs. 3.00:1 after the excess land adjustment), mandating a positive qualitative adjustment or a 2.0% quantitative adjustment.
- C. A negative adjustment to the sale price of 2012 Sale No. 3 was needed to account for the following differences:
- The Subject Property is significantly older than 2012 Sale No. 3 (8 years vs. 17 years), meriting a negative qualitative adjustment and a quantitative adjustment of -10.0%; and
 - The Subject Property had a lower (i.e., inferior) clear ceiling height than 2012 Sale No. 1 (18 feet vs. 27 feet), mandating a negative qualitative adjustment or a -10.0% quantitative adjustment.
- D. Overall, Petitioner's appraiser judged Subject Property to be somewhat superior to 2012 Sale No. 3.

28. 2012 Sale No. 4 is the February 2010 arm's-length sale of the fee simple interest in a 259,872 square foot industrial building located in LakeView Corporate Park in Pleasant Prairie, Wisconsin, for \$16.55 per square foot. This property had:

- A. A clear ceiling height of 30 feet (compared to 18 feet for the Subject Property);
- B. An average age of 17 years (compared to 17 years as of January 1, 2012, for the Subject Property);
- C. Ten dock doors and seven grade doors (compared to two exterior and three interior dock doors for the Subject Property); and,
- D. Like the Subject Property, average condition.

Prior to this sale, there had been minor environmental contamination on this site, but it was entirely remediated and the case closed, and Petitioner's appraiser determined that the sale price was not affected by this environmental issue.

29. In comparing 2012 Sale No. 4 to the Subject Property, Petitioner's appraiser made the following observations and adjustments:

- A. No qualitative adjustment to the sale price of 2012 Sale No. 3 was needed to account for:
- Location since both properties were located in the same commercial park;
 - Age since both had an effective age of 17 years;
 - Condition, both were average;
 - The portion of the building used for office space (13% for 2012 Sale No. 4 vs. 18% for the Subject Property); and
 - The ratio of land-to-building area, which was virtually identical.
- B. A positive adjustment to the sale price of 2012 Sale No. 4 was needed to account for the following differences:
- The difference in time between the sales date (February 2010) and the assessment date did not merit a qualitative adjustment, although Petitioner's appraiser made a quantitative adjustment of 8.33% to account for the difference in time, indicating the market had improved between February 2010 and January 2012; and
 - The difference in size (259,872 for 2012 Sale No. 4 vs. 176,100 for the Subject Property) is significant and, because larger properties typically sell for a lower unit value than smaller properties, a positive qualitative adjustment or a 5.0% quantitative was warranted.
- C. A negative adjustment to the sale price of 2012 Sale No. 4 was needed to account for the fact that 2012 Sale No. 4 had a superior clear ceiling height (30 feet for 2012 Sale No. 4 vs. 18 for the Subject Property), mandating a negative qualitative adjustment or a -12.0% quantitative adjustment.
- D. Overall, Petitioner's appraiser judged Subject Property to be somewhat superior to 2012 Sale No. 4, as he adjusted upward the actual sale price of 2012 Sale No. 4 by 0.6%, from \$16.55 per square foot (i.e., the actual sale price) to \$16.67 per square foot, the adjusted sales price.

30. Understanding that industrial properties almost always sell for an amount less than their listing price, Petitioner's appraiser's analysis included two listings of reasonably comparable properties as support for his sales comparison analysis.

31. In order to reach an ultimate conclusion of value for 2012 based on the sales comparison analysis, Petitioner's appraiser concluded that the four properties that sold were all inferior to the Subject Property for a variety of reasons including inferior locations, inferior land-to-building ratios, and size.

32. Petitioner's appraiser concluded that the 2012 value of the Subject Property, using the sales comparison approach, was \$5,965,000.

33. Petitioner's appraiser prepared an income approach analysis of the Subject Property as of January 1, 2012, as a check on his sales comparison approach conclusion. His income analysis approach concluded that the value of the Subject Property was \$5,870,000.

34. Petitioner's appraiser did not develop the cost approach because there was sufficient and reliable improved sales and rental information to draw reasonable, supportable, and credible conclusions of market value.

