Jonathan Jaeger, MAI

Managing Director

LW Hospitality Advisors

570 Seventh Avenue, Suite 805
New York, NY 10018
(212) 300-6684 x116
Jonathan.Jaeger@Lwhadvisors.com

Jonathan Jaeger currently serves as a Managing Director with LW Hospitality Advisors, based in New York City. Prior to joining LWHA, Mr. Jaeger had been with Pinnacle Advisory Group from January of 2008 through January of 2014. He began as a Consultant in the Boston office and was promoted to Vice President and head of the New York Practice. During his tenure at both Pinnacle and LWHA, Mr. Jaeger has been involved in the execution of over 1,000 hotel/gaming consulting and valuation assignments throughout the United States.

Prior to his advisory career, Mr. Jaeger held various operational and accounting/finance positions with Starwood Hotels & Resorts and Kimpton Hotels & Resorts. He graduated with a Bachelor of Science from the Boston University School of Hospitality Administration in addition to a minor in Business Administration from the Boston University School of Management. Mr. Jaeger is a State Certified Real Estate Appraiser specializing exclusively in the evaluation of hotel and resort properties. During his time in Boston, he served on the Emerging Leaders Committee of the Massachusetts Chapter of the Appraisal Institute as well as a Council Member of the Massachusetts Lodging Association Under 30 Gateway Chapter. Beginning in the spring of 2011, Mr. Jaeger joined the adjunct faculty at Boston University, serving as co-instructor of the Hotel Asset Management course. In addition to teaching a course at Boston University, Mr. Jaeger has written several articles for industry wide publications; topics included the Manhattan Lodging Market, Highest and Best Use Analyses, E-Commerce in the Hotel Industry, Texas Energy Lodging Markets, among others. In New York City, Jonathan is a member of YHIP, the Young Hospitality Investment Professionals Group and also participates with the NYC & Company Hotel Committee. Mr. Jaeger is also a member of the Metro NY Chapter of the Appraisal Institute. Beginning in the Fall of 2014, Mr. Jaeger joined the Adjunct Faculty at New York University; teaching the Lodging Development course.

Mr. Jaeger is a designated member of the Appraisal Institute (MAI); he achieved this designation in June of 2013. In addition, Mr. Jaeger is an active member of the American Hotel & Lodging Association (AH&LA) as well as a Development Coach for the United States Professional Tennis Association (USPTA).

Employment

Feb. 2014 - Present	LW Hospitality Advisors Managing Director New York, New York
Feb. 2012 – Feb. 2014	PINNACLE ADVISORY GROUP Vice President New York, New York

Jan. 2008 - Feb. 2012	PINNACLE ADVISORY GROUP Consultant Boston, Massachusetts
2007	STARWOOD HOTELS AND RESORTS Accounting Sheraton Hotels of New York & W Times Square New York, NY
2006	STARWOOD HOTELS AND RESORTS Rooms Boston Park Plaza Hotel and Towers Boston, MA
2005	KIMPTON HOTELS Intern Hotel Marlowe & The Onyx Hotel Boston, MA

Education

BOSTON UNIVERSITY
SCHOOL OF HOSPITALITY ADMINISTRATION
Bachelor of Science
Accounting/Finance Teaching Assistant
Boston, MA

Appraisal Institute Qualifying and Continuing Education
- Basic Appraisal Principles
- Basic Appraisal Procedures
- 15-hour USPAP
- Real Estate Finance, Statistics, and Valuation Modeling
- Business Practices and Ethics
- General Appraiser Income Approach Part I
- General Appraiser Income Approach Part II
- General Appraiser Report Writing and Case Studies
- General Appraiser Sales Comparison Approach
- CT Real Estate Appraisal Law
- 2010 USPAP Update Course
- General Appraiser Site Valuation & Cost Approach
- General Appraisal Market Analysis and Highest & Best Use
- Advanced Income Capitalization
- Advanced Sales Comparison and Cost Approaches
- Advanced Applications
- 2012 USPAP Update Course
- CT Real Estate Appraisal Law 2012
- Ted Whitmer Comprehensive Workshop
- General Demonstration Report Writing Seminar
- Forecasting Revenue
- Comparative Analysis
- Candidate for Designation Advisor Orientation
- 2014 USPAP Update Course

CT Real Estate Appraisal Law 2014
Special Use Properties – Hospitality and Senior Housing
Analyzing Operating Expenses
Appraisal of Land Subject to Ground Leases
Michigan Law Update 2015
Preparing for Trial

Affiliations & Designations

The Appraisal Institute
Designated Member – MAI
University Outreach Chair – Emerging Leaders Group

Certified General Real Estate Appraiser

United States Professional Tennis Association (USPTA)
Developmental Coach

The American Hotel and Lodging Association – AH&LA
Under 30 Gateway Member
Mentorship Chair

Adjunct Professor – Boston University School of Hospitality Administration
Hotel Asset Management

Adjunct Professor – New York University
Lodging Development

Professional Speaking Engagements

The Appraisal Institute
Special Use Properties - Seminar Instructor

The Appraisal Institute – 2015 AI Connect Conference in Dallas
Valuation of Seniors Housing and Hospitality Properties – Seminar Instructor

New Jersey Gold Coast Investment Summit
Hotel Panel

Professional Women in Construction (PWC)
Hospitality Forum

Travel and Tourism Research Association
Marketing Outlook Forum - Hospitality

iGlobal Forum – Global Hospitality & Lodging Investment Summit

Evercore ISI 2015 Investor Day – Boston

Published Articles

Manhattan Lodging Market: Why ADR Growth is Lagging Behind the U.S. Average

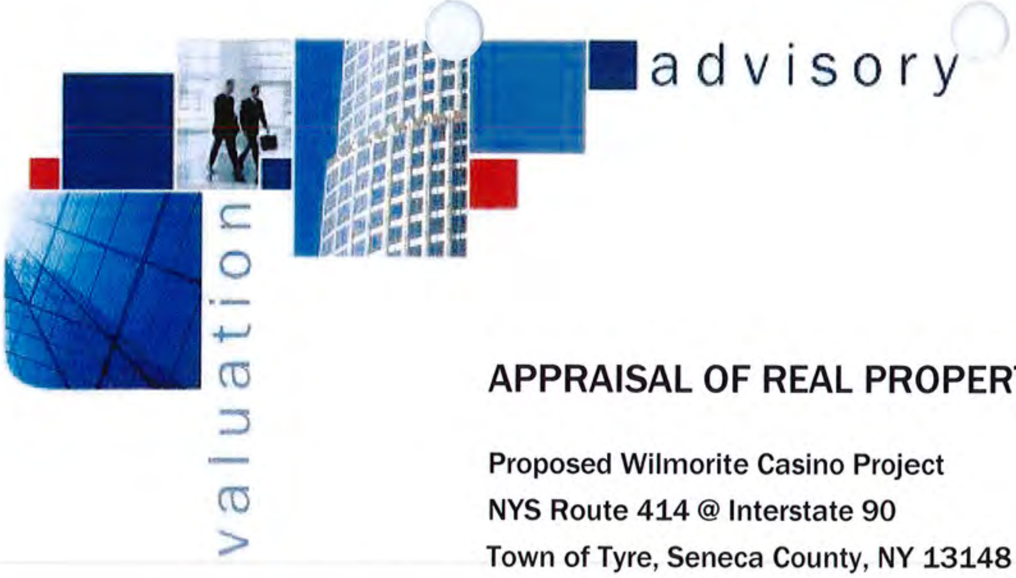
Highest and Best Use Analysis - Enhancing Hotel Value

The Impact of E-Commerce and Social Networking on the Hotel Industry

Hotel Rush! Texas Energy Lodging Markets

Other Publications

Hospitality Management Learning Modules
"Comprehending and Analyzing F&B Financial Statements"
"Hotel F&B Profitability Analysis and Cost Management"



APPRAISAL OF REAL PROPERTY

Proposed Wilmorite Casino Project
NYS Route 414 @ Interstate 90
Town of Tyre, Seneca County, NY 13148

IN AN APPRAISAL REPORT
As of September 01, 2014 (As if the Property Improvements Were Completed and Operating)

Prepared For:
Town of Tyre
1907 West Tyre Road
Seneca Falls, NY 13148

Prepared By:
Cushman & Wakefield, Inc.
Valuation & Advisory
247 West Fayette Street Suite 315
Syracuse, NY 13202-2290
C&W File ID: 14-12002-902030-001

CUSHMAN & WAKEFIELD®
VALUATION & ADVISORY

A rendering of the casino. (Courtesy Lago)

Proposed Wilmorite Casino Project
NYS Route 414 @ Interstate 90
Town of Tyre, Seneca County, NY 13148

CUSHMAN & WAKEFIELD®
247 WEST FAYETTE STREET SUITE 315
SYRACUSE, NY 13202-2290

September 30, 2014

Mr. Ronald F. McGreevy
Town Supervisor
Town of Tyre
1907 West Tyre Road
Seneca Falls, NY 13148

Re: Appraisal of Real Property
In an Appraisal Report

Proposed Wilmorite Casino Project
NYS Route 414 @ Interstate 90
Tyre, Seneca County, NY 13148

C&W File ID: 14-12002-902030-001

Dear Mr. McGreevy:

At your request, we are pleased to transmit our appraisal of the above property in a USPAP Compliant Appraisal Report dated September 30, 2014. The effective date of value is September 01, 2014, the date of our property inspection, assuming that the property improvements were completed and operating, as of that date. This valuation assignment is provided to assist the Town of Tyre in estimating an appropriate assessment level for the property, if completed, for planning purposes.

This Appraisal Report has been prepared in accordance with the *Uniform Standards of Professional Appraisal Practice* (USPAP) and the requirements of the Code of Professional Ethics of the Appraisal Institute.

The subject property consists of a proposed resort/casino to be constructed on an 83.40± acre parcel of land located at the intersection of the New York State Thruway and NYS Route 414 in the Town of Tyre. The casino requires the issuance of a gaming license by the State of New York. Although application has been made, the competition for the available licenses is keen, and there are no current assurances that the subject's required license will be granted.

The property will consist of a hotel, casino, parking garage, spa, and employee use day-care center. The facility will operate as an integrated resort, but will be highly dependent upon the casino portion of the operation as a demand generator. The site is located approximately mid-way between the Syracuse and Rochester city centers, in a rural location. It is anticipated that the facility will draw from each of these MSA's as well as from the Finger Lakes region just to the south. The total property will contain approximately 702,605± square feet of building area, based on current design/construction plans. This size and configuration has been modified a number of times, and may be further refined. Our valuation is for assessment purposes, as if the property were completed and operating, as of our valuation date. This hypothetical condition is appropriate for the purpose/intended use of this report, to provide assistance to the Town of Tyre Assessor, for planning purposes.

Based on the agreed-to Scope of Work, and as outlined in the report, we developed the following opinion of Market Value for Assessment Purposes:

Value Conclusions

Appraisal Premise	Real Property Interest	Date Of Value	Assessed Value Conclusion
Estimated Market Value for Assessment Purposes As if Completed	Fee simple/Real Property Value For Assessment Purposes	9/1/2014	$102,700,000

Compiled by Cushman & Wakefield, Inc.

The value opinion in this report is qualified by certain assumptions, limiting conditions, certifications, and definitions, as well as the following extraordinary assumptions and hypothetical conditions, if any.

EXTRAORDINARY ASSUMPTIONS

For a definition of Extraordinary Assumptions please see the Glossary of Terms & Definitions. The use of extraordinary assumptions, if any, might have affected the assignment results.

The subject property is a potential casino development, to include a hotel, casino floor, spa, day-care center, and parking garage. The intended use of this report is to assist the Town of Tyre in forecasting an appropriate assessment level for the proposed project. However, it is noted that the final plans for the project have not been completed, changes in size, design, and configuration are anticipated, and the casino gaming license has not been obtained. This analysis is subject to updating once construction and licensing details are finalized.

The subject property will require a gaming license from the State of New York. This license is not yet approved for the subject site. Once, and if, obtained, it will be for a ten year period, a significantly shorter period than the expected useful life of the proposed improvements. This is a limitation upon the extended use of the property improvements, for their intended purpose, creating a significant level of obsolescence to the property improvements.

We have not valued the underlying land. The assessor will establish land value for the property assessment, once the approvals and final plans are in place. We have utilized a land value for our analysis of $1,650,000, based on preliminary discussions with the assessor.

HYPOTHETICAL CONDITIONS

For a definition of Hypothetical Conditions please see the Glossary of Terms & Definitions. The use of hypothetical conditions, if any, might have affected the assignment results.

The subject property is being valued as if constructed and operating as of the current date. The gaming license to operate the property has not been approved and the improvements have not been constructed as of this date. Therefore, this is a valuation subject to a hypothetical condition. Once the approvals and construction are completed, there may be significant variances in cost/construction. It is suggested that the final assessed value be based upon the final completed project, along with its associated costs and any inherent changes from our forecast.

This letter is invalid as an opinion of value if detached from the report, which contains the text, exhibits, and Addenda.

Respectfully submitted,

CUSHMAN & WAKEFIELD, INC.

John R. Mako, MAI, SRA
Executive Director
NY Certified General Appraiser
License No. 46000000993
john.mako@cushwake.com
(315) 579-2206 Office Direct
(315) 472-2148 Fax

Summary of Salient Facts and Conclusions

The subject property consists of a proposed resort/casino to be constructed on an 83.40± acre parcel of land located at the intersection of the New York State Thruway and NYS Route 414 in the Town of Tyre. The casino requires the issuance of a gaming license by the State of New York. Although application has been made, the competition for the available licenses is keen, and there are no current assurances that the subject's required license will be granted.

The property will consist of a hotel, casino, parking garage, spa, and employee use day-care center. The facility will operate as an integrated resort, but will be highly dependent upon the casino portion of the operation as a demand generator. The site is located approximately mid-way between the Syracuse and Rochester city centers, in a rural location. It is anticipated that the facility will draw from each of these MSA's as well as from the Finger Lakes region just to the south. The total property will contain approximately 702,605± square feet of building area, based on current design/construction plans. This size and configuration has been modified a number of times, and may be further refined. Our valuation is for assessment purposes, as if the property were completed and operating, as of our valuation date. This hypothetical condition is appropriate for the purpose/intended use of this report, to provide assistance to the Town of Tyre Assessor, for planning purposes.

A review of the subject information is shown in the following chart.

BASIC INFORMATION	
Common Property Name:	Proposed Wilmorite Casino Project
Address:	NYS Route 414 @ Interstate 90 Tyre, NY 13148
County:	Seneca
Property Ownership Entity:	James R. and Jeanne Leonard, under option to purchase by Whitetail 414, LLC.

SITE INFORMATION		
Land Area:		**Acres**
Main Parcel		83.40
Total Land Area:		83.40
Site Shape:	Irregularly shaped	
Site Topography:	Low Lying/Level	
Frontage:	Average	
Site Utility:	Average	
Flood Zone Status:		
Flood Zone:	C	
Flood Map Number:	361206-0002B	
Flood Map Date:	8/31/79	

BUILDING INFORMATION	
Type of Property:	Resort-Casino
Building Area	
Gross Building Area:	702,605 SF
Land to Building Ratio:	5.17:1
Number of Buildings:	Five
Number of Stories:	Varies
Actual Age:	New Construction
Quality:	Generally Good
Year Built:	2015-2016
Condition:	New
Parking:	
Number of Parking Spaces:	3,451
Parking Ratio (per 1,000 sf):	4.91:1
Parking Type:	Surface and Garage

MUNICIPAL INFORMATION	
Assessment Information:	
Assessing Authority	Town of Tyre
Assessor's Parcel Identification	012-01-36
Current Tax Year	2014/2015
Current Taxable Assessment	$118,500
Current Tax Liability	$4,301
Zoning Information:	
Municipality Governing Zoning	Town of Tyre
Current Zoning	Planned Unit Development
Is cproposed use permitted?	Yes

HIGHEST & BEST USE

As Though Vacant:

For development with an interchange related commercial use, maximizing the site's Thruway exposure, size, frontage, and topography.

As Improved:

Once completed, the property will be configured as a Casino/Resort, in compliance with the anticipated gaming license. This will represent a highest and best use of the property, as to be improved.

VALUATION INDICES	Estimated Market Value/ For Assessment Purposes As If Completed
VALUE DATE	9/1/2014
Land Value	
Indicated Value (Assessor's Estimate):	$1,650,000
Per Acre:	$19,784
COST APPROACH	
Indicated Value:	$102,700,000
FINAL VALUE CONCLUSION	
Real Property Interest (For Assessment Purposes):	Fee Simple
Concluded Value:	$102,700,000
Per Square Foot:	$146.17
EXPOSURE TIME	
Exposure Time:	12 Months

EXTRAORDINARY ASSUMPTIONS

For a definition of Extraordinary Assumptions please see the Glossary of Terms & Definitions. The use of extraordinary assumptions, if any, might have affected the assignment results.

The subject property is a potential casino development, to include a hotel, casino floor, spa, day-care center, and parking garage. The intended use of this report is to assist the Town of Tyre in forecasting an appropriate assessment level for the proposed project. However, it is noted that the final plans for the project have not been completed, changes in size, design, and configuration are anticipated, and the casino gaming license has not been obtained. This analysis is subject to updating once construction and licensing details are finalized.

The subject property will require a gaming license from the State of New York. This license is not yet approved for the subject site. Once, and if, obtained, it will be for a ten year period, a significantly shorter period than the expected useful life of the proposed improvements. This is a limitation upon the extended use of the property improvements, for their intended purpose, creating a significant level of obsolescence to the property improvements.

We have not valued the underlying land. The assessor will establish land value for the property assessment, once the approvals and final plans are in place. We have utilized a land value for our analysis of $1,650,000, based on preliminary discussions with the assessor.

HYPOTHETICAL CONDITIONS

For a definition of Hypothetical Conditions please see the Glossary of Terms & Definitions. The use of hypothetical conditions, if any, might have affected the assignment results.

The subject property is being valued as if constructed and operating as of the current date. The gaming license to operate the property has not been approved and the improvements have not been constructed as of this date. Therefore, this is a valuation subject to a hypothetical condition. Once the approvals and construction are completed, there may be significant variances in cost/construction. It is suggested that the final assessed value be based upon the final completed project, along with its associated costs and any inherent changes from our forecast.