35. Reconciliation is the method by which an appraiser evaluates and selects from the alternative approaches to determine the most reliable approach or approaches to value to employ. During the process of reconciliation, WPAM instructs appraisers to place the greatest weight on the approach for which the greatest amount

of reliable and appropriate information is available that will yield the highest degree of confidence.

36. In reconciling his sales comparison and income approaches, Petitioner's appraiser concluded that the market value of the Subject Property as of January 2012 was \$5,925,000.

Sanmina's Appraisal—2011

37. After completing his appraisal of the Subject Property for 2012, Petitioner's appraiser reviewed market data and determined that there was no significant difference in value of the Subject Property between January 1, 2012, and January 1, 2011. As a result, Petitioner's appraiser concluded that the market value of the Subject Property as of January 2011 was \$5,925,000.

Sanmina's Appraisal—2009

38. Petitioner's appraiser also completed an appraisal of the Subject Property as of January 1, 2009.

39. Other than adjustments for age, there were no changes to the Subject Property between January 1, 2009, and January 1, 2012, that would affect the value of the property.

40. All of sales that formed the basis for Petitioner's appraiser's 2012 appraisal occurred after January 1, 2009, and, as such, they are not appropriate for determining the value of the Subject Property as of January 1, 2009.

41. In his appraisal that laid the basis for his opinion of value for 2009, Petitioner's appraiser located four other sales of reasonably comparable properties to form his sales comparison analysis.

42. 2009 Sale No. 1 is the March 2008 arm's-length sale of the fee simple interest in a 25,478 square foot industrial building located in Kenosha, Wisconsin, for \$44.74 per square foot. This property had:

- A. A clear ceiling height of 21 to 30 feet (compared to 18 feet for the Subject Property);
- B. An average age of 18 years (compared to 14 years as of January 1, 2009, for the Subject Property);
- C. Two dock doors and one drive-through doors (compared to two exterior and three interior dock doors for the Subject Property); and,
- D. Like the Subject Property, in average condition.

43. In comparing 2009 Sale No. 1 to the Subject Property, Petitioner's appraiser made the following observations and adjustments:

- A. No qualitative adjustment to the sale price of 2009 Sale No. 1 was needed to account for:
 - The difference in chronological age (18 years vs. 14 years);
 - Condition, both were average;
 - The portion of the building used for office space (36% for 2009 Sale No. 1 vs. 18% for the Subject Property); and
 - The land-to-building ratios for both properties, which were comparable (4.89:1 for the Subject Property vs. 5.32:1 for 2009 Sale No. 1).
- B. A positive adjustment to the sale price of 2009 Sale No. 1 was needed to account for the Subject Property's superior location, mandating a positive qualitative adjustment or a 5.0% quantitative adjustment.
- C. A negative adjustment to the sale price of 2009 Sale No. 1 was needed to account for the following differences:

- The difference in time between the sale date and the assessment date (March 2008 to January 2009) merited a negative qualitative adjustment and a -13.16% adjustment;
- 2009 Sale No. 1 was considerably smaller than the Subject Property (25,478 vs. 176,100) and, because smaller properties typically sell for a higher unit value than larger properties, the a negative qualitative adjustment or a -12.0% quantitative adjustment was warranted; and
- The Subject Property had a lower (i.e., inferior) clear ceiling height than 2009 Sale No. 1 (18 feet vs. 21 to 30 feet), mandating a negative qualitative adjustment or a -7.0% quantitative adjustment.

D. Overall, Petitioner's appraiser judged Subject Property to be inferior as he adjusted down the actual sale price of 2009 Sale No. 1 by 25.3%, from \$44.74 per square foot (i.e., the actual sale price) to \$33.42 per square foot, the adjusted sales price.

44. 2009 Sale No. 2 is the July 2007 arm's-length sale of the fee simple interest in a 239,376 square foot, industrial building located in Pleasant Prairie, Wisconsin, for \$50.13 per square foot. This property had:

- A. A clear ceiling height of 30 feet (compared to 18 feet for the Subject Property);
- B. An effective age of 7 years (compared to 14 years as of January 1, 2009, for the Subject Property);
- C. Thirty-two dock doors and two drive-through doors (compared to two exterior and three interior dock doors for the Subject Property); and
- D. Like the Subject Property, average condition.

45. In comparing 2009 Sale No. 2 to the Subject Property, Petitioner's appraiser made the following observations and adjustments:

- A. No qualitative adjustment to the sale price of 2009 Sale No. 2 was needed to account for:
 - Location because both properties were in Pleasant Prairie;
 - Size, as 2009 Sale No. 2 was comparable to the Subject Property (239,376 vs. 176,100); and
 - Condition, both were average.

B. A positive adjustment to the sale price of 2009 Sale No. 2 was needed to account for the following differences:

- The Subject Property was superior with respect to the portion of the building used for office space, (1% for 2009 Sale No. 2 vs. 18% for the Subject Property) mandating a positive qualitative adjustment and a 1.0% quantitative adjustment; and
- The Subject Property had a superior land-to-building ratio (4.89:1 vs. 2.57:1), mandating a positive qualitative adjustment or a 5.0% quantitative adjustment.

C. A negative adjustment to the sale price of 2009 Sale No. 2 was needed to account for the following differences:

- The difference in time between the sale date and the assessment date (July 2007 to January 2009) mandated a negative qualitative adjustment and a quantitative adjustment of -10.81%;
- The difference in chronological age, (7 years for the 2009 Sale No. 2 vs. 14 years for the Subject Property) mandated a negative qualitative adjustment and a -10.0% quantitative adjustment; and
- The difference in clear ceiling height (18 feet for the Subject Property vs. 30 feet for 2009 Sale No. 2) mandated a negative qualitative adjustment and a -12.0% quantitative adjustment.

D. Overall, Petitioner's appraiser judged the Subject Property to be inferior to 2009 Sale No. 2 as he adjusted down the actual sale price of 2009 Sale No. 2 by 25.5%, from \$50.13 per square foot (i.e., the actual sale price) to \$37.56 per square foot, the adjusted sale price.

46. 2009 Sale No. 3 is the May 2009 arm's-length sale of the leased fee interest in a 105,637 square foot, industrial building located in Pleasant Prairie, Wisconsin, for \$53.20 per square foot. Because the sale was of a leased fee interest (i.e., the owner's interest in a property that is leased), Petitioner's appraiser had to make an initial adjustment for property rights conveyed, from leased fee to fee simple. The \$53.20 per square foot price is the result of that analysis. This property had:

- A. A clear ceiling height of 24 feet (compared to 18 feet for the Subject Property);
- B. An average age of 18 years (compared to 14 years as of January 1, 2009, for the Subject Property); and
- C. Like the Subject Property, average condition.

47. In comparing 2009 Sale No. 3 to the Subject Property, Petitioner's appraiser made the following observations and adjustments:

- A. No qualitative adjustment to the sale price of 2009 Sale No. 3 was needed to account for:
 - Location, since both are in Pleasant Prairie;
 - Age, the difference in age (18 years for 2009 Sale No. 3 vs. 14 years for the Subject Property) was nominal and did not warrant any adjustment;
 - Condition since both were average; and
 - The portion of the building used for office space (6% for 2009 Sale No. 3 compared to 18% for the Subject Property).
- B. A positive adjustment to the sale price of 2009 Sale No. 3 was needed to account for the Subject Property's superior land-to-building ratio (4.89:1 vs. 3.38:1), mandating a positive qualitative adjustment and a 2.0% quantitative adjustment.
- C. A negative adjustment to the sale price of 2009 Sale No. 3 was needed to account for the following differences:
 - The difference in time between the sale date and the assessment date (May 2007 to January 2009) mandated a negative qualitative adjustment and a -10.81% quantitative adjustment;
 - The Subject Property is significantly larger than 2009 Sale No. 3, (176,100 square feet vs. 105,637 square feet), meriting a negative qualitative adjustment and a quantitative adjustment of -10.0%; and
 - The Subject Property had a lower (i.e., inferior) clear ceiling height than 2009 Sale No. 3 (18 feet vs. 24 feet), mandating a negative qualitative adjustment and a -10.0% quantitative adjustment.
- D. Overall, Petitioner's appraiser judged Subject Property to be inferior to 2009 Sale No. 3, adjusting down the 2009 Sale No. 3 purchase price by 26.9%, from \$53.20 to \$38.31 per square foot.