Property Photographs

AERIAL PHOTOGRAPH SHOWING SUBJECT SITE

A rendering of the casino. (Courtesy Lago)

Rendering of proposed Casino Resort facility

Rendering of proposed Casino Resort facility

Rendering of proposed Casino Resort facility

View of existing vacant site

View of existing vacant site

View of existing vacant site

View of existing vacant site from across NYS Thruway

View of proposed site utilization/plan

TABLE OF CONTENTS

CUSHMAN & WAKEFIELD
VALUATION & ADVISORY

Introduction

SCOPE OF WORK

This report is intended to comply with the reporting requirements outlined under USPAP for an Appraisal Report. The report was also prepared to comply with the requirements of the Code of Professional Ethics of the Appraisal Institute.

The scope of this appraisal is to value the fee simple value of the subject property, a proposed casino/resort, as if completed and operating as of the valuation date. The property requires the granting of an appropriate gaming license and permits for construction/completion. This required collecting primary and secondary data relevant to the subject property. Comparable cost data was gathered and analyzed, and the input of buyers, sellers, brokers, property developers and public officials was considered. A physical inspection of the vacant site was made. In addition, the general regional economy as well as the specifics of the subject's local area was investigated.

The subject, a proposed integrated resort/casino is a special purpose property. Special purpose property means a structure, which is uniquely adapted to the business conducted upon it or use made of it and which cannot be converted to other uses without the expenditure of substantial sums of money. It may also mean real property with respect to the value of which some intangible element inheres, such as the owner's prestige. This is the case with the subject property. It will be designed, constructed and operated around a single demand generator which requires a gaming license, granted by the State of New York. This property type involves the utilization of high levels of personal property and intangibles, supporting the utilization of the Cost Approach for estimating its value for assessment purposes.

A "specialty" has been variously defined as a building so unique that it can be used for no other purpose, or a structure which produces income only in combination with a business conducted upon it. This is the case with the subject property, where income generation will entirely be dependent upon the proposed gaming operation. The definition most generally accepted is that of a building designed for unique purposes. The subject will meet this test. Factors generally considered include the size and unique construction of the improvement; whether it was constructed for a use peculiarly adapted to the conduct of a certain type of business; special features; etc. Such factors, together with an inability to obtain meaningful sales or income data are ample evidence that the property to be valued is a specialty. This is most appropriately valued through use of the Cost Approach.

The data have been analyzed and confirmed with sources believed to be reliable, leading to the value conclusions in this report. The valuation process used generally accepted market-derived methods and procedures appropriate to the assignment.

This appraisal employs only the Cost Approach. Based on our analysis and knowledge of the subject property type and relevant investor profiles, it is our opinion that this approach would be considered necessary and applicable for market participants. Because the subject property is a specialized land use, comparable sales are extremely rare and do not generally reflect true market transactions of real property, but are most generally sales of going concerns or distressed real property. Additionally, the subject land use is not typically marketed, purchased or sold on the basis of anticipated lease-revenue. Therefore, we have not employed the Sales Comparison Approach or the Income Capitalization Approach to develop an opinion of market value for assessment purposes. The absence of these approaches does not diminish the reliability of the analysis.

REPORT OPTION DESCRIPTION

USPAP identifies two written report options: Appraisal Report and Restricted Appraisal Report. This document is prepared as an Appraisal Report in accordance with USPAP guidelines. The terms "describe," summarize," and "state" connote different levels of detail, with "describe" as the most comprehensive approach and "state" as the least detailed. As such, the following provides specific descriptions about the level of detail and explanation included within the report:

- Summarizes the real estate and/or personal property that is the subject of the appraisal, including physical, economic, and other characteristics that are relevant
- States the type and definition of value and its source
- Summarizes the Scope of Work used to develop the appraisal
- Summarizes the information analyzed, the appraisal methods used, and the reasoning supporting the analyses and opinions; explains the exclusion of any valuation approaches
- States the use of the property as of the valuation date
- Summarizes the rationale for the Highest and Best Use opinion (if included)

IDENTIFICATION OF PROPERTY

Common Property Name:	Proposed Wilmorite Casino Project
Location:	The subject property is located at the intersection of NYS Route 414 with the New York State Thruway (Interstate 90), to the north of Interchange 41, within the Town of Tyre, Seneca County, New York 13148
Assessor's Parcel Number(s):	012-01-36
Legal Description:	The legal description has not been formulated as of the date of value.

PROPERTY OWNERSHIP AND RECENT HISTORY

Current Ownership:	James R. and Jeanne Leonard, under option to purchase by Whitetail 414, LLC.
Sale History:	To the best of our knowledge, the property has not transferred within the past three years.
Current Disposition:	The property is currently under an option to purchase. The option to purchase is undated. An amendment was signed on December 15, 2013 and subsequently amended again on December 5, 2014. The option price is $600,000. A copy of the option agreement is contained in the addenda. The subject was not being actively marketed for sale. The purchaser assumes the responsibility of moving/relocating a small cemetery to a location acceptable to the sellers. This option price is significantly below the assessor's indicated land value, utilized in this report. However, the land value utilized represents a significant change in the use of the current agricultural site. These factors support the difference between the option price and the assessor's preliminary land assessment level, utilized herein.

DATES OF INSPECTION AND VALUATION

Effective Date(s) of Valuation:	
As Is:	September 01, 2014
Date of Inspection:	September 01, 2014
Property Inspected by:	John R. Mako, MAI, SRA

CLIENT, INTENDED USE AND USERS OF THE APPRAISAL

Client:	Town of Tyre
Intended Use:	This appraisal is intended to provide an opinion of the estimated value for assessment purposes of the Fee Simple interest in the property, assuming that the property was completed and operating, as of the current valuation date. It is being provided for the use of the client for assessment level planning purposes, 485(b) exemption projections, or negotiations for any proposed Payment in Lieu of Tax Agreement (PILOT). This report is not intended for any other use.
Intended User:	This Appraisal Report was prepared for the exclusive use of Town of Tyre. Use of this report by others is not intended by the appraiser.

EXTRAORDINARY ASSUMPTIONS

The subject property is a potential casino development, to include a hotel, casino floor, spa, day-care center, and parking garage. The intended use of this report is to assist the Town of Tyre in forecasting an appropriate assessment level for the proposed project. However, it is noted that the final plans for the project have not been completed, changes in size, design, and configuration are anticipated, and the casino gaming license has not been obtained. This analysis is subject to updating once construction and licensing details are finalized.

The subject property will require a gaming license from the State of New York. This license is not yet approved for the subject site. Once, and if, obtained, it will be for a ten year period, a significantly shorter period than the expected useful life of the proposed improvements. This is a limitation upon the extended use of the property improvements, for their intended purpose, creating a significant level of obsolescence to the property improvements.

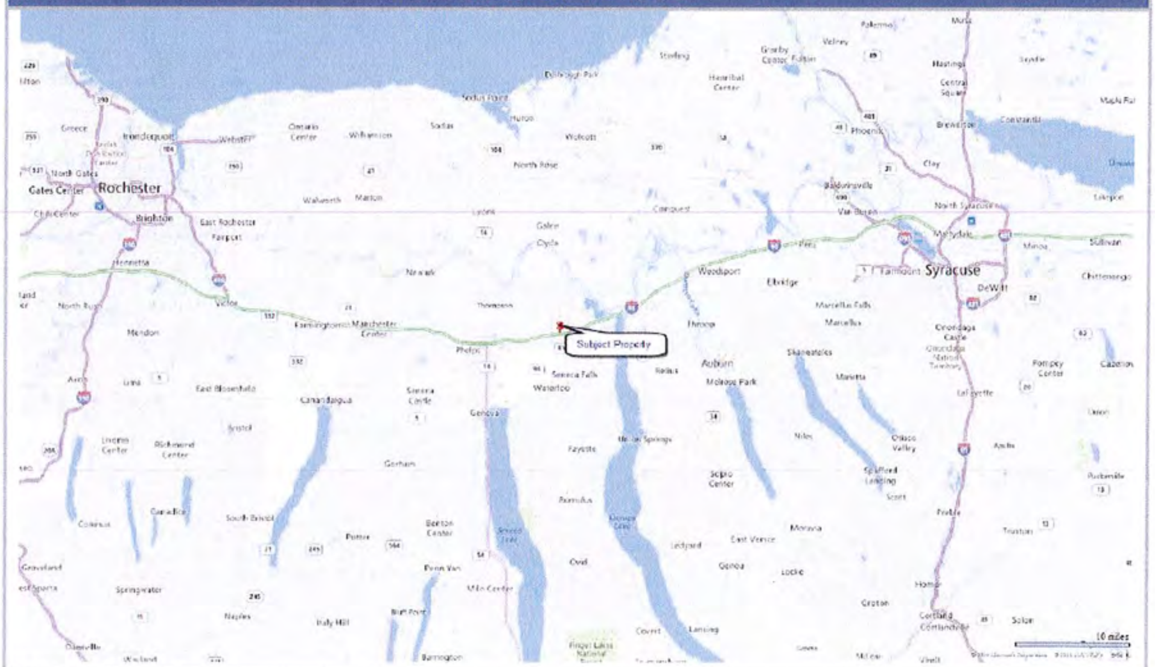
We have not valued the underlying land. The assessor will establish land value for the property assessment, once the approvals and final plans are in place. We have utilized a land value for our analysis of $1,650,000, based on preliminary discussions with the assessor.

HYPOTHETICAL CONDITIONS

The subject property is being valued as if constructed and operating as of the current date. The gaming license to operate the property has not been approved and the improvements have not been constructed as of this date. Therefore, this is a valuation subject to a hypothetical condition. Once the approvals and construction are completed, there may be significant variances in cost/construction. It is suggested that the final assessed value be based upon the final completed project, along with its associated costs and any inherent changes from our forecast.

Regional Analysis

REGIONAL MAP



INTRODUCTION

The short- and long-term value of real estate is influenced by a variety of interacting factors. Regional analysis identifies those factors that affect property value, and the role they play within the region. The four primary forces that determine the supply and demand for real property, and consequently affect market value, are: environmental characteristics, governmental forces, social factors, and economic trends.

The subject property is located in the Town of Tyre, equidistant from the Syracuse and Rochester CBSA's.

ECONOMIC & DEMOGRAPHIC PROFILE

The following profiles of the Rochester and Syracuse CBSA's was provided by Moody's Economy.com. Economy.com's core assets of proprietary editorial and research content as well as economic and financial databases are a source of information on national and regional economies, industries, financial markets, and demographics.

Economy.com's approach to the analysis of the U.S. economy consists of building a large-scale, simultaneous-equation econometric model, which they simulate and adjust with local market information, creating a model of the U.S. macro economy that is both top-down and bottom-up. In this model, those variables that are national in nature are modeled nationally while those that are regional in nature are modeled regionally. Interest rates, prices, and business investment are modeled as national variables; key sectors such as labor markets (employment, labor force), demographics (population, households, and migration), and construction activity (housing starts and sales) are modeled regionally and then aggregated to national totals. This approach allows local information to influence the macroeconomic outlook. Therefore, changes in fiscal policy at the national level (changes in tax rates, for example) are translated into their corresponding effects on state economies. At the same time, the growth patterns of large states, such as California, New York, and Texas, play a major role in shaping the national outlook.

In addition, on a regional basis, the modeling system is explicitly linked to other states through migration flows and unemployment rates. Economy.com's model structure also takes into account migration between states.

ECONOMIC & CONSUMER CREDIT ANALYTICS

MOODY'S ANALYTICS

SYRACUSE NY

Data Buffet® MSA code: MSYR

ECONOMIC DRIVERS

MEDICAL CENTER | COLLEGE TOWN | HIGH TECH

EMPLOYMENT GROWTH RANK

2013-2015	2013-2018
290 4th quintile	322 5th quintile

Best=1, Worst=392

RELATIVE COSTS

LIVING	BUSINESS
91%	94%

U.S.=100%

VITALITY

RELATIVE	RANK
89%	265

U.S.=100% Best=1, Worst=384

BUSINESS CYCLE STATUS

MARCH 2014

- Expansion
- **RECOVERY**
- At Risk
- Moderating Recession
- In Recession

STRENGTHS & WEAKNESSES

STRENGTHS

- Affordable housing.
- Universities that contribute to quality of labor force.
- Increasingly diversified industrial base.

WEAKNESSES

- Low per capita income.
- Weak demographic trends.
- Lack of dynamic private sector employers outside of defense.

FORECAST RISKS

SHORT TERM ↓ LONG TERM ↓

RISK EXPOSURE 2014-2019: **381** 5th quintile (Highest=1, Lowest=384)

UPSIDE

- Rapid growth in small high-tech industries.
- Canadian dollar gains strength, boosting retail sales and hiring in SYR.

DOWNSIDE

- Out-migration trends revert to 1990s levels.
- Loss of defense contracts sparks another round of manufacturing job losses.

MOODY'S RATING

A1 COUNTY AS OF JUN 06, 2014

ANALYSIS

Recent Performance. Syracuse remains the weakest performer among the large metro areas in New York. It is the only one of the six large New York metro areas that has not yet scaled a new private sector employment peak since the recession ended. Manufacturing job losses are a weight, as is the lack of gains in professional/business services employment. Only about one-third of industries are expanding, and real earnings growth is nonexistent. SYR was hit hard by the unusually harsh winter, but unlike in other upstate areas, the rebound has not been impressive and payrolls are below where they were a year earlier.

Data from the household survey show that employment growth has been very weak over the past year and that the labor force is falling rapidly. The unemployment rate stood at 6.6% in March, down almost 1.5 percentage points over the prior year mostly because of the absence of labor force increases.

Consumers. Weak job and income growth will weigh on the pace of recovery in the next few years, though pristine household balance sheets in SYR will help to offset some of the drag. The delinquency rate on all consumer loans has fallen to its lowest point since the recession began and delinquency rates for autos, bankcards and student loans are back down to prerecession low points. Tighter lending standards during the recession have helped, and so has the age profile. SYR's older than average population is more likely to own homes outright rather than to hold a mortgage. The lack of a boom and bust housing cycle has helped as well; not as many homeowners are under water on their mortgages compared with downstate metro areas or the national average.

Housing. Though there has been some pickup in multifamily building, the forecast for a takeoff in the single-family market has yet to come to fruition. The homeownership rate in SYR is the lowest among the large upstate metro areas, and it fell dramatically from its peak in 2006 of 66% to less than 59% in 2013. This is a much steeper decline than nationally or statewide and seems to reflect a preference toward renting rather than owning, as well as tighter lending standards. Though the forecast calls for a rebound in overall home sales and building over the next few years, the recovery has so far materialized only in the multifamily market.

Risks. Although population expanded for the first time in three years in 2013, the working-age population, those aged 25 to 44, continues to fall, reducing SYR's long-term growth potential. The forecast assumes a rebound in the labor force as job opportunities entice more people to rejoin the workforce and those who would otherwise leave the metro area to stay. SYR is already projected to greatly underperform the national average when it comes to job growth, but the outlook will be bleaker without a labor force rebound. Investments in high tech by the state and universities have so far not spread to SYR in any significant way, hurting its chances for nurturing more dynamic high-tech job growth. Though the skilled workforce keeps Lockheed Martin there, the company has been downsizing in recent years and the shrinking defense budget does not bode well for keeping all of this talent in SYR.

Recovery is expected to pick up later this year and in 2015, but Syracuse will continue to lag its upstate neighbors in terms of job gains through the forecast horizon. Weak population expansion and the metro area's exposure to federal defense spending put it in a precarious position. Over the long run, SYR will underperform the national average in terms of job, income and GDP growth.