48. 2009 Sale No. 4 is the January 2007 arm's-length sale of the fee simple interest in a 109,630 square foot, industrial building located in Oak Creek, Wisconsin, for \$30.34 per square foot. This property had:

- A. A clear ceiling height of 34 feet (compared to 18 feet for the Subject Property);
- B. An effective age of 42 years (compared to 14 years as of January 1, 2009, for the Subject Property);
- C. Two dock doors and four drive through doors (compared to two exterior and three interior dock doors for the Subject Property); and,
- D. Like the Subject Property, average condition.

49. In comparing 2009 Sale No. 4 to the Subject Property, Petitioner's appraiser made the following observations and adjustments:

- A. No qualitative adjustment to the sales price of 2012 Sale No. 3 was needed to account for:
 - Location because both properties' locations are comparable;
 - Condition, both were average;
 - The portion of the building used for office space (5.0% for 2009 Sale No. 4 vs. 18% for the Subject Property); and
 - The ratio of land to building area, which were virtually identical.
- B. A positive adjustment to the sale price of 2009 Sale No. 4 was needed to account for the age of 2009 Sale No. 4 (42 years compared to 14 years as of January 1, 2009, for the Subject Property).
- C. A negative adjustment to the sale price of 2009 Sale No. 4 was needed to account for:
 - The difference in time between the sale date and the assessment date (January 2007 to January 2009) mandated a negative qualitative adjustments and a -2.9% quantitative adjustment;
 - The size of 2009 Sale No. 4 is considerably smaller than the Subject Property (109,630 vs. 176,100) mandating a negative qualitative adjustment and a -10.0% quantitative adjustment; and

- 2009 Sale No. 4 had a superior clear ceiling height (34 feet vs. 18 for the Subject Property), mandating a negative qualitative adjustment or a -12.0% quantitative adjustment.

D. Overall, Petitioner's appraiser judged the Subject Property to be somewhat superior to 2009 Sale No. 4.

50. Understanding that industrial properties almost always sell for an amount less than their listing price, Petitioner's appraiser's analysis included two listings of reasonably comparable properties as support for his sales comparison analysis.

51. In order to reach an ultimate conclusion of value for 2009 based on the sales analysis, Petitioner's appraiser bracketed the four sales comparables and the two listing comparables in relation to the Subject Property. He concluded that 2009 Sale No. 4 was inferior to the Subject Property; that 2009 Sale Nos. 1, 2, & 3, along with 2009 Listing No. 1, were all superior to the Subject Property; and that the most comparable property was the 2009 Listing No. 2, which was listed at \$34.05 and eventually sold for \$27.68 per square foot.

52. Petitioner's appraiser observed that there are certain super-adequate features or super-adequacies as part of the Subject Property, such as the drop ceiling and extensive heating and air conditioning system that are not ordinarily found in a typical industrial building.

53. Using the sales comparison method, Petitioner's appraiser concluded that the property value was \$35 per square foot, or a total of \$6,163,500. To this value, he added the depreciated cost of these super-adequacies (\$680,000) to come

up with a total sales comparison value of \$6,845,000, or \$38.87 per square foot for January 2009.

54. Petitioner's appraiser also prepared an income approach in his 2009 appraisal as a check on his sales comparison conclusion. He concluded that the value of the Subject Property as of January 1, 2009, using the income approach, was \$6,500,000.

55. Petitioner's appraiser did not develop the cost approach because there was sufficient and reliable improved sales and rental information to draw reasonable, supportable, and credible conclusions of market value.

56. In reconciling his sales comparison and income approach, Petitioner's appraiser concluded that the market value of the Subject Property as of January 2009 was \$6,750,000.

Sanmina's Appraisal—2010

57. After completing his appraisal of the Subject Property for 2009, Petitioner's appraiser reviewed market data and determined that there would be minimal if any differences in value of the Subject Property between January 1, 2009, and January 1, 2010. As a result, he concluded that the market value of the Subject Property as of January 2010 was \$6,750,000.

The Department's Assessments

58. The assessments of the Subject Property at issue here were prepared by its chief witness, Melody Ryddner, a Property Assessment Specialist-Advanced at the Department of Revenue ("the Department's assessor").

59. The Department's assessor testified that, in her opinion, the value of the Subject Property for each of the years at issue was equal to the Department's assessment.

60. The Department's assessor testified that she had done a sales comparison in preparing the assessment of the Subject Property in 2008, but no information related to that sales comparison was entered into evidence.

61. The Department's assessor testified that, in determining the assessment of the Subject Property for 2009, she reduced the 2008 value of the improvements, but not the land, by 5%, based upon current market conditions. The Department entered into evidence the auditor's Report to the State Board of Assessors related to the 2009 assessment. The Report simply states: "The best evidence of value is the Department's current assessment for the subject property." The Report contained no information, analysis, or data to support the assessed values. The Department offered no other evidence to support the 2009 assessment.

62. The Department's assessor testified that, for the 2010 assessment of the Subject Property, she reduced the value from the 2009 assessment of \$8,781,400, to \$8,096,300, based upon a telephone conversation with representatives of the Petitioner and on current economic conditions. The Department entered into evidence the auditor's Report to the State Board of Assessors related to the 2010 assessment. The Report simply states: "The best evidence of value is the Department's current assessment for the subject property." The Report contained no information, analysis or

data to support the assessed values. The Department offered no other evidence to support the 2010 assessment.

63. The Department's assessor testified that the value of the Subject Property remained unchanged for purposes of the 2011 assessment. The Department entered into evidence the auditor's Report to the State Board of Assessors related to the 2011 assessment. The Report simply states: "The best evidence of value is the Department's current assessment for the subject property." The Report contained no information, analysis or data to support the assessed values. The Department offered no other evidence to support the 2011 assessment.

64. The Department offered into evidence what it referred to as an "updated appraisal report" for the years 2009, 2010 and 2011, dated September 1, 2011. It consisted of a one-page document which described the location of the Subject Property (with a print-out from the WISPARK website highlighting the LakeView Corporate Park attached). The report makes some observations about listing prices found on the internet listing service LoopNet.com, but contains nothing related to sales.

65. The Department's assessor prepared a two-page Sales Analysis & Reconciliation Report ("SARR") to support the 2012 assessment of the Subject Property.

66. Prior to analyzing the sales on the SARR, she extrapolated an amount which represented the value of land for each of the improved properties that sold.

67. The SARR contained four sales. For each of the sales, she replaced the land portion of the sale with her opinion of the land value of the assessment of the Subject Property.

68. The Department's assessor concluded that the value of the land on the Subject Property was \$2,553,200, or about \$129,000 per acre for each of the years at issue. Rather than looking at recent sales, she derived this value from a search on a real estate search engine called LoopNet, looking at asking prices for vacant land. Her testimony also revealed the following:

- A. The Department's assessor could not produce a copy of the search results;
- B. The Department's assessor could not identify the geographic area included in the search;
- C. The Department's assessor's search parameters were not limited to industrial land, residential land, or commercial land, and, although she noted it was possible to break out industrial land, there is no indication that she limited her analysis to industrial land; and
- D. The Department's assessor could not state whether there were any parameters for size of land.

69. The Department did not present a sales analysis of vacant land to support the auditor's conclusion of land value for the Subject Property for any of the years at issue.

70. The Department's assessor did not prepare an income approach to value for the Subject Property.

CONCLUSIONS OF LAW

1. Sanmina's 2009 appraisal and appraisal update for 2010 constitutes clear and satisfactory evidence to overcome the presumption of correctness for 2009 and 2010.
2. Sanmina's 2012 appraisal and appraisal update for 2011 constitutes clear and satisfactory evidence to overcome the presumption of correctness for 2012 and 2011.
3. The Department offered no credible evidence to support the assessments for the years at issue.
4. Sanmina offered credible opinion evidence supporting Petitioner's appraiser's conclusions of value.
5. The fair market value of the Subject Property for 2009 and 2010 was \$6,750,000.
6. The fair market value of the Subject Property for 2011 and 2012 was \$5,925,000.

ANALYSIS

This case involves the assessment for property tax purposes of a 19.76 acre parcel of land in Kenosha County, Wisconsin, on which there is constructed one industrial building. The property owner, the Sanmina Corporation, is challenging the Department's property tax assessment for the years 2009, 2010, 2011, and 2012. The Department of Revenue issued the assessments for the property for the four years in question.