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May 2014 *help@economy.com*

2008	2009	2010	2011	2012	2013	INDICATORS	2014	2015	2016	2017	2018	2019
32.5	31.6	32.6	32.8	32.9	33.1	Gross metro product (C05$B)	33.5	34.5	35.3	35.7	36.1	36.4
-1.1	*-2.8*	*3.3*	*0.5*	*0.3*	*0.7*	*% change*	*1.3*	*2.9*	*2.2*	*1.4*	*0.9*	*0.8*
323.8	314.0	311.9	313.7	314.5	315.5	Total employment (ths)	318.1	323.5	329.1	331.9	330.9	329.4
0.3	*-3.0*	*-0.6*	*0.6*	*0.3*	*0.3*	*% change*	*0.8*	*1.7*	*1.7*	*0.8*	*-0.3*	*-0.5*
5.6	8.2	8.6	8.3	8.5	7.5	Unemployment rate (%)	6.5	6.0	5.5	5.2	5.1	5.2
4.8	0.2	3.2	5.0	3.5	1.8	Personal income growth (%)	3.7	5.2	5.3	4.3	3.0	2.7
48.8	48.2	48.2	48.9	49.6	50.5	Median household income ($ ths)	51.7	53.5	55.3	57.0	58.3	59.4
658.9	660.9	663.0	662.5	660.9	661.9	Population (ths)	663.9	664.8	665.2	665.3	665.4	665.5
0.4	*0.3*	*0.3*	*-0.1*	*-0.2*	*0.1*	*% change*	*0.3*	*0.1*	*0.1*	*0.0*	*0.0*	*0.0*
0.5	-0.2	0.2	-1.8	-3.4	-1.0	Net migration (ths)	0.2	-0.9	-1.5	-1.7	-1.8	-1.8
917	784	826	697	771	735	Single-family permits (#)	981	1,730	1,924	1,697	1,439	1,277
214	249	313	523	728	753	Multifamily permits (#)	514	412	362	303	273	265
118.9	119.9	124.3	121.5	123.8	124.1	Existing-home price ($ ths)	133.2	140.8	145.7	148.5	152.2	156.7

PRÉCIS® U.S. METRO NORTHEAST » Syracuse NY

ECONOMIC HEALTH CHECK

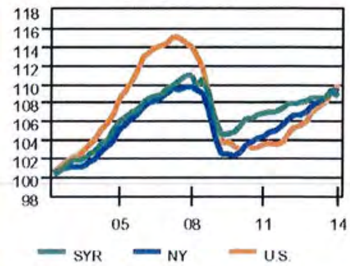
	Nov 13	Dec 13	Jan 14	Feb 14	Mar 14	Apr 14
Employment, change, ths	0.2	0.3	-0.3	0.8	-0.2	-0.3
Unemployment rate, %	7.0	6.7	6.5	6.4	6.6	6.2
Labor force participation rate, %	59.5	59.5	59.3	59.3	59.2	58.8
Employment-to-population ratio, %	55.4	55.5	55.4	55.4	55.3	55.2
Average weekly hours, #	34.0	34.0	33.6	33.7	33.6	34.0
Industrial production, 2007=100	105.1	105.1	105.2	106.0	107.0	ND
Residential permits, single-family, #	762	757	255	541	470	870
Residential permits, multifamily, #	118	245	200	408	368	512

Better than prior 3-mo MA | Unchanged from prior 3-mo MA | Worse than prior 3-mo MA

Sources: BLS, Census Bureau, Moody's Analytics

BUSINESS CYCLE INDEX

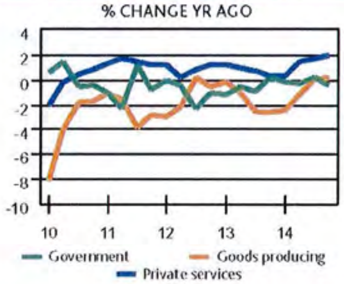
JAN 2002=100



Source: Moody's Analytics

EMPLOYMENT OUTLOOK

% CHANGE YR AGO



Sources: BLS, Moody's Analytics

CURRENT EMPLOYMENT TRENDS

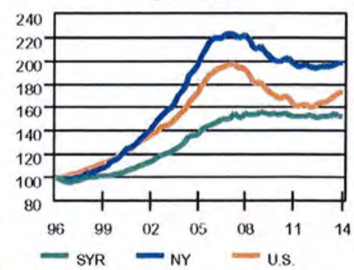
% CHANGE YR AGO, 3-MO MA

	Aug 13	Dec 13	Apr 14
Total	0.1	0.0	-0.2
Construction	2.9	6.8	3.2
Manufacturing	-1.6	0.6	-1.8
Trade	0.4	-0.6	1.2
Trans/Utilities	-0.2	0.5	-0.3
Information	-2.8	-2.6	-2.9
Financial Activities	-3.3	-3.8	-2.8
Prof & Business Svcs.	-0.0	-0.2	-0.0
Edu & Health Svcs.	2.7	1.5	-1.0
Leisure & Hospitality	1.6	3.2	2.2
Other Services	0.3	1.1	2.3
Government	-0.8	0.3	-0.2

Sources: BLS, Moody's Analytics

HOUSE PRICE

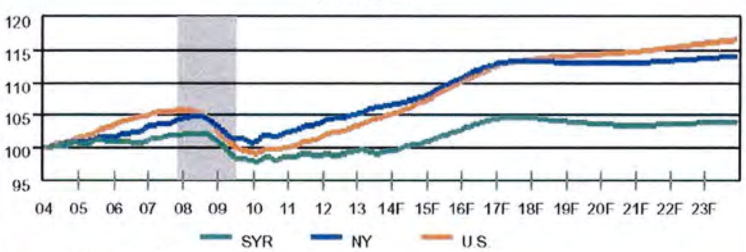
1996Q1=100, NSA



Sources: FHFA, Moody's Analytics

RELATIVE EMPLOYMENT PERFORMANCE

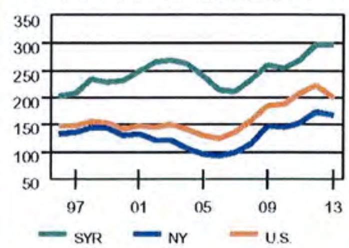
JAN 2004=100



Sources: BLS, Moody's Analytics

HOUSING AFFORDABILITY INDEX

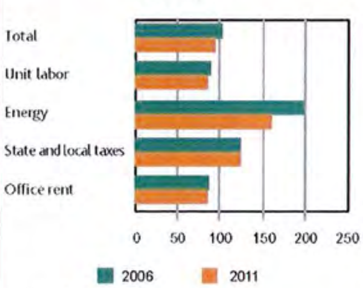
GREATER THAN 100=MORE AFFORDABLE



Sources: NAR, Moody's Analytics

BUSINESS COSTS

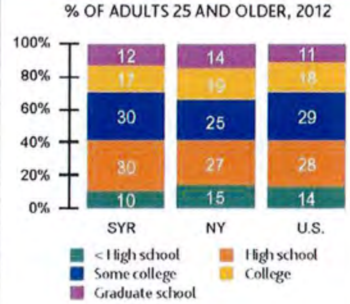
U.S.=100



Source: Moody's Analytics

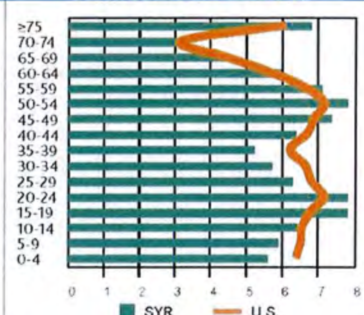
EDUCATIONAL ATTAINMENT

% OF ADULTS 25 AND OLDER, 2012



Sources: Census Bureau, Moody's Analytics

POPULATION BY AGE, %



Sources: Census Bureau, Moody's Analytics

PRÉCIS® U.S. METRO NORTHEAST » Syracuse NY

EMPLOYMENT & INDUSTRY

TOP EMPLOYERS

Upstate University Health System	9,000
Lockheed Martin Mission Systems & Traning	4,600
Syracuse University	4,395
St. Joseph's Hospital Health Center	3,608
Crouse Hospital	2,700
National Grid	2,200
SUNY Oswego	2,045
Loretto	2,000
AXA Advisors LLC	1,800
Time Warner Cable	1,700
Verizon Communications	1,700
Catholic Charities of Onondaga County	1,498
Syracuse V.A. Medical Center	1,400
Wegmans Food Markets Inc.	1,373
BAE Systems	1,350
Excellus Blue Cross Blue Shield of CNY	1,300
Bryne Dairy Inc.	1,300
United Parcel Service Inc.	1,234
Welch Allyn Inc.	1,114
Endicott Interconnect Technologies	1,100

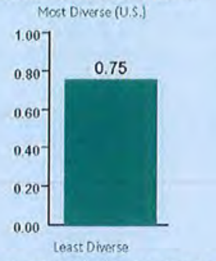
Sources: Book of Lists 2013, The Central New York Business Journal, March 2012

PUBLIC

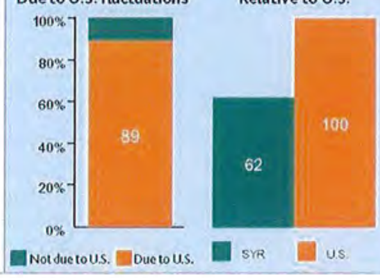
Federal	5,020
State	16,040
Local	36,594

2013

INDUSTRIAL DIVERSITY



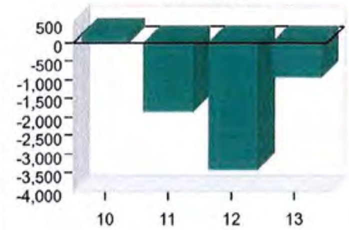
EMPLOYMENT VOLATILITY



MIGRATION FLOWS

INTO SYRACUSE, NY	NUMBER OF MIGRANTS
Utica, NY	1,185
New York, NY	650
Rochester, NY	529
Albany, NY	316
Buffalo, NY	307
Binghamton, NY	216
Ithaca, NY	154
Nassau, NY	132
Tampa, FL	126
Philadelphia, PA	119
Total in-migration	*12,765*
FROM SYRACUSE, NY	
Utica, NY	1,156
Rochester, NY	736
New York, NY	631
Buffalo, NY	376
Albany, NY	292
Washington, DC	231
Tampa, FL	215
Binghamton, NY	201
Philadelphia, PA	186
Atlanta, GA	165
Total out-migration	*15,027*
Net migration	**-2,262**

NET MIGRATION,



	2010	2011	2012	2013
Domestic	-988	-3,245	-4,905	-2,466
Foreign	1,160	1,409	1,506	1,513
Total	172	-1,836	-3,399	-953

Sources: IRS (top), 2011, Census Bureau, Moody's Analytics

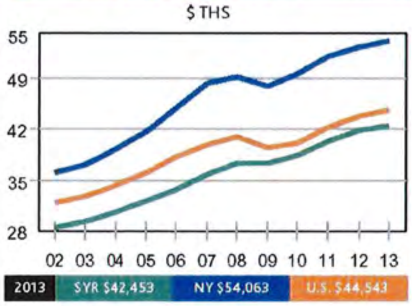
COMPARATIVE EMPLOYMENT AND INCOME

Sector	% of Total Employment			Average Annual Earnings		
	SYR	NY	U.S.	SYR	NY	U.S.
Mining	0.1%	0.0%	0.6%	nd	$88,089	$121,241
Construction	3.9%	3.6%	4.3%	$55,134	$66,572	$55,288
Manufacturing	7.7%	5.1%	8.8%	$75,787	$73,967	$75,242
Durable	*72.0%*	*58.5%*	*62.8%*	*nd*	*$76,840*	*$76,882*
Nondurable	*28.0%*	*41.5%*	*37.2%*	*nd*	*$69,877*	*$72,564*
Transportation/Utilities	4.0%	3.0%	3.7%	$76,446	$59,206	$63,045
Wholesale Trade	4.9%	3.8%	4.2%	$68,127	$86,009	$77,359
Retail Trade	11.2%	10.4%	11.1%	$28,294	$35,182	$31,495
Information	1.4%	2.9%	2.0%	$59,865	$123,897	$93,099
Financial Activities	5.1%	7.6%	5.8%	$38,476	$106,700	$47,540
Prof. and Bus. Services	10.6%	13.5%	13.6%	$49,334	$82,886	$61,311
Educ. and Health Services	19.8%	20.1%	15.5%	$49,412	$51,272	$50,524
Leisure and Hosp. Services	9.1%	9.4%	10.4%	$18,309	$31,465	$23,812
Other Services	3.9%	4.3%	4.0%	$36,095	$35,239	$33,224
Government	18.3%	16.2%	16.0%	$75,399	$89,977	$70,342

Sources: Percent of total employment — BLS, Moody's Analytics, 2013, Average annual earnings — BEA, Moody's Analytics, 2011

PER CAPITA INCOME

$ THS



Source: Moody's Analytics, BEA

HIGH-TECH EMPLOYMENT

	Ths	% of total
SYR	16.3	5.2
U.S.	6,431.1	4.7

HOUSING-RELATED EMPLOYMENT

	Ths	% of total
SYR	25.2	8.0
U.S.	12,401.4	9.1

Source: Moody's Analytics, 2013

LEADING INDUSTRIES BY WAGE TIER

	NAICS	Industry	Location Quotient	Employees (ths)
HIGH	6211	Offices of physicians	1.0	5.9
	GVF	Federal Government	0.8	5.0
	5241	Insurance carriers	1.4	4.7
	2211	Electric power generation, trans. & distrib.	3.9	3.4
MID	GVL	Local Government	1.1	36.5
	6221	General medical and surgical hospitals	0.8	8.5
	2382	Building equipment contractors	1.0	4.0
	5413	Architectural, engineering & rel. srvcs.	1.1	3.3
LOW	GVS	State Government	1.4	16.2
	6113	Colleges, universities & prof. schools	4.2	16.0
	4451	Grocery stores	1.4	8.1
	6241	Individual and family services	1.4	6.2

Source: Moody's Analytics, 2014

ECONOMIC & CONSUMER CREDIT ANALYTICS

MOODY'S ANALYTICS

ROCHESTER NY

Data Buffet® MSA code: MROH

ECONOMIC DRIVERS

MEDICAL CENTER | MANUFACTURING | COLLEGE TOWN

EMPLOYMENT GROWTH RANK

2013-2015	2013-2018
261 4th quintile	297 4th quintile

Best=1, Worst=392

RELATIVE COSTS

LIVING	BUSINESS
90%	91%

U.S.=100%

VITALITY

RELATIVE	RANK
89%	266

U.S.=100% Best=1, Worst=384

BUSINESS CYCLE STATUS

MARCH 2014

- Expansion
- **RECOVERY**
- At Risk
- Moderating Recession
- In Recession

STRENGTHS & WEAKNESSES

STRENGTHS

- Housing is affordable.
- Educational institutions and hospitals provide some stability.

WEAKNESSES

- Cold climate and relative isolation detract from quality of life.
- Persistent out-migration.
- Heavily dependent on declining manufacturing.

FORECAST RISKS

SHORT TERM ↑ LONG TERM ↑

RISK EXPOSURE 2014-2019 **383** 5th quintile Highest=1 Lowest=384

UPSIDE

- Dollar weakens further, boosting exports.
- Biotech projects produce another growth industry.
- UR and RIT produce spin-off tech companies, boosting incomes.

DOWNSIDE

- Kodak fails to become profitable and mass layoffs resume.
- Migration trends worsen.
- European recession re-emerges in 2014.

MOODY'S RATING

Aa3 CITY AS OF FEB 25, 2014

ANALYSIS

Recent Performance. Rochester's recovery has slowed over the past six months, but much of it was attributed to the unusually cold and snowy winter. Before the falloff in demand in the first quarter, ROH managed to reach a new private sector employment peak. Leisure/hospitality and education/healthcare are the fastest-growing industries, but job growth has narrowed this year. Less than 40% of area industries are adding to payrolls and low-wage job growth has overtaken mid-wage job growth. The household survey is less upbeat; employment is little changed from its post-recession low and the labor force is falling quickly.

Still, consumers in ROH are the most optimistic among the upstate metro areas, according to Siena College's survey of consumer confidence. Household balance sheets are in good shape; the delinquency rate on all lines of consumer debt is back to its prerecession level.

Healthcare. Healthcare is growing by leaps and bounds and will be the major contributor to job growth over the next couple of years. Healthcare employment is growing quickly even with almost no growth at hospitals that are struggling under the weight of Medicare reimbursement rate cuts that were part of sequestration. Instead the ambulatory care segment of healthcare is growing fast enough to offset downsizing at hospitals. ROH has one of the largest 65 and older populations in upstate New York, trailing only that of Buffalo. As the population ages, healthcare will be in higher demand, and with New York state participating in expanded Medicaid under the Affordable Care Act, hospitals will shoulder less of the cost of uncompensated care.

The impact for health insurers will be mixed. The industry has grown very little over the past year. MVP Healthcare, one of ROH's largest health insurers, will lay off workers to cut costs and compete on the state's insurance exchange. Those layoffs will happen over the next couple of quarters and are relatively small, but hint at possible restructuring over the next few years as the ACA is implemented.

Population. Though population growth is barely positive, the metro area will manage to retain more of its recent graduates and retirees over the next couple of years as job growth ramps up. In 2011 and 2012, there was almost no change in the working-age population, in contrast to steep declines during the 1990s and 2000s. With more tech investment across the state and downtown development of multifamily and mixed-use projects, ROH is becoming more attractive to younger college grads who typically leave the area once they graduate. Despite the pickup in home values, older residents appear to be staying put as well, rather than moving to warmer climates upon retirement. The forecast post-2016 calls for population declines as out-migration accelerates, but risks to the forecast are to the upside.

Housing. Builders are responding to the better demographics, and a number of multifamily projects downtown are being built with the hope of attracting young professionals back into the city. Although the single-family market has not picked up much and price growth is barely positive, multifamily building is soaring. Builders risk having empty space on their hands, however, since demographic trends are expected to revert to their historical patterns of out-migration of the younger population set after 2016.

Though job growth will accelerate in Rochester over the next year or two, it will fall far short of the national rate given very weak population growth. Investment in high tech throughout the state could spread toward ROH, bolstering the metro area's already-impressive tech and higher education credentials.