Assessments by the Department are presumed to be correct and the burden is upon the Petitioner to prove by clear, convincing, and satisfactory evidence in what respects the Department erred in its determinations. *Ashley Furniture, Inc. v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶ 401-747 (WTAC 2013). If there is any credible evidence that may support the assessor's valuation in any reasonable view, the valuation must be upheld. *Universal Foods Corp. v Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶ 400-316 (WTAC 1997).

Wisconsin Statute § 70.995 requires the Department of Revenue to assess manufacturing properties throughout the state. The statute requires that each property be appraised every five years to estimate the fair market value of the property. Wis. Stat. § 70.995(7).

The Wisconsin Property Assessment Manual (“WPAM”) sets forth a three-tiered methodology for assessing real estate property value: 1) First Tier - Evidence of a recent arm’s-length sale of the subject property is the best evidence of full value, 2) Second Tier - If the subject property has not been recently sold, then an assessor must consider sales of reasonably comparable properties, 3) Third Tier - Only in situations where there has been no arm’s-length sale of the subject property and there are no reasonably comparable sales may an assessor use one of the third-tier assessment methods. WPAM at 7-18 to 7-30; see also *Nestle USA, Inc., v. Dep’t of Revenue*, 2011 WI 4, ¶ 401-403, 331 Wis. 2d 256, 795 N.W.2d 46, citing *Markarian v. City of Cudahy* 45 Wis. 2d 683, 686 (1970). This three-tiered methodology is often referred to in Wisconsin as the *Markarian* hierarchy.

It is against this legal framework that the evidence presented at trial must be evaluated. If the Petitioner overcomes the presumption of correctness of the assessments, the Petitioner continues to carry the burden of persuasion. The Petitioner must prove an alternative valuation supported by credible, direct, and unambiguous evidence. *Ashley Furniture*, Wis. Tax Rptr. (CCH) ¶ 401-747 (WTAC 2013).

The Department's assessments were \$8,781,400 for 2009, \$8,096,300 for 2010, \$8,096,000 for 2011, and \$7,819,000 for 2012. The Department's assessor testified at the trial.

To overcome the presumption of correctness, Sanmina offered as evidence appraisal reports for the years 2009 and 2012 and supplemental appraisal reports for the years 2010 and 2011. The reports were authored by Bradley Braemer, MAI, of Real Estate Analysis Corporation, who has experience appraising properties in Southeastern Wisconsin. The appraisal reports were done in accordance with WPAM and followed the *Markarian* hierarchy. There were no recent sales of the Subject Property, so the appraisals used the sales comparison approach to determine the fair market values of the Subject Property.

The appraisal reports concluded that the highest and best use of the Subject Property was continued use as an industrial property, and this is not an issue in the case. In his 2009 and 2012 appraisal reports, Petitioner's appraiser analyzed four sales and two listings of reasonably comparable industrial properties in Southeastern Wisconsin. He made qualitative and quantitative adjustments to the properties and addressed the super-adequacies of the Subject Property. He also performed an income

approach as a check on his sales comparable approach. He reconciled the two approaches and concluded that the fair market value of the Subject Property for 2009 was \$6,750,000; and for 2012 was \$5,925,000. For the years 2010 and 2011, Petitioner's appraiser reviewed market data to determine whether there would be differences in valuation for those years from the appraisals done for 2009 and 2012 and concluded that there would not be.

The Commission concludes that the appraisal reports were consistent with WPAM. The appraisal reports applied the correct definition of market value and there was a highest and best use analysis. The comparables and the adjustments applied to the comparables were consistent with WPAM. The income approach used to check on the sales comparison approach was also consistent with WPAM and the statutes.

But that is not the end of the analysis. If there is credible evidence that may support the assessor's valuation in any reasonable view, the valuation must be upheld. *Universal Foods Corp. v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶ 400-316 (WTAC 1997).

The Department presented the oral testimony of the assessor and the Reports to the State Board of Assessors to support the 2009, 2010, and 2011 assessments. But the oral testimony provided no explanation of how the assessor developed the assessment for those years, and the reports to the Board of Assessors similarly contain no analysis of how the assessments for those years were reached. The assessor did testify that, "There's a lot that goes on behind the curtain." But that does

not qualify as credible evidence to support the assessments. The Commission concludes that for the years 2009, 2010, and 2011, there is no credible evidence in the record to support the assessments.