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May 2014 *help@economy.com*

2008	2009	2010	2011	2012	2013	INDICATORS	2014	2015	2016	2017	2018	2019
51.1	50.2	51.6	52.0	52.5	53.1	Gross metro product (C05$B)	54.3	56.1	57.4	58.3	58.6	58.9
-2.8	*-1.7*	*2.8*	*0.6*	*1.1*	*1.1*	*% change*	*2.2*	*3.4*	*2.4*	*1.5*	*0.7*	*0.4*
515.2	501.4	502.0	509.0	512.7	515.0	Total employment (ths)	520.0	530.1	539.9	544.6	543.1	540.5
0.3	*-2.7*	*0.1*	*1.4*	*0.7*	*0.5*	*% change*	*1.0*	*1.9*	*1.8*	*0.9*	*-0.3*	*-0.5*
5.6	8.0	8.2	7.7	7.9	7.1	Unemployment rate (%)	6.1	5.5	5.0	4.6	4.5	4.6
5.8	-1.1	2.6	5.9	3.5	2.3	Personal income growth (%)	3.8	5.3	5.3	4.3	3.0	2.7
51.8	50.3	49.7	50.7	51.7	53.1	Median household income ($ ths)	54.6	56.7	58.9	60.9	62.4	63.8
1,050.0	1,052.6	1,054.7	1,056.6	1,057.1	1,058.1	Population (ths)	1,060.2	1,061.9	1,062.4	1,062.4	1,062.2	1,062.0
0.3	*0.3*	*0.2*	*0.2*	*0.1*	*0.1*	*% change*	*0.2*	*0.2*	*0.1*	*-0.0*	*-0.0*	*-0.0*
-0.1	-0.5	-0.8	-0.3	-1.7	-1.6	Net migration (ths)	-0.4	-1.0	-2.1	-2.8	-3.0	-3.0
1,444	1,157	1,129	1,049	1,184	1,115	Single-family permits (#)	1,816	3,040	3,352	2,952	2,490	2,150
454	468	320	474	416	304	Multifamily permits (#)	638	416	356	272	225	209
116.1	114.6	118.3	119.0	123.0	124.9	Existing-home price ($ ths)	127.5	132.5	137.0	141.1	145.7	151.1

PRÉCIS® U.S. METRO NORTHEAST » Rochester NY

ECONOMIC HEALTH CHECK

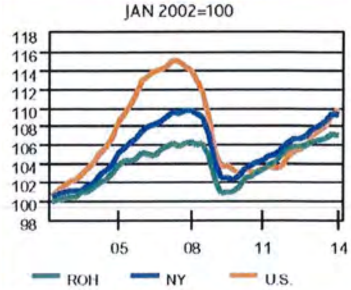
	Nov 13	Dec 13	Jan 14	Feb 14	Mar 14	Apr 14
Employment, change, ths	0.7	0.3	-1.1	0.1	0.1	1.1
Unemployment rate, %	6.6	6.4	6.1	6.1	6.4	6.0
Labor force participation rate, %	61.4	61.3	60.9	61.1	61.4	61.0
Employment-to-population ratio, %	57.3	57.3	57.2	57.3	57.5	57.4
Average weekly hours, #	32.3	32.6	32.3	32.4	32.4	32.7
Industrial production, 2007=100	105.3	105.3	105.8	106.8	107.7	ND
Residential permits, single-family, #	1,095	1,033	964	1,028	1,002	1,015
Residential permits, multifamily, #	255	164	1,674	263	352	1,289

Better than prior 3-mo MA | Unchanged from prior 3-mo MA | Worse than prior 3-mo MA

Sources: BLS, Census Bureau, Moody's Analytics

BUSINESS CYCLE INDEX

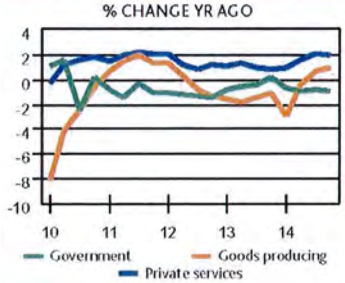
JAN 2002=100



Source: Moody's Analytics

EMPLOYMENT OUTLOOK

% CHANGE YR AGO



Sources: BLS, Moody's Analytics

CURRENT EMPLOYMENT TRENDS

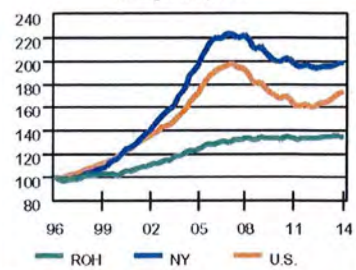
% CHANGE YR AGO, 3-MO MA

	Aug 13	Dec 13	Apr 14
Total	0.3	0.5	0.2
Construction	1.4	-1.5	-8.7
Manufacturing	-3.0	-0.8	-1.1
Trade	-0.7	-1.2	-1.4
Trans/Utilities	-1.3	0.5	0.9
Information	-2.6	-6.1	-5.5
Financial Activities	-0.4	0.6	1.3
Prof & Business Svcs.	1.1	-0.0	-0.2
Edu & Health Svcs.	2.1	2.0	2.4
Leisure & Hospitality	3.2	4.1	4.5
Other Services	1.1	1.6	1.2
Government	0.7	0.2	-0.7

Sources: BLS, Moody's Analytics

HOUSE PRICE

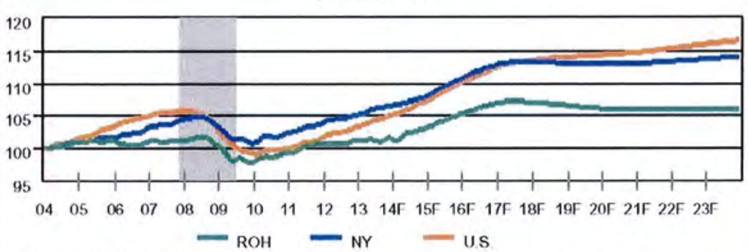
1996Q1=100, NSA



Sources: FHFA, Moody's Analytics

RELATIVE EMPLOYMENT PERFORMANCE

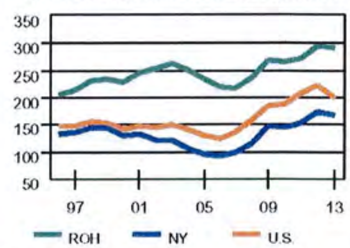
JAN 2004=100



Sources: BLS, Moody's Analytics

HOUSING AFFORDABILITY INDEX

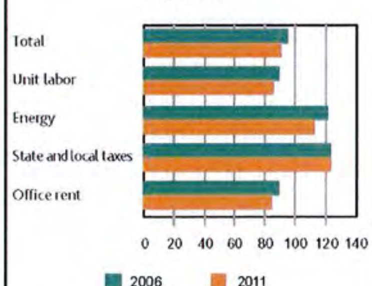
GREATER THAN 100=MORE AFFORDABLE



Sources: NAR, Moody's Analytics

BUSINESS COSTS

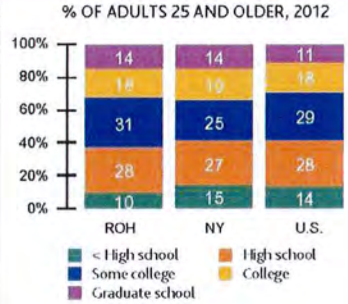
U.S.=100



Source: Moody's Analytics

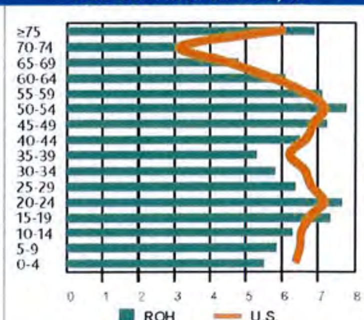
EDUCATIONAL ATTAINMENT

% OF ADULTS 25 AND OLDER, 2012



Sources: Census Bureau, Moody's Analytics

POPULATION BY AGE, %



Sources: Census Bureau, Moody's Analytics

CUSHMAN & WAKEFIELD®
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PRÉCIS® U.S. METRO NORTHEAST » Rochester NY

EMPLOYMENT & INDUSTRY

TOP EMPLOYERS

University of Rochester	21,881
Wegmans Food Markets Inc.	13,843
Rochester General Health System	8,100
Xerox Corp.	5,617
Unity Health System	5,358
Paychex Inc.	3,819
The Lifetime Healthcare Cos.	3,749
Eastman Kodak Co.	3,429
Sutherland Global Services Inc.	3,364
Rochester Institute of Technology	3,259
YMCA of Greater Rochester	2,847
Harris Corp.'s RF Communications Division	2,300
Bausch & Lomb Inc.	1,769
Monroe Community College	1,717
JPMorgan Chase & Co.	1,560
Verizon Wireless Inc.	1,400
Finger Lakes Health	1,396
Thompson Health	1,382
SUNY Brockport	1,376
Frontier Communications Corp.	1,359

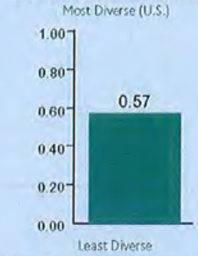
Source: Rochester Business Journal 2014

PUBLIC

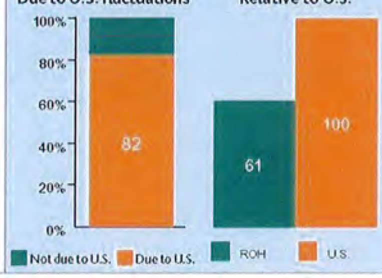
Federal	4,461
State	12,946
Local	61,676

2013

INDUSTRIAL DIVERSITY



EMPLOYMENT VOLATILITY



COMPARATIVE EMPLOYMENT AND INCOME

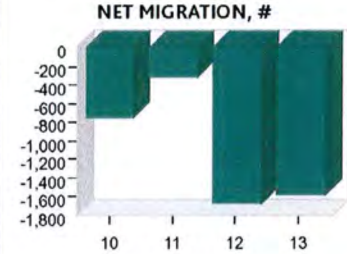
Sector	% of Total Employment			Average Annual Earnings		
	ROH	NY	U.S.	ROH	NY	U.S.
Mining	0.1%	0.0%	0.6%	nd	$88,089	$121,241
Construction	3.5%	3.6%	4.3%	$67,166	$66,572	$55,288
Manufacturing	11.3%	5.1%	8.8%	$73,481	$73,967	$75,242
Durable	*61.9%*	*58.5%*	*62.8%*	*nd*	*$76,840*	*$76,882*
Nondurable	*38.1%*	*41.5%*	*37.2%*	*nd*	*$69,877*	*$72,564*
Transportation/Utilities	1.9%	3.0%	3.7%	nd	$59,206	$63,045
Wholesale Trade	3.4%	3.8%	4.2%	$77,545	$86,009	$77,359
Retail Trade	10.6%	10.4%	11.1%	$27,698	$35,182	$31,495
Information	1.7%	2.9%	2.0%	$100,804	$123,897	$93,099
Financial Activities	4.2%	7.6%	5.8%	$34,197	$106,700	$47,540
Prof. and Bus. Services	12.8%	13.5%	13.6%	$55,193	$82,886	$61,311
Educ. and Health Services	22.6%	20.1%	15.5%	nd	$51,272	$50,524
Leisure and Hosp. Services	8.6%	9.4%	10.4%	$19,045	$31,465	$23,812
Other Services	4.1%	4.3%	4.0%	$31,267	$35,239	$33,224
Government	15.4%	16.2%	16.0%	$77,973	$89,977	$70,342

Sources: Percent of total employment — BLS, Moody's Analytics, 2013, Average annual earnings — BEA, Moody's Analytics, 2011

MIGRATION FLOWS

INTO ROCHESTER, NY	NUMBER OF MIGRANTS
Buffalo, NY	1,207
New York, NY	876
Syracuse, NY	736
Atlanta, GA	277
Albany, NY	218
Orlando, FL	205
Washington, DC	177
Tampa, FL	171
Chicago, IL	155
Philadelphia, PA	151
Total in-migration	*17,917*
FROM ROCHESTER, NY	
Buffalo, NY	1,197
New York, NY	860
Syracuse, NY	529
Tampa, FL	443
Washington, DC	374
Atlanta, GA	277
Charlotte, NC	261
Albany, NY	234
Orlando, FL	230
Raleigh, NC	221
Total out-migration	*20,761*
Net migration	**-2,844**

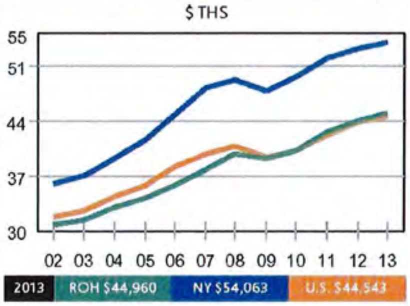
NET MIGRATION,



	2010	2011	2012	2013
Domestic	-2,743	-2,770	-4,226	-4,158
Foreign	1,989	2,449	2,554	2,581
Total	-754	-321	-1,672	-1,577

Sources: IRS (top), 2011, Census Bureau, Moody's Analytics

PER CAPITA INCOME



Source: Moody's Analytics, BEA

HIGH-TECH EMPLOYMENT

	Ths	% of total
ROH	26.7	5.2
U.S.	6,431.1	4.7

HOUSING-RELATED EMPLOYMENT

	Ths	% of total
ROH	36.6	7.1
U.S.	12,401.4	9.1

Source: Moody's Analytics, 2013

LEADING INDUSTRIES BY WAGE TIER

	NAICS	Industry	Location Quotient	Employees (ths)
HIGH	5511	Management of companies & enterprises	1.5	12.2
HIGH	6211	Offices of physicians	0.7	6.2
HIGH	5415	Computer systems design & related srvcs.	0.8	5.3
HIGH	3333	Comm. & service indstry. machinery manuf.	15.4	5.1
MID	GVL	Local Government	1.2	61.5
MID	6113	Colleges, universities & prof. schools	5.4	34.4
MID	6221	General medical and surgical hospitals	1.5	24.9
MID	GVS	State Government	0.7	12.9
LOW	4451	Grocery stores	1.3	13.1
LOW	5613	Employment services	0.8	11.1
LOW	6231	Nursing care facilities	1.4	8.9
LOW	6241	Individual and family services	1.1	7.8

Source: Moody's Analytics, 2014

CRITICAL OBSERVATIONS - SYRACUSE

Syracuse remains the weakest performer among the large metro areas in New York. It is the only one of the six large New York metro areas that has not yet scaled a new private sector employment peak since the recession ended. Manufacturing job losses are a weight, as is the lack of gains in professional/business services employment. Only about one-third of industries are expanding, and real earnings growth is nonexistent. Syracuse was hit hard by the unusually harsh winter, but unlike in other upstate areas, the rebound has not been impressive and payrolls are below where they were a year earlier.

Data from the household survey show that employment growth has been very weak over the past year and that the labor force is falling rapidly. The unemployment rate stood at 6.6% in March, down almost 1.5 percentage points over the prior year mostly because of the absence of labor force increases.

Though there has been some pickup in multifamily building, the forecast for a takeoff in the single-family market has yet to come to fruition. The homeownership rate in Syracuse is the lowest among the large upstate metro areas, and it fell dramatically from its peak in 2006 of 66% to less than 59% in 2013. This is a much steeper decline than nationally or statewide and seems to reflect a preference toward renting rather than owning, as well as tighter lending standards. Though the forecast calls for a rebound in overall home sales and building over the next few years, the recovery has so far materialized only in the multifamily market.

Although population expanded for the first time in three years in 2013, the working-age population, those aged 25 to 44, continues to fall, reducing Syracuse long-term growth potential. The forecast assumes a rebound in the labor force as job opportunities entice more people to rejoin the workforce and those who would otherwise leave the metro area to stay. Syracuse is already projected to greatly underperform the national average when it comes to job growth, but the outlook will be bleaker without a labor force rebound. Investments in high tech by the state and universities have so far not spread to Syracuse in any significant way, hurting its chances for nurturing more dynamic high-tech job growth. Though the skilled workforce keeps Lockheed Martin there, the company has been downsizing in recent years and the shrinking defense budget does not bode well for keeping all of this talent in Syracuse.

Recovery is expected to pick up later this year and in 2015, but Syracuse will continue to lag its upstate neighbors in terms of job gains through the forecast horizon. Weak population expansion and the metro area's exposure to federal defense spending put it in a precarious position. Over the long run, Syracuse will underperform the national average in terms of job, income and GDP growth.

SYRACUSE CONCLUSION

In light of the social and economic attributes of the greater Syracuse area, we are cautiously optimistic about the short-term outlook. Long-term, the region should see stability and moderate growth, with increasing real estate values.

CRITICAL OBSERVATIONS - ROCHESTER

Rochester's recovery has slowed over the past six months, but much of it was attributed to the unusually cold and snowy winter. Before the falloff in demand in the first quarter, Rochester managed to reach a new private sector employment peak. Leisure/hospitality and education/healthcare are the fastest-growing industries, but job growth has narrowed this year. Less than 40% of area industries are adding to payrolls and low-wage job growth has overtaken mid-wage job growth. The household survey is less upbeat; employment is little changed from its post-recession low and the labor force is falling quickly.

Still, consumers in Rochester are the most optimistic among the upstate metro areas, according to Siena College's survey of consumer confidence. Household balance sheets are in good shape; the delinquency rate on all lines of consumer debt is back to its prerecession level.

Healthcare is growing by leaps and bounds and will be the major contributor to job growth over the next couple of years. Healthcare employment is growing quickly even with almost no growth at hospitals that are struggling under the weight of Medicare reimbursement rate cuts that were part of sequestration. Instead the ambulatory care segment of healthcare is growing fast enough to offset downsizing at hospitals. Rochester has one of the largest 65 and older populations in upstate New York, trailing only that of Buffalo. As the population ages, healthcare will be in higher demand, and with New York State participating in expanded Medicaid under the Affordable Care Act, hospitals will shoulder less of the cost of uncompensated care.

Though population growth is barely positive, the metro area will manage to retain more of its recent graduates and retirees over the next couple of years as job growth ramps up. In 2011 and 2012, there was almost no change in the working-age population, in contrast to steep declines during the 1990s and 2000s. With more tech investment across the state and downtown development of multifamily and mixed-use projects, Rochester is becoming more attractive to younger college grads who typically leave the area once they graduate. Despite the pickup in home values, older residents appear to be staying put as well, rather than moving to warmer climates upon retirement. The forecast post-2016 calls for population declines as out-migration accelerates, but risks to the forecast are to the upside.

Builders are responding to the better demographics, and a number of multifamily projects downtown are being built with the hope of attracting young professionals back into the city. Although the single-family market has not picked up much and price growth is barely positive, multifamily building is soaring. Builders risk having empty space on their hands, however, since demographic trends are expected to revert to their historical patterns of out-migration of the younger population set after 2016.

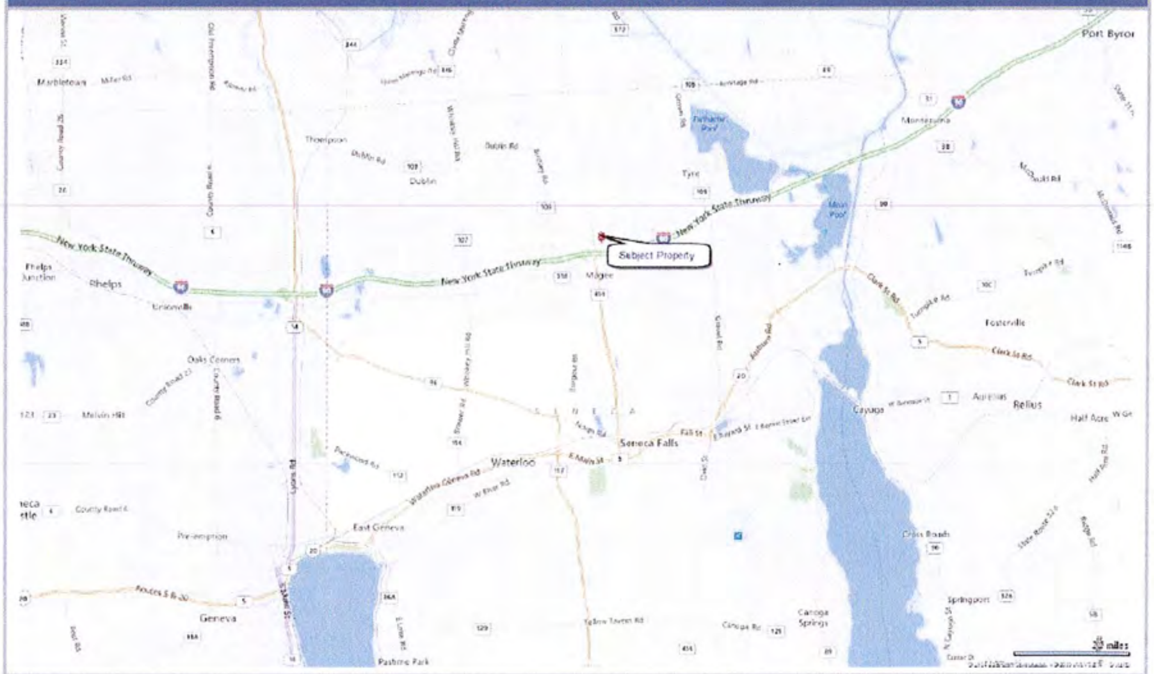
Though job growth will accelerate in Rochester over the next year or two, it will fall far short of the national rate given very weak population growth. Investment in high tech throughout the state could spread toward Rochester, bolstering the metro area's already-impressive tech and higher education credentials.