With respect to 2012, the Department offered a Sales Analysis and Reconciliation Report along with oral testimony and the report to the Board of Assessors to support the assessment. The SARR is flawed in that it used a land value of \$2,553,200 for each of the sales it analyzed. This value was determined not by looking at any sales of land but, according to The Department's assessor, a search of real estate parcels listed on LoopNet, an internet commercial real estate listing service. Other than her testimony that she used the online listing service to confirm a value for the land, the auditor did not provide a copy of the search results or a report detailing her analysis, could not identify the geographic area included in the search, could not confirm that she limited her search to industrial land, and could not state whether there were any parameters for size of land she used in her analysis. Because of these flaws, the Commission does not give any credibility to the 2012 SARR, and thus concludes that for the year 2012, the evidence offered to support the assessments is flawed.

At the end of the trial, the Commission was left with credible appraisals of the Subject Property prepared by Petitioner's appraiser for the years 2009 and 2012 and with credible updates for the years 2010 and 2011. The Department presented no credible evidence to support its assessments. We find that Sanmina has overcome the presumption of correctness of the assessments. The Department cannot simply stand

behind the presumption of correctness in the face of credible evidence of a different value and fail to provide any credible evidence to support its assessments.

Since the presumption of correctness is rebutted, Sanmina still carries the burden of persuasion. The Petitioner must prove an alternative valuation supported by credible, direct and unambiguous evidence. *Royal Terrace Partnership v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶ 400-244 (WTAC 1996) aff'd in *City of Two Rivers v. Dep't. of Revenue*, Wis. Tax Rptr. (CCH) ¶ 400-345 (Dane Co. Circ. Ct. 1997). We find that Sanmina's appraisals using the sales comparison approach and tested by the income approach are credible evidence of the value of the Subject Property. The Department has not presented any credible evidence to support its 2009, 2010, and 2011 assessments and flawed evidence to support its 2012 assessment. We conclude that Sanmina has shown by clear and substantial evidence that the value of the Subject Property for 2009 and 2010 was \$6,750,000, and for 2011 and 2012 was \$5,925,000.

We also address the Department's argument that "the value of the land attributable to the Subject Property is not before the Commission because the Petitioner did not object to it before the Board of Assessors." In support of its argument, the Department notes that, when the Petitioner's tax consultant completed the objection forms submitted to the Board of Assessors, he inserted an estimated value of the land that was equal to the land value the Department used in its assessment and he accounted for all of the claimed difference in aggregate value in the improvement portion of the form. The Department cites *Mayville Metal and Mayville Metal Products v. Dep't of Revenue*, Wis. Tax Rep. (CCH) ¶ 203-185 (WTAC 1990).

Wis. Stat. § 70.995(8)(c)1 provides in relevant part:

All objections to the amount, valuation, taxability, or change from assessment under this section to assessment under s. 70.32 (1) of property shall be first made in writing on a form prescribed by the department of revenue that specifies that the objector shall set forth the reasons for the objection, the objector's estimate of the correct assessment, and the basis under s. 70.32 (1) for the objector's estimate of the correct assessment. ... Persons who own land and improvements to that land may object to the aggregate value of that land and improvements to that land, but no person who owns land and improvements to that land may object only to the valuation of that land or only to the valuation of improvements to that land. (emphasis added)

There are several reasons the Department's argument lacks merit. First, the applicable statute allows taxpayers who own improved property to object only to the aggregate value of the land and improvements, not to the land value only or to the value of the improvements only. Consequently, the Petitioner cannot do what the Department claims it did.

Second, the statute requires that all objections to valuation of manufacturing property be first made to the Board on a form prescribed by the Department that sets forth the (a) reasons for the objection, (b) objector's estimate of the correct assessment, and (c) basis under Wis. Stat. § 70.32(1) for the objector's estimate of the correct assessment. The Petitioner has provided all of the information required by the statute and the objection form and, therefore, has effectively objected to the valuation of its property. *Seats, Inc. v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶400-762 (WTAC 2004).