ROCHESTER CONCLUSION

In light of the social and economic attributes of the greater Rochester area, we are again cautiously optimistic about the short-term outlook. Long-term, the region should see stability and moderate growth, with increasing real estate values.

Local Area Analysis

LOCAL AREA MAP



LOCATION OVERVIEW

The property is located in the community of Tyre. The local market consists of the areas to the north and south of Interstate Route 90/The New York State Thruway. The Syracuse and Rochester local markets are centered approximately 30 miles to the east and west.

NEIGHBORHOOD ANALYSIS

The subject site is located to the north of the Exit 41/Waterloo interchange with the New York State Thruway. This interchange is also populated by a PILOT Travel Center/Truck Stop. The areas to the north and south are generally agricultural in nature.

NEARBY AND ADJACENT USES

The subject's local area is composed of mostly rural and agricultural uses. The Montezuma Wildlife Recreation Area is located to the east of the subject. Cayuga Lake is located directly south with Seneca Lake to the southwest and Owasco Lake located to the southeast. The Finger Lakes region is noted for its tourism attractions, including the Finger Lakes Wine Trails and the NYS Finger Lakes Cheese Trail.

SPECIAL HAZARDS OR ADVERSE INFLUENCES

We observed no detrimental influences in the local market area, such as landfills, flood areas, noisy or air polluting industrial plants, or chemical factories in the immediate area of the subject. The Seneca Meadows Landfill, a major active landfill site located in Seneca Falls, contains more than 400 acres of land and accepts more than 6,000 tons of garbage per day, from multiple states. This facility is a major producer of methane gas. It is located approximately 3.5 miles south of the subject.

The former Seneca Army Depot occupied 10,587± acres of land between Seneca Lake and Cayuga Lake in Seneca County, New York. It was used as a munitions storage and disposal facility by the United States Army from 1941 until the 1990s. The Depot was listed in the 1995 Base Realignment and Closure Commission and formally shut down in 2000. The property has since been transferred to the Seneca County Industrial Development Agency, which leases it to Seneca County Economic Development Corp.

Home to the world's largest herd of white deer, the base is in the towns of Varick and Romulus. Adjacent to the storage facility is the now closed Seneca Army Airfield, whose runway could handle large cargo aircraft.

During the 1940s, the Army stored radioactive materials in connection with the Manhattan Project in igloos on the south end of the Depot. The depot was a major employer in the region. The 1995 Base Realignment and Closure Commission recommended closure of the depot and it formally shut down on September 30, 2000. Much of the housing at the depot has been sold to private developers for redevelopment. http://en.wikipedia.org/wiki/Seneca_Army_Depot - cite_note-5

Discussions continue regarding the use of the land, much of which is dotted with large, concrete munitions storage bunkers known as igloos. As of 2014 the depot is home to the maximum-security state prison, the Five Points Correctional Facility; the Seneca County Law Enforcement Center, built in 2007, which includes the county jail, and the non-profit, Hillside Children's Correctional Facility. The towns of Varick and Romulus are discussing to bring the property back on the tax rolls by opening it up to residential, commercial and agricultural development with a new east-west road through the property.

ACCESS

Local area accessibility is generally good, relying on the following transportation arteries:

Local:	NYS Route 414 and 14 provide north/south access through the area. Each has an interchange with Interstate Route 90. East/West Roadways include NYS Routes 31, 104, and 5/20. These roadways generally follow/parallel the Thruway.
Regional:	Interstate Route 90/the New York State Thruway is the major east/west arterial through the region. This provides access to Interstate 81 to the east and Interstate 390 to the west. These roadways provide high speed access to all areas of the northeast and Canada.

CONCLUSION

The subject site has a rural location, predominantly associated with the agricultural industry, but is located adjacent to Interstate 90, just to the north of Exit 41. This location provides the subject with good access and visibility. It's location between Syracuse and Rochester, to the north of the Finger Lakes tourism region provide good identity, a varied population base and widely ranging income levels, within the subject proposed trade area, extending 50 miles in each direction.

New York State Gaming Market Analysis

NEW YORK STATE OVERVIEW

There are sixteen proposals for four casino licenses in New York. There is an appointed panel that will make the picks this fall. Despite a struggling casino sector nationally, developers in the Upstate New York region indicate that the market is not currently saturated. The four licenses will go in three regions: the Albany area, Catskills/Hudson Valley and Southern Tier.

The developers of the subject property feel that there is adequate room for additional casinos in New York State. New York Governor Andrew Cuomo has envisioned that casinos will become economic drivers and tourism draws to the approved areas, including markets now underserved.

Atlantic City recently closed four of its 12 casinos. Based on a review of the casino business reports, the Northeast casino market is nearly saturated with 51 casinos, including 11 in Pennsylvania. Three are planned for Massachusetts.

The state's Gaming Facility Location Board is holding numerous hearings near the Capitol to receive one-hour-long presentations on the 16 casino bids from the 15 developers. These include three public hearings: Sept. 22 in Albany, Sept. 23 in Poughkeepsie and Sept. 24 in Ithaca.

Voters last November approved allowing seven privately owned casinos in New York. The state Legislature and Governor Cuomo, though, agreed to give the first four licenses in the three regions north and west of the New York City area and outside the areas dominated by Indian-run casinos in western, northern and central New York. Cuomo and the tribes reached revenue-sharing deals in exchange for the gambling exclusivity. The subject property is located close to territories including casinos operated by the Oneida Nation (Turning Stone), east of Syracuse, and the Seneca Nation (Seneca Niagara) in Buffalo/Niagara Falls. The Seneca Nation operates a casino in Salamanca, in the far west Southern Tier, along Interstate 86.

The subject property is Wilmot's proposal. It is located in the Finger Lakes Region, north of the Southern Tier. There are additional proposal to locate put casinos near Binghamton and at Tioga Downs, currently a racetrack with Racino/video-lottery terminals. Finger Lakes Gaming and Racetrack, a video-lottery facility, is just 30 miles from the subject Town of Tyre/Seneca County location.

Nine proposals are located within the Catskills/Hudson Valley area. A project in Tuxedo, NY is proposed to be located approximately 40 miles from Manhattan.

The general belief is that the region will get two of the four licenses because it can draw from the 23 million people who live in the New York metropolitan area. The casinos in the Albany and Southern Tier areas would largely be regional attractions, luring in people who live within a roughly 50-mile radius.

Several of the original proposals have dropped out, indicating a lack of competitive based with the Orange County casinos that would be closer to New York City. There are two remaining proposals for Sullivan County, along with one for Ulster County. The Sullivan County proposals are both located on the former site of the Concord Hotel.

The state Gaming Commission has stated a concern that no area will have an edge over another one. The commission's acting director Robert Williams said in June that the law is aimed to ensure that high-need areas would be given consideration.

LOCAL CASINO MARKET OVERVIEW

Wilmorite chairman Thomas Wilmot Sr. announced the plan to construct a resort/casino on the subject site in March 2014. He indicated that the project, if approved, would create an estimated 1,800 permanent jobs and 1,200 construction jobs. More than 9,000 people would visit the destination resort daily and the facility would have an estimated 3.3 million visitors each year.

Wilmot indicated that the subject, conveniently located at New York State Thruway Exit 41, would serve both the Rochester and Syracuse markets, as well as the Finger Lakes Region to the south. The intent of this location would be to "promote, feature and sell local products, including New York wines, beers and spirits, and other food and agricultural products."

The property has been designed and would be operated as a destination resort casino. This casino would complement existing tourism businesses and support the growth of the Central New York and Finger Lakes regions. Based on a review of the presentation, it was indicated that a casino development would augment the existing levels of sales tax revenue, and help to reduce county, town and school taxes for tax payers within the region. As previously stated, the number of jobs created during construction and operation will be significant.

Seneca County is located in the Southern Tier gaming region, one of three upstate regions where casinos will be permitted. The Oneida Indian Nation has an exclusive zone, created as a part of a real property tax agreement which includes much of central New York, including all of Cayuga County. Two of the other regions are also home to Native American tribes that have exclusive gaming agreements with the state. The subject property's proposal will face strong competition to build a casino in the Southern Tier region, including three other proposals for casinos in the region, including the Tioga Downs' proposal in Tioga County.

The major competition from casino operations within the Upstate market comes from the existing Native American operations. These include major casinos operated in Salamanca (Seneca Allegany Casino), Buffalo (Seneca Buffalo Creek Casino), Niagara Falls (Seneca Niagara Casino), and in Verona/Utica (Turning Stone Casino).

The application process for casino proposals began early in 2014. The State Gaming Commission appointed a five-member selection panel. This board is reviewing requests for proposals. Applicants have been required to meet certain requirements, which include paying a non-refundable $1,000,000 application fee. It is expected that the state will issue licenses for destination gaming resorts by the end of 2014. This valuation assumes that the required license will be awarded to the subject property.

TRADE AREA ANALYSIS

We considered several factors in defining boundaries for the subject's trade area. First, the property's location with respect to transportation provides the basis for regional access to the area. Second, competition and geographic boundaries help to define the potential size of the trade area as a measure of distance from the property.

The Proposed Wilmorite Casino Project is located between the Syracuse and Rochester CBSAs and is benefited by good regional and local accessibility, as well as the proliferation of peripheral draws. Major roadway proximity to the area provides the necessary access to more regional destinations throughout the area.

We analyzed the subject's trade area based on the following:

- Highway accessibility, including area traffic patterns, geographical constraints, and nodes of residential development;
- The position and nature of the area's commercial structure, including the location of destination properties centers which compete with the subject; and
- The size and composition of the subject proposed development.

Given all of the above, we believe the subject property's primary trade area would likely span an area encompassing about twenty-five miles around the subject. The subject's secondary trade area might span up to fifty miles given its regional accessibility and location of competitive properties.

Using these observations, we analyzed a primary demographic profile for the subject based on a radius of approximately twenty-five miles from the property. To add perspective to this analysis, we segregated our survey into five, twenty-five, and fifty mile concentric circles with a comparison to the county and state. This data is presented on the following page.

DEMOGRAPHIC SUMMARY		5.0-mile Radius	25.0-mile Radius	50.0-mile Radius	Seneca County	State of New York
POPULATION STATISTICS						
2000		17,844	239,403	1,731,006	33,341	18,975,552
2014		17,432	234,723	1,756,642	35,269	19,674,048
2019		17,359	232,923	1,764,050	35,426	20,049,970
Compound Annual Change						
2000 -	2014	-0.17%	-0.14%	0.11%	0.40%	0.26%
2014 -	2019	-0.08%	-0.15%	0.08%	0.09%	0.38%
HOUSEHOLD STATISTICS						
2000		7,037	90,076	672,052	12,630	7,056,389
2014		7,286	92,647	707,512	13,487	7,461,541
2019		7,327	92,825	715,603	13,602	7,632,891
Compound Annual Change						
2000 -	2014	0.25%	0.20%	0.37%	0.47%	0.40%
2014 -	2019	0.11%	0.04%	0.23%	0.17%	0.46%
AVERAGE HOUSEHOLD INCOME						
2000		$44,924	$47,781	$52,856	$45,545	$61,520
2014		$59,618	$65,047	$67,788	$60,262	$81,921
2019		$54,055	$71,419	$75,213	$53,796	$89,957
Compound Annual Change						
2000 -	2014	2.04%	2.23%	1.79%	2.02%	2.07%
2014 -	2019	-1.94%	1.89%	2.10%	-2.24%	1.89%
OCCUPANCY						
Owner Occupied		68.71%	71.81%	65.81%	73.33%	52.88%
Renter Occupied		31.29%	28.19%	34.19%	26.67%	47.12%

SOURCE: Claritas, Inc.

POPULATION

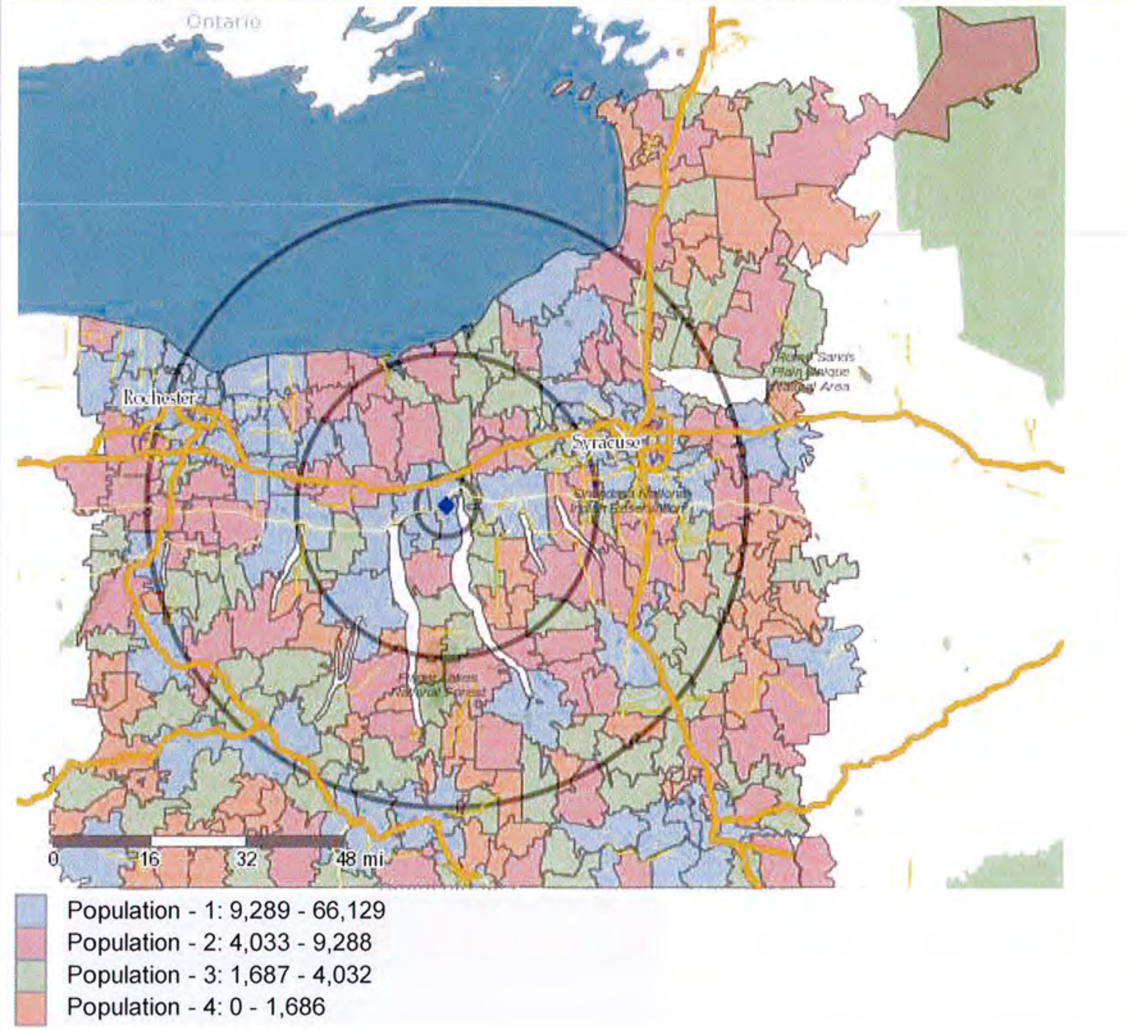
Having established the subject's trade area, our analysis focuses on the trade area's population. Claritas, Inc. provides historical, current and forecasted population estimates for the total trade area. Patterns of development density and migration are reflected in the current levels of population estimates.

Between 2000 and 2014, Claritas, Inc., reports that the population within the primary trade area (25-mile radius) declined at a compound annual rate of -0.14 percent. This is characteristic of rural/suburban areas in this market. This trend is expected to reverse slightly over the near future albeit at a slow pace. Expanding to the total trade area (50-mile radius), population is expected to increase 0.08 percent per annum over the next five years.

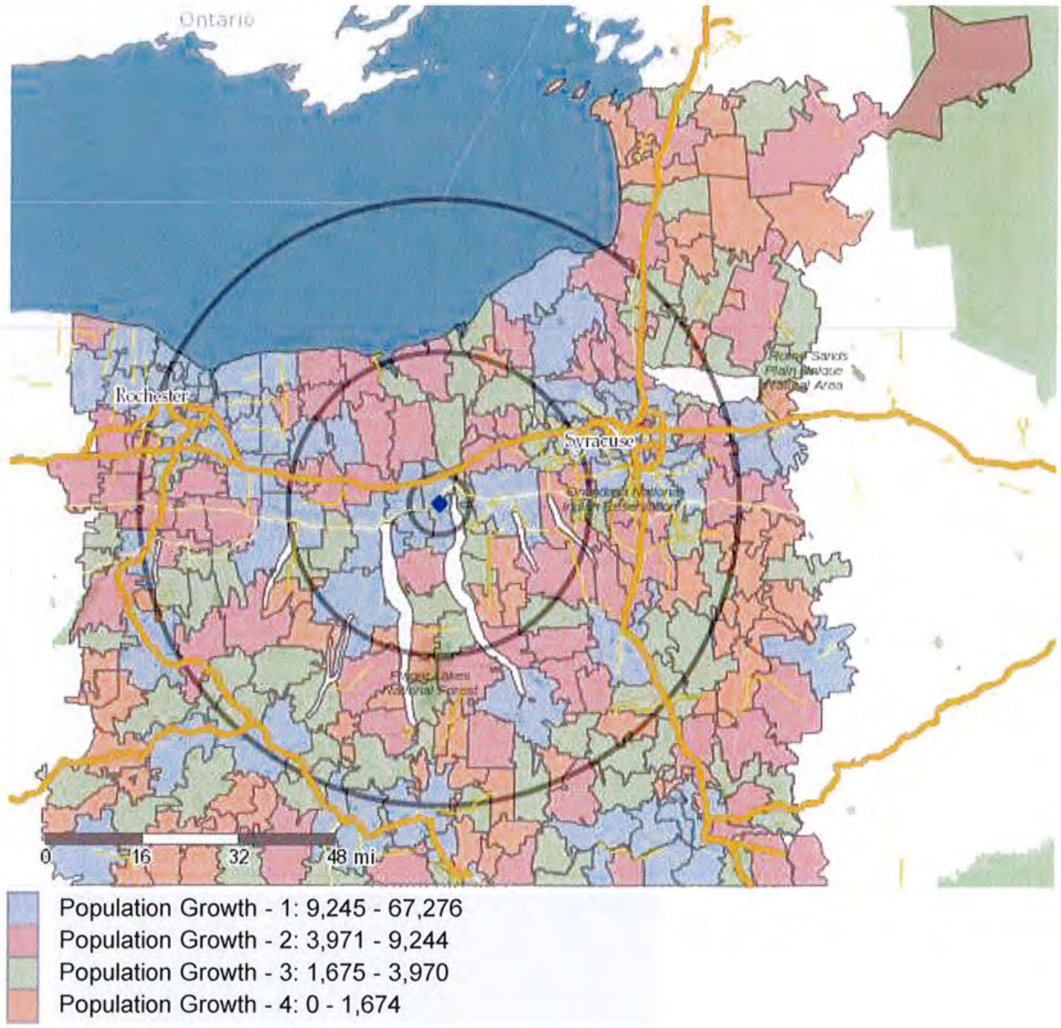
The following page contains a graphic representation of the current population distribution within the subject's region.

The graphic on the second following page illustrates projected population growth within the trade area over the next five years (2014 - 2019). The trade area is clearly characterized by various levels of growth.

CURRENT POPULATION MAP



POPULATION GROWTH MAP



HOUSEHOLDS

A household consists of a person or group of people occupying a single housing unit, and is not necessarily a family unit. When an individual purchases goods and services, these purchases are a reflection of the entire household's needs and decisions, making the household a critical unit to be considered when reviewing market data and forming conclusions about the trade area as it impacts the retail center.

Figures provided by Claritas, Inc. indicate that the number of households are increasing at a faster rate than the growth of the population. Several changes in the way households are being formed have caused this acceleration, specifically:

- The population is living longer on average. This results in an increase of single-and two-person households;
- Higher divorce rates have resulted in an increase in single-person households; and

- Many individuals have postponed marriage, also resulting in more single-person households.

According to Claritas, Inc., the Primary Trade Area grew at a compound annual rate of 0.2 percent between 2000 and 2014. Consistent with national trends the trade area is experiencing household changes at a rate that varies from population changes. That pace is expected to continue through 2019, and is estimated at 0.04 percent.

Correspondingly, a greater number of smaller households with fewer children generally indicates more disposable income. In 2000, there were 2.53 persons per household in the Primary Trade Area and by 2014, this number is estimated to have decreased to 2.40 persons. Through 2019, the average number of persons per household is forecasted to decline to 2.38 persons.

TRADE AREA INCOME

Income levels, either on a per capita, per family or household basis, indicate the economic level of the residents of the trade area and form an important component of this total analysis. Average household income, when combined with the number of households, is a major determinant of an area's retail sales potential.

Trade area income figures for the subject support the profile of a lower to middle income market. According to Claritas, Inc. average household income in the primary trade area in 2014 was approximately $65,047, 107.94 percent of the CBSA average ($60,262) and 79.40 percent of the state average ($81,921).

Further analysis shows a relatively broad-based distribution of income, although skewed toward the lower income brackets similar to the distribution within the larger CBSA. This information is summarized as follows:

DISTRIBUTION OF HOUSEHOLD INCOME

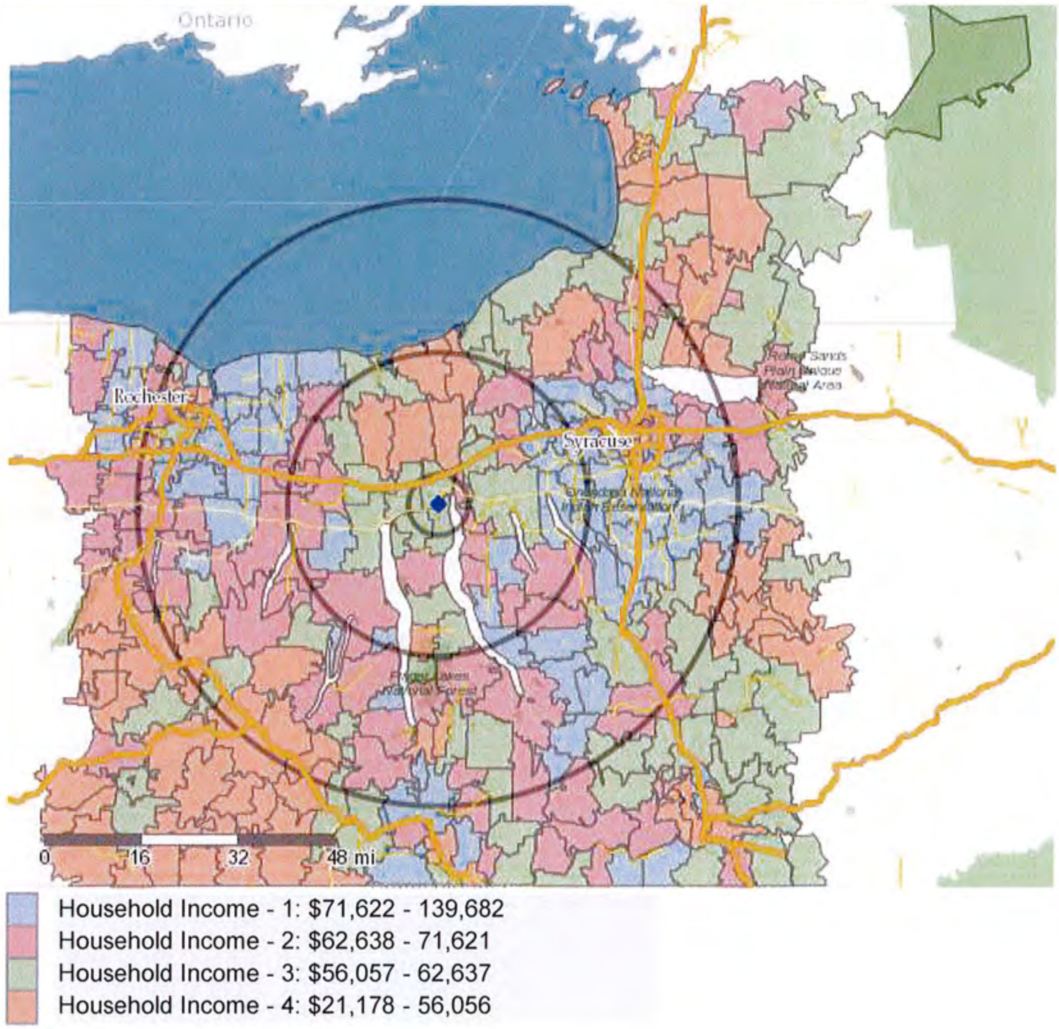
Category	5.0-mile Radius	25.0-mile Radius	50.0-mile Radius	Seneca County	State of New York
$150,000 or more	3.97%	5.67%	7.43%	4.28%	12.63%
$125,000 to $149,999	3.82%	4.11%	4.67%	3.83%	5.40%
$100,000 to $124,999	7.84%	8.51%	7.90%	7.45%	8.43%
$75,000 to $99,999	14.03%	13.87%	12.95%	13.58%	11.90%
$50,000 to $74,999	19.16%	20.01%	18.41%	20.06%	16.73%
$35,000 to $49,999	15.18%	14.84%	13.72%	15.32%	12.04%
$25,000 to $34,999	11.75%	10.51%	10.48%	12.21%	9.16%
$15,000 to $24,999	10.80%	11.79%	11.09%	11.11%	10.24%
Under $15,000	13.45%	10.69%	13.36%	12.17%	13.47%

Source: *Claritas, Inc.*

The previous chart makes it clear that the distribution of higher income level households increases as distance from the subject increases, extending into the major Syracuse and Rochester markets.

On the following page is a graphic presentation of the household income distribution throughout the trade area that clearly shows the area surrounding the subject to be characterized by lower to middle income households. Higher income areas are located in surrounding suburban communities.

HOUSEHOLD INCOME MAP



RETAIL SALES

Perhaps an even more important measure of area income is the amount spent on retail purchases. At the end of last year, Seneca County had an aggregate retail sales level of $0.55 billion, with average retail sales per household of $41,090. By comparison, New York State had average sales per household of $43,726.

RETAIL SALES (in $000)

Area	2014	2019	CAGR 2014-19
Seneca County	$554,175	$527,716	-1.0%
State of New York	$326,260,334	$344,215,219	1.1%

Source: *Claritas, Inc.*

Claritas, Inc. projects retail sales in the County will grow at a pace below that of both the State and nation.

CONCLUSION

We analyzed the retail trade history and profile of the subject's region and primary trade area in order to make reasonable assumptions regarding the continued performance of the property.

A metropolitan and locational overview was presented which highlighted important points about the study area. Demographic and economic data specific to the trade area were also presented. Marketing information relating to these sectors was presented and analyzed in order to determine patterns of change and growth as it impacts Proposed Wilmorite Casino Project. The data quantifies the dimensions of the total trade area, while our comments provide qualitative insight into this market. A compilation of this data forms the basis for our projections and forecasts for the subject property. The following are our key conclusions.

- The subject has good accessibility via the regional Interstate network and local arterials that provide linkages throughout the Central New York market, including Syracuse and Rochester.
- Based on our analysis we concluded that the subject is well positioned within its market area and the prospect for stable real estate values is expected to be good. We are cautiously optimistic as to potential overall growth of the area.
- It is expected that the subject project, if constructed and successful, will add optimism for potential increases in population, income levels, and job growth, resulting in overall positive trends in the real estate market for is area of Seneca County.

Property Analysis

SITE DESCRIPTION

Location:	NYS Route 414 @ Interstate 90 Town of Tyre, Seneca County, New York 13148 The subject property is located on the east side of NYS Route 414, bordering the New York State Thruway (Interstate 90)
Shape:	Irregularly shaped
Topography:	Low Lying/Level
Land Area:	83.40± acres
Frontage:	The subject property has average frontage along NYS Route 414, from which access will be available. The site has significant frontage along the NYS Thruway, with good line-of-site visibility. No direct access to the Thruway land is available, but the site is located to the north of Interchange 41 (Waterloo). The frontage dimensions are listed below:
Access:	The subject property has average access.
Visibility:	The subject property has visibility from the Thruway.
Soil Conditions:	We were not given a soil report to review. However, we assume that the soil's load-bearing capacity is sufficient to support proposed structures. We did not observe any evidence to the contrary during our physical inspection of the property. Drainage appears to be adequate, but several low lying areas were noted.
Utilities:	Utility providers for the subject property, potentially available for development, are as follows:

Frontage dimensions:

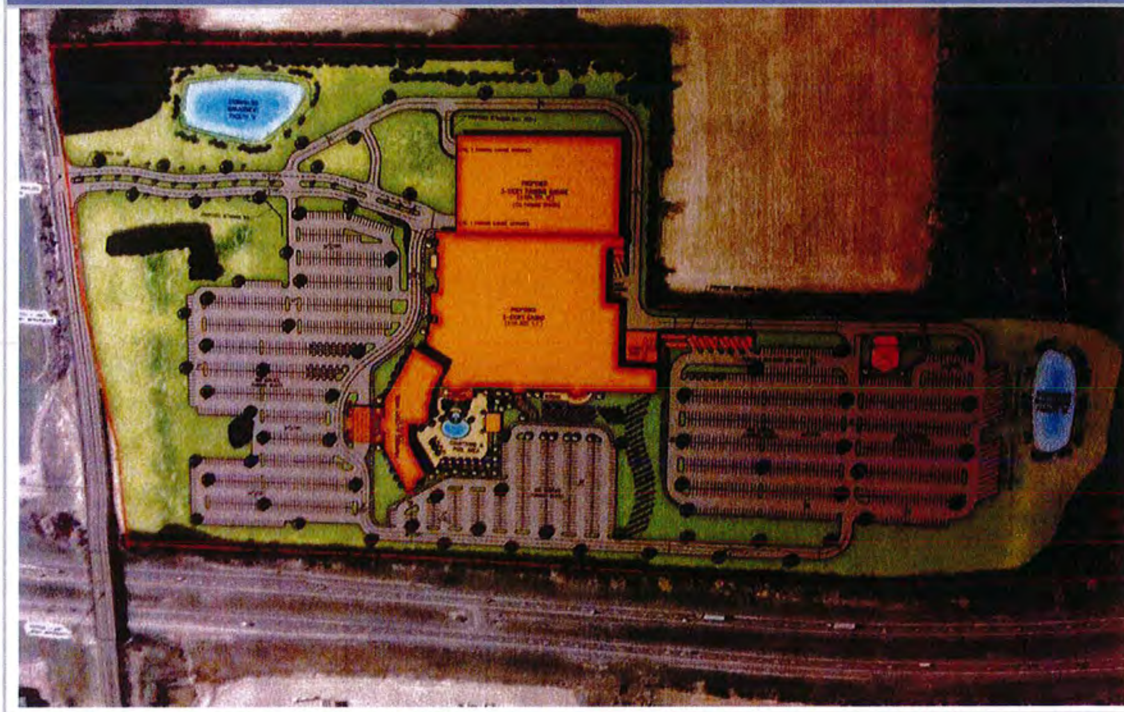
NYS Route 414	1,200 feet
New York State Thruway (No Access)	2,380 feet

Utility providers:

Water	Existing well - Municipal water supply system to be extended to the subject site
Sewer	Out of District user agreement to be approved and municipal water to be extended to the subject site
Electricity	NYSEG
Gas	NYSEG
Telephone	Verizon and others

Site Improvements:	The site improvements will include landscaping, retention ponds, extensive landscaping, asphalt paved parking areas, curbing, signage, site lighting, and other amenities.
Land Use Restrictions:	We were not given a title report to review. We do not know of any easements, encroachments, or restrictions that would adversely affect the site's use. However, we recommend a title search to determine whether any adverse conditions exist.
Flood Zone Description:	The subject property is located in flood zone C (Areas outside of a 100-year flood hazard) as indicated by FEMA Map 361206-0002B, dated August 31, 1979.
Wetlands:	We were not given a wetlands survey to review. If subsequent engineering data reveal the presence of regulated wetlands, it could materially affect property value. We recommend a wetlands survey by a professional engineer with expertise in this field.
Hazardous Substances:	We observed no evidence of toxic or hazardous substances during our inspection of the site. However, we are not trained to perform technical environmental inspections and recommend the hiring of a professional engineer with expertise in this field.
Overall Site Utility:	The subject site is functional for its planned use, as a casino resort, subject to obtaining appropriate licenses and permits.

SUBJECT SITE PLAN



IMPROVEMENTS DESCRIPTION

The following description of improvements is based on our discussions with the subject property owner's representatives and a review of preliminary site plans and design drawings.

GENERAL DESCRIPTION	
Year(s) Built:	2015-2016
Number of Buildings:	5
Number of Stories:	Varies by use (Based on site plan approvals)
Land To Building Ratio:	5.17 to 1
Gross Building Area:	702,605± square feet
CONSTRUCTION DETAIL	
Basic Construction:	Steel, masonry, and pre-cast concrete.
Foundation:	Poured concrete slab on grade
Framing:	Structural steel with masonry and concrete encasement or similar, based on use.
Floors:	Concrete poured over a metal deck or precast concrete
Exterior Walls:	Brick, Dry-Vit, masonry, or specialty finishes
Roof Type:	Flat with parapet walls, unfinished, or gables, depending on use.
Roof Cover:	Built-up assemblies with tar and gravel cover or sealed membrane
Windows:	Thermal windows in aluminum frames
Pedestrian Doors:	Glass, wood and metal
MECHANICAL DETAIL	
Heat Source:	Natural Gas, based on availability/gas to be extended to subject site
Heating System:	Forced air, package units, as appropriate for each component
Cooling:	Central HVAC
Cooling Equipment:	The cooling equipment will generally be by roof top of package units.
Plumbing:	The plumbing system is assumed to be adequate for the existing use and in compliance with local law and building codes. The plumbing system is forecast to be typical of other properties in the area with a combination of PVC, steel, copper and cast iron piping throughout the building.
Electrical Service:	Electricity for the building will be obtained through low voltage power lines. It is anticipated that separate services will be provided to each building component.
Emergency Power:	The property will have back up generators as necessary for continued operation.

Elevator Service:	The building will contain appropriate elevators for the individual building components.
Fire Protection:	We assume that the property will be sprinklered to code.
Security:	Varies by utilization/extensive security and protection is assumed based on intended design and use as a casino operation.

INTERIOR DETAIL

Layout:	The subject site is to be improved with a resort/casino development, subject to being granted a gaming license. The improvements will include a 208± room casino hotel, a spa/fitness center, a 750± space parking garage, a day-care center for employees, and a 150,000± square foot casino/restaurant area. The property is projected to be designed with five components, as described. Final plans have not been supplied. The layout and construction has been discussed with representatives of the town and the developer. It is suggested that final construction be monitored to determine if the final construction varies significantly from that proposed at this time.
Floor Covering:	Carpet, tile, wood, specialty finishes, and sealed concrete, as required for each component
Walls:	Generally dry-wall or equivalent
Ceilings:	Acoustic tile, plaster, unfinished, as required for each component
Lighting:	Generally fluorescent
Restrooms:	The property will feature adequate restrooms for men and women within the various components of the property, as well as specialty facilities and pool within the spa area.

SITE IMPROVEMENTS

Parking:	The property is anticipated to contain approximately 3,451 surface and garage parking spaces, reflecting an overall parking ratio of 4.91 spaces per 1,000 square feet of net rentable area. The garage component is anticipated to contain approximately 750± spaces of the total parking.
Onsite Landscaping:	The site is currently farmland. It will be landscaped with an extensive variety of trees, shrubbery, plantings and grass areas.
Other:	The site improvements will include landscaping, retention ponds, extensive landscaping, asphalt paved parking areas, curbing, signage, site lighting, and other amenities.