Third, what the Petitioner has included on the objection form is an "estimate of the correct assessment," which is exactly what the statute and objection form require. Indeed, given the time constraints involved in the appeal of manufacturing property tax assessments, it is often not possible for a taxpayer to obtain an appraisal prior to the deadline for filing an objection before the Board. In many, if not most cases, the taxpayer's position on value is refined as the case progresses, experts are engaged, and detailed appraisals are prepared. That is precisely why the statute calls only for an estimated value on the objection form. In *Seats Inc.*, the Commission noted that it is not unusual for appraisals offered before the Commission to differ significantly from the appraisal reports that were prepared for the Board, citing as an example *Hormel Foods Corp. v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶400-741 (WTAC 2004). Further, the Commission explained that its role is not to review the Board's determination based upon the issues and record presented to and considered by the Board. Rather, the Commission's responsibility is to consider the issues and evidence presented to the Tax Appeals Commission by the petitioner and respondent and to determine whether the assessment is correct and, if not, the correct amount of the assessment.

Finally, the Commission's decision in *Mayville Metal* does not support the Department's position. In that case, the taxpayer's expert demonstrated that the Department's assessment was excessive and the Commission was then required to allocate the reduction between land and improvements. Since none of the parties had raised an issue with the land portion of the assessment, the Commission made the

entire reduction to the improvements. The Commission did not hold that the taxpayer had only appealed the improvement portion of the assessment and that the land value was not before them.

Consequently, we reject the Department's argument. We have before us, as the statute provides, the Petitioner's appeal of the aggregate value of the land and improvements which comprise the Subject Property.

ORDER

Based upon the foregoing,

IT IS HEREBY ORDERED that the Department's assessments are modified to conform to the proof at trial at \$6,750,000 for 2009 and 2010 and \$5,925,000 for 2011 and 2012.

Dated at Madison, Wisconsin, this 22nd day of April, 2015.

WISCONSIN TAX APPEALS COMMISSION



Lorna Hemp Boll, Chair



David D. Wilmoth, Commissioner

ATTACHMENT: NOTICE OF APPEAL INFORMATION

WISCONSIN TAX APPEALS COMMISSION
5005 University Avenue - Suite 110
Madison, Wisconsin - 53705

NOTICE OF APPEAL INFORMATION

NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE TIMES ALLOWED
FOR EACH, AND THE IDENTIFICATION OF THE PARTY TO BE NAMED AS
RESPONDENT

A taxpayer has two options after receiving a Commission final decision:

Option 1: PETITION FOR REHEARING BEFORE THE COMMISSION

The taxpayer has a right to petition for a rehearing of a final decision within 20 days of the service of this decision, as provided in Wis. Stat. § 227.49. The 20-day period commences the day after personal service on the taxpayer or on the date the Commission issued its original decision to the taxpayer. The petition for rehearing should be filed with the Tax Appeals Commission and served upon the other party (which usually is the Department of Revenue). The Petition for Rehearing can be served either in-person, by USPS, or by courier; however, the filing must arrive at the Commission within the 20-day timeframe of the order to be accepted. Alternatively, the taxpayer can appeal this decision directly to circuit court through the filing of a petition for judicial review. It is not necessary to petition for a rehearing first.

AND/OR

Option 2: PETITION FOR JUDICIAL REVIEW

Wis. Stat. § 227.53 provides for judicial review of a final decision. Several points about starting a case:

1. The petition must be filed in the appropriate county circuit court and served upon the Tax Appeals Commission either in-person, by certified mail, or by courier, and served upon the other party (which usually is the Department of Revenue) within 30 days of this decision if there has been no petition for rehearing, or within 30 days of service of the order that decides a timely petition for rehearing.
2. If a party files a late petition for rehearing, the 30-day period for judicial review starts on the date the Commission issued its original decision to the taxpayer.
3. The 30-day period starts the day after personal service or the day we mail the decision.
4. The petition for judicial review should name the other party (which is usually the Department of Revenue) as the Respondent, but not the Commission, which is not a party.

For more information about the other requirements for commencing an appeal to the circuit court, you may wish to contact the clerk of the appropriate circuit court or the Wisconsin Statutes. The website for the courts is <http://wicourts.gov>.

This notice is part of the decision and incorporated therein.