PERSONAL PROPERTY

Personal property, furniture, fixtures, business equipment, machinery and gaming controls, as well as any anticipated Business Enterprise Value has specifically been excluded from our valuation. The intended use of this valuation is for assistance to the Town of Tyre in forecasting a probable/supportable assessment for the subject property, for planning purposes. Therefore, only those components of the property, subject to any depreciation/obsolescence, are included, under RPTL principals.

SUMMARY

Condition:	New
Quality:	Generally Good
Actual Age:	New Construction
Effective Age:	0 years (New Construction)
Expected Economic Life:	40 years (weighted average)
Remaining Economic Life:	40 years (weighted average)

PHYSICAL DETERIORATION

Cost to Cure: Curable physical deterioration refers to those items that are economically feasible to cure as of the effective date of the appraisal. One category of physical deterioration is deferred maintenance and is measured as the cost repairing or restoring the item to new or reasonably new condition. We anticipate no curable physical deterioration within the completed improvements.

FUNCTIONAL OBSOLESCENCE

Description: There is no apparent functional obsolescence forecast to be present at the subject property. It will be a well designed resort casino operation with extensive amenities and support facilities. Based on the information provided, no obsolescence, based on excess construction costs due to quality is anticipated. However, it is suggested that final construction be monitored for appropriate construction design, quality, and costs.

EXTERNAL/ECONOMIC OBSOLESCENCE

Description:

The subject property is to be designed, completed, and operated as a resort casino. This use requires the granting of a gaming license by the State of New York. Although we have assumed the granting of this license in our valuation of the property, for assessment purposes, we have also reviewed the risk of continued operation. Currently, there are four gaming licenses to be granted by the State of New York. We have assumed that the subject will be issued one of these licenses.

The licenses, however, are to be for a ten year operation period, with no guaranteed renewal. Thus, in the event the license is not renewed at the expiration of the ten year term, the major demand generator, the casino component of the property, would be eliminated, significantly deteriorating the operation and feasibility of the project.

Therefore, we have included an allowance for the external (economic) obsolescence associated with this limited license period in our valuation utilizing the Cost Approach, for assessment purposes. We have estimated the obsolescence associated with this condition at 25 percent, representing the ratio of the ten year license period as a proportion of the anticipated blended economic life of the proposed improvements of 40± years.

REAL PROPERTY TAXES AND ASSESSMENTS

CURRENT PROPERTY TAXES

The subject property is located in the taxing jurisdiction of the Town of Tyre. The property is currently assessed as vacant land. The assessment and taxes for the property are presented below:

PROPERTY ASSESSMENT INFORMATION	
Assessor's Parcel Number:	012-01-36
Assessing Authority:	Town of Tyre
Current Tax Year:	2014/2015
Equalization Rate:	99 percent

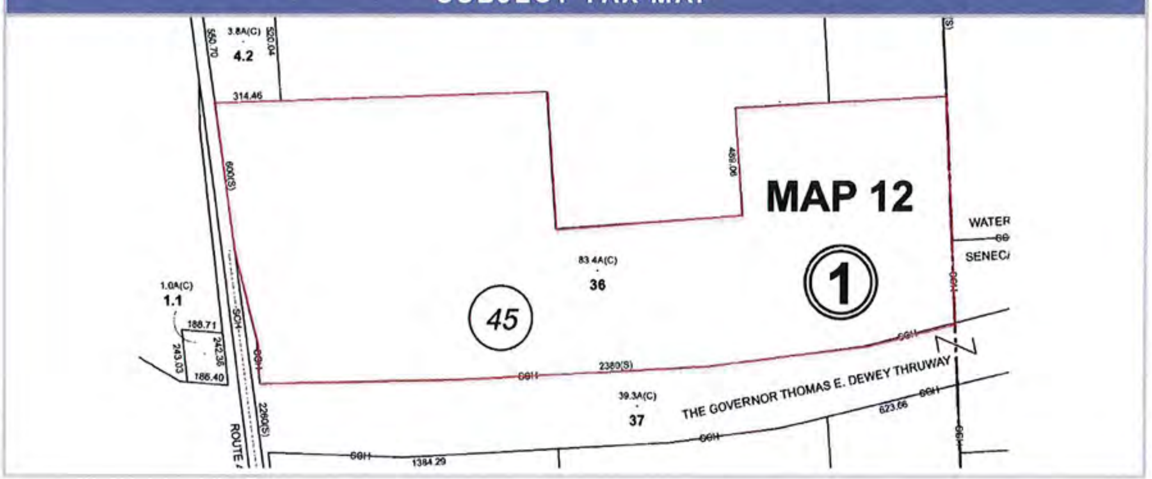
ASSESSMENT INFORMATION	
Assessed Value	**Totals**
Land:	$118,500
Improvements:	0
Total:	$118,500
Taxable Assessment:	$118,500
Assessor's Implied Market Value	$119,697
TAX LIABILITY	
Total Property Taxes	**$4,301**

Compiled by Cushman & Wakefield, Inc.

REAL PROPERTY TAX CONCLUSION

The subject property is to be re-assessed upon completion of the proposed construction. We have estimated the property's value for assessment purposes, within the valuation section of this report. The estimated value, for assessment purposes, includes those items of real property which would be appropriate based on our interpretation of the NYS Real Property Tax Law (RPTL), and does not include personal property, gaming equipment, any potential Business Enterprise Value, or other non-assessable components of the property.

SUBJECT TAX MAP



ZONING

GENERAL INFORMATION

The property has been recently re-zoned Planned Unit Development by the Town of Tyre. A summary of the subject's zoning is provided below:

ZONING	
Municipality Governing Zoning:	Town of Tyre
Current Zoning:	Planned Unit Development
Proposed Use:	Casino and Resort
Is proposed use permitted:	Yes

Compiled by Cushman & Wakefield, Inc.

ZONING COMPLIANCE

Property value is affected by whether or not an existing or proposed improvement complies with zoning regulations, as discussed below.

Complying Uses

An existing or proposed use that complies with zoning regulations implies that there is no legal risk and that the existing improvements could be replaced "as-of-right."

Pre-Existing, Non-Complying Uses

In many areas, existing buildings pre-date the current zoning regulations. When this is the case, it is possible for an existing building that represents a non-complying use to still be considered a legal use of the property. Whether or not the rights of continued use of the building exist depends on local laws. Local laws will also determine if the existing building may be replicated in the event of loss or damage.

Non-Complying Uses

A proposed non-complying use to an existing building might remain legal via variance or special use permit. When appraising a property that has such a non-complying use, it is important to understand the local laws governing this use.

OTHER RESTRICTIONS

We know of no deed restrictions, private or public, that further limit the subject property's use. The research required to determine whether or not such restrictions exist is beyond the scope of this appraisal assignment. Deed restrictions are a legal matter and only a title examination by an attorney or title company can usually uncover such restrictive covenants. We recommend a title examination to determine if any such restrictions exist.

ZONING CONCLUSIONS

We analyzed the zoning requirements in relation to the subject property, and considered the compliance of the proposed use. We are not experts in the interpretation of complex zoning ordinances but based on our review of public information, it appears that the subject property will be a complying use.

Detailed zoning studies are typically performed by a zoning or land use expert, including attorneys, land use planners, or architects. The depth of our study correlates directly with the scope of this assignment, and it considers all pertinent issues that have been discovered through our due diligence.

We note that this appraisal is not intended to be a detailed determination of compliance, as that determination is beyond the scope of this real estate appraisal assignment.

Valuation

HIGHEST AND BEST USE

HIGHEST AND BEST USE DEFINITION

The Dictionary of Real Estate Appraisal, Fifth Edition (2010), a publication of the Appraisal Institute, defines the highest and best use as:

> The most probable use of a property which is physically possible, appropriately justified, legally permissible, financially feasible, and which results in the highest value of the property being valued.

To determine the highest and best use we typically evaluate the subject site under two scenarios: as though vacant land and as presently improved. In both cases, the property's highest and best use must meet the four criteria described above.

HIGHEST AND BEST USE OF SITE AS VACANT

Legally Permissible

The zoning regulations in effect at the time of the appraisal determine the legal permissibility of a potential use of the subject site. As described in the Zoning section, the subject site is has recently been re-zoned Planned Unit Development by the Town of Tyre.

Physically Possible

The physical possibility of a use is dictated by the size, shape, topography, availability of utilities, and any other physical aspects of the site. The subject site contains 83.40± acres. The site is irregularly shaped and low lying/level. It has average frontage, average access, and good visibility. Overall, the site is considered adequate to accommodate most permitted development possibilities.

Financially Feasible and Maximally Productive

Of the uses that are permitted, possible, and financially feasible, the one that will result in the maximum value for the property is considered the highest and best use.

CONCLUSION

We considered the legal issues related to zoning and legal restrictions. We also analyzed the physical characteristics of the site to determine what legal uses would be possible, and considered the financial feasibility of these uses to determine the use that is maximally productive. Considering the subject site's physical characteristics and location, as well as the state of the local market, it is our opinion that the Highest and Best Use of the subject site as though vacant is for development with an interchange related commercial use, maximizing the site's thruway exposure, size, frontage, and topography. The proposed Resort/Casino configuration will represent a highest and best use of the subject site, as vacant.

HIGHEST AND BEST USE OF PROPERTY AS TO BE IMPROVED

The Dictionary of Real Estate Appraisal defines highest and best use of the property as improved as:

> The use that should be made of a property as it exists. An existing improvement should be renovated or retained as is so long as it continues to contribute to the total market value of the property, or until the return from a new improvement would more than offset the cost of demolishing the existing building and constructing a new one.

In analyzing the Highest and Best Use of a property as improved, it is recognized that the improvements should continue to be used until it is financially advantageous to alter physical elements of the structure or to demolish it and build a new one.

Legally Permissible

As described in the Zoning Analysis section of this report, the subject site has recently been re-zoned Planned Unit Development. The site will be improved with a resort-casino containing 702,605 square feet of gross building area. We also determined that the proposed use will be a permitted use in this zone.

Physically Possible

The subject improvements will be constructed in 2015-2016 subject to obtaining the necessary licenses and permits. We know of no current or pending municipal actions or covenants that would require a change to the proposed improvements, subject to licensure.

Financially Feasible and Maximally Productive

In our opinion, the proposed improvements will contribute significantly to the value of the site.

CONCLUSION

It is our opinion that the proposed improvements will add significant value to the site as though vacant, dictating a continuation of that proposed use. It is our opinion that the Highest and Best Use of the subject property as to be improved and configured, as a casino/resort, will be for use as planned. The utilization of the property, subject to granting of the required gaming license and completion of the improvements, will represent a highest and best use of the property, as to be improved.

VALUATION PROCESS

METHODOLOGY

There are three generally accepted approaches to developing an opinion of value: Cost, Sales Comparison and Income Capitalization. We considered each in this appraisal to develop an opinion of the market value of the subject property. In appraisal practice, an approach to value is included or eliminated based on its applicability to the property type being valued and the quality of information available. The reliability of each approach depends on the availability and comparability of market data as well as the motivation and thinking of purchasers.

The valuation process is concluded by analyzing each approach to value used in the appraisal. When more than one approach is used, each approach is judged based on its applicability, reliability, and the quantity and quality of its data. A final value opinion is chosen that either corresponds to one of the approaches to value, or is a correlation of all the approaches used in the appraisal.

We considered each approach in developing our opinion of the market value of the subject property. We discuss each approach below and conclude with a summary of their applicability to the subject property.

Cost Approach

The Cost Approach is based on the proposition that an informed purchaser would pay no more for the subject than the cost to produce a substitute property with equivalent utility. This approach is particularly applicable when the property being appraised involves relatively new improvements which represent the Highest and Best Use of the land; or when relatively unique or specialized improvements are located on the site for which there are few improved sales or leases of comparable properties.

In the Cost Approach, the appraiser forms an opinion of the cost of all improvements, depreciating them to reflect any value loss from physical, functional and external causes. Land value, entrepreneurial profit and depreciated improvement costs are then added, resulting in an opinion of value for the subject property. This is the primary valuation model for a specialty property such as the subject, when valued for assessment purposes.

Sales Comparison Approach

In the Sales Comparison Approach, sales of comparable properties are adjusted for differences to estimate a value for the subject property. We researched the market and found no similar casino sales which did not include significant personal property and Business Enterprise Value (BEV). Sales of casinos which were closed or distressed were not considered for our analysis. We did note, however, a significant variance in selling prices between operating casinos and distressed/closed sales, based on the high level of BEV associated with the operating entities.

Income Capitalization Approach

In the Income Capitalization Approach the income-producing capacity of a property is estimated by using contract rents on existing leases and by estimating market rent from rental activity at competing properties for the vacant space. Deductions are then made for vacancy and collection loss and operating expenses. The resulting net operating income is divided by an overall capitalization rate to derive an opinion of value for the subject property. The capitalization rate represents the relationship between net operating income and value. This method is referred to as Direct Capitalization.

We found no rentals of casino/resort facilities similar to the subject. We did not consider utilizing total operating income/EBITA as a valuation method, since that analysis would yield a going concern value, not appropriate for the intended use of this report, to provide guidance as to an appropriate level of real property assessment.

SUMMARY

This appraisal employs only the Cost Approach. Based on our analysis and knowledge of the subject property type and relevant investor profiles, it is our opinion that this approach would be considered necessary and applicable for market participants. Because the subject property is a specialized land use, comparable sales are extremely rare and do not generally reflect true market transactions of real property, but are most generally sales of going concerns or distressed real property. Additionally, the subject land use is not typically marketed, purchased or sold on the basis of anticipated lease-revenue. Therefore, we have not employed the Sales Comparison Approach or the Income Capitalization Approach to develop an opinion of market value for assessment purposes. The absence of these approaches does not diminish the reliability of the analysis.

THE COST APPROACH

LAND VALUATION

The subject site is currently farmland, but will be redeveloped for use as a Casino/Resort, as described. The land value, based on land indices within the Town of Tyre, will be established for assessment purposes by the Town Assessor. We have imputed a land value, for use in the Cost Approach, at $20,000 per acre, or **$1,650,000**, based on the forecasts made by the Assessor. We have not provided, as a part of this assignment, an indicated market value for the underlying site.

COST APPROACH

METHODOLOGY

The Cost Approach is based on the proposition that an informed purchaser would pay no more for the subject than the cost to produce a substitute property with equivalent utility. The steps in this approach have been outlined in the Valuation Process section of this report. We previously discussed the land value component, which is based on the Assessor's forecast of the land value (for assessment purposes) of $1,650,000.

REPLACEMENT COST NEW

The Marshall Valuation Service is used to estimate the replacement cost of the subject buildings. These costs include labor, materials, supervision, contractor's profit and overhead, architect's plans and specifications, sales taxes and insurance. Base costs are provided by the Marshall and Swift (M&S) Square Foot Commercial Methodology. These costs are refined, if applicable, for differences in heating/cooling costs, and the presence of sprinklers and elevators. The refined base costs are then further adjusted, if applicable, to account for building height, interior wall height, building perimeter, current costs, location variations, and prospective value multipliers. Beyond the base building costs, specialty components or site improvements are provided by the segregated cost sections of the M&S Commercial Cost Explorer. These estimates are based on the preliminary areas, construction quality, design, and quality levels provided by the developer. In the event that the final project is different than that presented, the levels of cost may differ significantly.

Our estimates of Replacement Cost New (RCN), Indirect Costs, Entrepreneurial Profit, and Depreciation for the subject property are summarized on the following pages.

Indirect Costs

Indirect costs (soft costs) not included in our Base Costs are developer overhead, property taxes, permanent loan fees, legal costs, developer fees, contingencies, and lease-up and marketing costs.

An average property in the subject market requires an allowance for indirect costs of between 1.0 and 5.0 percent of Base Costs. We chose to use 3.0 percent for the Building Improvements (Structures) and 3.0 percent for the Site Improvements in our analysis.

Entrepreneurial Profit

Typically, an allowance for entrepreneurial profit would be added when preparing the cost approach. This allowance provides a prospective developer with the incentive to develop a property, especially one of a speculative nature.

Based on our discussions with developers in the local market, this figure tends to range between 10 and 15 percent of Base Building, Site Improvement and Other Indirect Costs. We chose to use 10.0 percent in our analysis.

DEPRECIATION

There are several methods for capturing the loss in value attributable to depreciation: The market extraction method, the age-life method, and the breakdown method. Our Cost Approach utilizes the fundamental components of the age-life method. In some situations, the impact of certain items of depreciation on value is known or is easily estimated. In the most common variation of the age-life method the cost to cure certain curable items (physical and functional) is known and can be deducted before the age-life ratio is applied; a process that mirrors what typical purchasers consider as part of the investment decision. Once processed, incurable items (physical and functional) can be estimated via the age-life ratio. In situations where External Obsolescence is present it, too, can be analyzed either as a residual to the market value conclusion or via an estimate of capitalized rent loss attributable to the external condition.

Physical Deterioration

The *Marshall & Swift CCE* defines physical deterioration as:

> The wearing out of the improvement through the combination of wear and tear of use, the effects of the aging process and physical decay, action of the elements, structural defects, etc. It is typically divided into two types, curable and incurable, which may be individually estimated by the component breakdown method using some type of age/life approach. Physical deterioration may be further categorized as deferred maintenance, generally requiring immediate attention and treated separately based on the items' cost to repair.

Curable physical deterioration is generally associated with individual short-lived items such as paint, floor and roof covers, hot-water heaters, etc., requiring periodic replacement or renewal, or modification continuously over the normal life span of the improvement. Our calculation of Physical Curable Deterioration is based upon the new construction of the subject property improvements, and the assumption that the new construction will have no curable physical deterioration present.

Incurable physical deterioration is generally associated with the residual group of long-lived items such as floor and roof structures, mechanical supply systems and foundations. Such basic structural items are not normally replaced in a typical maintenance program and are usually incurable except through major reconstruction. Physical Incurable Obsolescence will also be based on the new construction condition, with no Physical Incurable Obsolescence considered.

Functional Obsolescence

According to the *Appraisal Institute*, functional obsolescence can be caused by changes in market conditions that have made some aspect of a structure, material or design obsolete by current market standards. Functional obsolescence may also be curable or incurable.

To be curable, the cost to correct the deficiency must be equal to or less than the anticipated increase in value. There are three subcategories of curable functional obsolescence: (1) deficiency requiring addition, (2) deficiency requiring substitution and (3) superadequacy. A deficiency requiring addition is measured by how much the cost of the addition exceeds the cost of the item if it were installed new during construction. A deficiency requiring substitution is measured as the cost of the existing component less physical deterioration already charged against the component and salvage value, plus the cost to remove the existing component and the added cost of installation. A superadequacy is measured as the current reproduction cost of the item minus any physical deterioration already charged plus the cost of removal, less the salvage value. A superadequacy is curable if correcting it on the date of the appraisal is economically feasible.

The subject improvements will be constructed using modern materials and techniques. Furthermore, the design and layout of the property is assumed to be consistent with current market standards. We have made no allowance for functional curable obsolescence. For the same reason, we have made no allowance for Functional Incurable Obsolescence.

External Obsolescence

External obsolescence is the adverse effect on value resulting from influences outside the property. External obsolescence may be the result of lagging rental rates, high inflation, excessive construction costs, access to highways, the lack of an adequate labor force, changing land use patterns and market conditions, or proximity to an objectionable use or condition.

The subject property is to be designed, completed, and operated as a resort casino. This use requires the granting of a gaming license by the State of New York. Although we have assumed the granting of this license in our valuation of the property, for assessment purposes, we have also reviewed the risk of continued operation. Currently, there are four gaming licenses to be granted by the State of New York. We have assumed that the subject will be issued one of these licenses. The licenses, however, are to be for a ten year operation period, with no guaranteed renewal. Thus, in the event the license is not renewed at the expiration of the ten year term, the major demand generator, the casino component of the property, would be eliminated, significantly deteriorating the operation and feasibility of the project.

Therefore, we have included an allowance for the external (economic) obsolescence associated with this limited license period in our valuation utilizing the Cost Approach, for assessment purposes. We have estimated the obsolescence associated with this condition at 25 percent, representing the ratio of the ten year license period as a proportion of the anticipated weighted average of the economic lives of the various components comprising the resort. This blended economic life of the proposed improvements is estimated at 40± years.

Based on a review of the location of the subject as well as local market conditions, external obsolescence is estimated at 25.0 percent.

REPLACEMENT COST NEW (STRUCTURES)

A breakdown of each building component is presented below. A separate analysis of each component allows for a consideration of the unique cost differences of each component. The following table summarizes the replacement cost new of the building improvements (structures).

COST APPROACH SUMMARY

		IMPROVEMENTS (STRUCTURES)				
DESCRIPTION		Parking Garage	Hotel	Casino	Day Care Center	Pool/Recreation
Marshall & Swift - Improvement Type		Parking Structure	Full Service Hotel	Casino	Day Care/Educational	Health Club/Spa
Construction Class		B	C	C	C	C
Quality of Construction		Low Cost	Very Good	Very Good	Good	Good
Marshall & Swift - Section		Section 14	Section 11	Section 16	Section 18	Section 11
Marshall & Swift - Page		Page 34	Page 25	Page 17	Page 13	Page 31
Date		Feb-14	Nov-12	Aug-13	Feb-13	Nov-12
Number of Stories		4	6	2	1	1
Base SF Cost		$39.17	$161.55	$207.18	$147.09	$150.07
		SQUARE FOOT REFINEMENTS				
HVAC Refinements		$0.00	$2.00	$3.00	$2.00	$5.00
Sprinklers		$3.75	$4.00	$4.00	$4.00	$4.00
Elevators		$0.00	$0.00	$0.00	$0.00	$0.00
Adjusted Base Cost		$42.92	$167.55	$214.18	$153.09	$159.07
		HEIGHT AND SIZE REFINEMENTS				
Number of Stories		1.000	1.015	1.000	1.000	1.000
Height Per Story		1.000	1.000	1.000	1.000	1.000
Perimeter		1.000	1.000	0.900	0.900	0.890
Adjusted Base Cost		$42.92	$170.06	$192.76	$137.78	$141.57
		FINAL CALCULATIONS				
Current Cost Multiplier		1.020	1.070	1.060	1.070	1.070
Local Area Multiplier		1.130	1.120	1.120	1.120	1.120
Prospective Multiplier		1.000	1.000	1.000	1.000	1.000
Adjusted SF Cost		$49.47	$203.80	$228.85	$165.12	$169.66
TIMES: SF for Replacement Cost Purposes		312,019	195,148	150,938	4,500	40,000
Adjusted Cost		**$15,435,453**	**$39,771,904**	**$34,541,715**	**$743,025**	**$6,786,410**
PLUS: Indirect Costs	3.0%	$463,064	$1,193,157	$1,036,251	$22,291	$203,592
Adjusted Cost		$15,898,516	$40,965,061	$35,577,967	$765,316	$6,990,002
PLUS: Entrepreneurial Profit (Structures)	10.0%	$1,589,852	$4,096,506	$3,557,797	$76,532	$699,000
Replacement Cost New (RCN)		**$17,488,368**	**$45,061,567**	**$39,135,764**	**$841,848**	**$7,689,002**
		REPLACEMENT COST SUMMARY (STRUCTURES)				
Total Adjusted Costs						**$110,216,548**
PLUS: Total Indirect Costs						$2,918,355
PLUS: Total Entrepreneurial Profit (Structures)						$10,019,686
Total RCN						**$123,154,590**
Total GBA (SF)	702,605					
PSF of GBA						$175.28

Total includes all component / building costs as detailed above

DEPRECIATION (STRUCTURES)

As previously discussed, our analysis of depreciation reflects physical and functional curable prior to consideration of physical and functional incurable items, which are treated as components of the modified age-life method. If applicable, economic obsolescence is independently estimated and deducted. To allow for any variances in the age/condition of individual building components, a separate depreciation analysis was applied to each. The following table summarizes the depreciated value of improvements (structures).

COST APPROACH SUMMARY						
DEPRECIATION ANALYSIS (STRUCTURES)						
DESCRIPTION		Parking Garage	Hotel	Casino	Day Care Center	Pool/Recreation
RCN		$17,488,368	$45,061,567	$39,135,764	$841,848	$7,689,002
LESS: Physical Curable		$0	$0	$0	$0	$0
LESS: Functional Curable		$0	$0	$0	$0	$0
Adjusted RCN		$17,488,368	$45,061,567	$39,135,764	$841,848	$7,689,002
Age/Life Analysis						
Year Built		2015-2016	2015-2016	2015-2016	2015-2016	2015-2016
Actual Age (Years)		0	0	0	0	0
Economic Life (Years)		35	45	45	40	35
Effective Age (Years)		0	0	0	0	0
Remaining Economic Life (Years)		35	45	45	40	35
Percent Depreciated		0.00%	0.00%	0.00%	0.00%	0.00%
Age/Life Depreciation (% of Adjusted RCN)		$0	$0	$0	$0	$0
Adjusted RCN		$17,488,368	$45,061,567	$39,135,764	$841,848	$7,689,002
LESS: Age/Life Depreciation		$0	$0	$0	$0	$0
Adjusted RCN		$17,488,368	$45,061,567	$39,135,764	$841,848	$7,689,002
LESS: Functional Incurable		$0	$0	$0	$0	$0
Adjusted RCN		$17,488,368	$45,061,567	$39,135,764	$841,848	$7,689,002
LESS: Economic Obsolescence (External)	25.0%	($4,372,092)	($11,265,392)	($9,783,941)	($210,462)	($1,922,251)
Depreciated RCN		**$13,116,276**	**$33,796,175**	**$29,351,823**	**$631,386**	**$5,766,752**
Depreciation Subtotal		($4,372,092)	($11,265,392)	($9,783,941)	($210,462)	($1,922,251)
DEPRECIATION SUMMARY (STRUCTURES)						
Total RCN						**$123,154,590**
LESS: Total Depreciation - Physical Curable						$0
LESS: Total Depreciation - Functional Curable						$0
LESS: Total Depreciation - Age/Life						$0
LESS: Total Depreciation - Functional Incurable						$0
LESS: Total Depreciation - Economic Obsolescence (External)						($27,554,137)
Total Depreciated Value of Improvements						**$95,600,453**
Total Depreciated Value PSF of GBA						$136.07
Total includes all component / building costs as detailed above						

REPLACEMENT COST NEW (SITE IMPROVEMENTS)

Because site improvements can vary significantly and have a shorter typical age/life than the building components, a separate analysis was conducted. Site improvement costs include landscaping, asphalt paving, walkways, etc. We note that the subject site improvements will be significant, as a percentage of total cost, based on the existing soil conditions, requirements for detention and drainage ponds, as well as cutting and filling the site for development. The following table presents a detail of the replacement cost new of site improvements.

SITE IMPROVEMENTS - REPLACEMENT COST NEW								
Item	**Unit Type**	**Area (Units)**	**Cost Per Unit**	**Cost New**	**Indirect 3.0%**	**Adjusted Cost**	**Profit 10.0%**	**Replacement Cost New**
Site Improvements	SF	2,611,639	$2.00	$5,223,278	$156,698	$5,379,976	$537,998	$5,917,974
Paving	SF	401,726	$5.00	$2,008,630	$60,259	$2,068,889	$206,889	$2,275,778
Landscaping	SF	59,626	$4.00	$238,504	$7,155	$245,659	$24,566	$270,225
Other Site Improvements	SF	1,000,000	$8.00	$8,000,000	$240,000	$8,240,000	$824,000	$9,064,000
Off-Site Improvements	SF	1,000,000	$7.00	$7,000,000	$210,000	$7,210,000	$721,000	$7,931,000
Totals				$22,470,412	$674,112	$23,144,524	$2,314,452	**$25,458,977**

DEPRECIATION (SITE IMPROVEMENTS)

The following table presents a detail of the depreciated value of site improvements.

SITE IMPROVEMENTS - DEPRECIATION

Item	Physical Curable	Functional Curable	Adjusted Total	Economic Life	Effective Age	Depreciation %	Age/Life Depreciation	Adjusted Total	Economic Obsolescence 25.0%	Depreciated Cost
Site Improvements	$0	$0	$5,917,974	15	0	0.00%	$0	$5,917,974	($1,479,493)	$4,438,480
Paving	$0	$0	$2,275,778	15	0	0.00%	$0	$2,275,778	($568,944)	$1,706,833
Landscaping	$0	$0	$270,225	15	0	0.00%	$0	$270,225	($67,556)	$202,669
Other Site Improvements	$0	$0	$9,064,000	15	0	0.00%	$0	$9,064,000	($2,266,000)	$6,798,000
Off-Site Improvements	$0	$0	$7,931,000	15	0	0.00%	$0	$7,931,000	($1,982,750)	$5,948,250
Totals	$0	$0	25,458,977				$0	$25,458,977	($6,364,744)	**$19,094,233**

SUMMARY (SITE IMPROVEMENTS)

The following table provides a summary of the depreciated value of the site improvements.

SITE IMPROVEMENTS

Cost New (Site Improvements)			$22,470,412
PLUS: Indirect Costs	3.0%	of Hard Costs	$674,112
Adjusted Cost			$23,144,524
PLUS: Entrepreneurial Profit	10.0%	of Adjusted Costs	$2,314,452
RCN (Site Improvements)			**$25,458,977**
		DEPRECIATION ANALYSIS (SITE IMPROVEMENTS)	
RCN (Site Improvements)			**$25,458,977**
LESS: Physical Curable			$0
LESS: Functional Curable			$0
Adjusted RCN (Site)			$25,458,977
LESS: Age/Life Depreciation			$0
Adjusted RCN (Site)			$25,458,977
LESS: Economic Obsolescence (External)		25.0%	($6,364,744)
Total Depreciated Value of Site Improvements			**$19,094,233**
Site Area SF (Primary Site)		3,632,904	
Conclusion PSF of Land Area (Primary Site)			**$5.26**

CONCLUSION

As a culmination to the Cost Approach, we reiterate the conclusions from each portion of this analysis. Please refer to the following table for our Cost Approach summary.

COST APPROACH VALUE SUMMARY		
MARKET VALUE TYPE		**Market Value As-Is**
COST SOURCE		Marshall & Swift (Commercial Cost Explorer)
IMPROVEMENTS (Structures)		
Adjusted Costs		**$96,535,482**
PLUS: Indirect Costs		$2,918,355
PLUS: Entrepreneurial Profit		$10,019,686
LESS: Total Depreciation		($27,554,137)
TOTAL DEPRECIATED VALUE OF IMPROVEMENTS (Structures)		**$81,919,386**
IMPROVEMENTS (Site)		
Cost New		**$22,470,412**
PLUS: Indirect Costs		$674,112
PLUS: Entrepreneurial Profit		$2,314,452
LESS: Total Depreciation		($6,364,744)
TOTAL DEPRECIATED VALUE OF IMPROVEMENTS (Site)		**$19,094,233**
SUMMARY (ALL IMPROVEMENTS)		
Adjusted Costs/Cost New		$119,005,894
PLUS: Total Indirect Costs		$3,592,468
PLUS: Total Entrepreneurial Profit		$12,334,139
TOTAL REPLACEMENT COST NEW		**$134,932,500**
LESS: Total Depreciation		($33,918,881)
TOTAL DEPRECIATED VALUE OF IMPROVEMENTS		**$101,013,619**
Depreciated Value PSF of GBA		$143.77
TOTAL DEPRECIATED VALUE OF IMPROVEMENTS		
PLUS: Land Value (Primary Site)		$1,650,000
INDICATED VALUE BY THE COST APPROACH		**$102,663,619**
Rounded to the Nearest	**$100,000**	**$102,700,000**
TOTAL GBA (SF)	702,605	
Conclusion PSF of GBA		**$146.17**
Conclusion PSF of All Structures		**$147.11**

RECONCILIATION AND FINAL VALUE OPINION

VALUATION METHODOLOGY REVIEW AND RECONCILIATION

This appraisal employs only the Cost Approach. Based on our analysis and knowledge of the subject property type and relevant investor profiles, it is our opinion that this approach would be considered necessary and applicable for market participants. Because the subject property is a specialized land use, comparable sales are extremely rare and do not generally reflect true market transactions of real property, but are most generally sales of going concerns or distressed real property. Additionally, the subject land use is not typically marketed, purchased or sold on the basis of anticipated lease-revenue. Therefore, we have not employed the Sales Comparison Approach or the Income Capitalization Approach to develop an opinion of market value for assessment purposes. The absence of these approaches does not diminish the reliability of the analysis. The approach indicated the following:

FINAL VALUE RECONCILIATION

Date of Value	Estimated Market Value/ For Assessment Purposes As If Completed September 1, 2014	PSF
Land Valuation		
Land Value	$1,650,000	
Land Value Per Acre	$19,784	
Cost Approach		
Conclusion	$102,700,000	
Conclusion PSF of GBA	$146.17	
Final Market Value for Assessment Purposes Conclusion	**$102,700,000**	**$146.17**

Compiled by Cushman & Wakefield, Inc.

We gave sole weight to the Cost Approach in this valuation analysis. The intended use of this valuation report is for assessment purposes, which is best valued using the cost driven model. Within this model we made allowances for entrepreneurial profit and any depreciation/obsolescence which will be inherent in the property, upon completion. The Income Capitalization and Sales Comparison Approaches would be more appropriate for the valuation of the Going Concern of the total property operation. Therefore, our estimate of the proposed property value, for assessment purposes, estimated as if the property were completed and operating as of our valuation date, is shown as follows:

Value Conclusions

Appraisal Premise	Real Property Interest	Date Of Value	Assessed Value Conclusion
Estimated Market Value for Assessment Purposes As if Completed	Fee simple/Real Property Value For Assessment Purposes	9/1/2014	$102,700,000

Compiled by Cushman & Wakefield, Inc.

EXPOSURE TIME

Based on our review of national investor surveys, discussions with market participants and information gathered during the sales verification process, a reasonable exposure time for the subject property at the value concluded within this report would have been approximately twelve (12) months. This assumes an active and professional marketing plan would have been employed by the current owner.

ASSUMPTIONS AND LIMITING CONDITIONS

"Report" means the appraisal or consulting report and conclusions stated therein, to which these Assumptions and Limiting Conditions are annexed.

"Property" means the subject of the Report.

"C&W" means Cushman & Wakefield, Inc. or its subsidiary that issued the Report.

"Appraiser(s)" means the employee(s) of C&W who prepared and signed the Report.

The Report has been made subject to the following assumptions and limiting conditions:

- No opinion is intended to be expressed and no responsibility is assumed for the legal description or for any matters that are legal in nature or require legal expertise or specialized knowledge beyond that of a real estate appraiser. Title to the Property is assumed to be good and marketable and the Property is assumed to be free and clear of all liens unless otherwise stated. No survey of the Property was undertaken.

- The information contained in the Report or upon which the Report is based has been gathered from sources the Appraiser assumes to be reliable and accurate. The owner of the Property may have provided some of such information. Neither the Appraiser nor C&W shall be responsible for the accuracy or completeness of such information, including the correctness of estimates, opinions, dimensions, sketches, exhibits and factual matters. Any authorized user of the Report is obligated to bring to the attention of C&W any inaccuracies or errors that it believes are contained in the Report.

- The opinions are only as of the date stated in the Report. Changes since that date in external and market factors or in the Property itself can significantly affect the conclusions in the Report.

- The Report is to be used in whole and not in part. No part of the Report shall be used in conjunction with any other analyses. Publication of the Report or any portion thereof without the prior written consent of C&W is prohibited. Reference to the Appraisal Institute or to the MAI designation is prohibited. Except as may be otherwise stated in the letter of engagement, the Report may not be used by any person(s) other than the party(ies) to whom it is addressed or for purposes other than that for which it was prepared. No part of the Report shall be conveyed to the public through advertising, or used in any sales, promotion, offering or SEC material without C&W's prior written consent. Any authorized user(s) of this Report who provides a copy to, or permits reliance thereon by, any person or entity not authorized by C&W in writing to use or rely thereon, hereby agrees to indemnify and hold C&W, its affiliates and their respective shareholders, directors, officers and employees, harmless from and against all damages, expenses, claims and costs, including attorneys' fees, incurred in investigating and defending any claim arising from or in any way connected to the use of, or reliance upon, the Report by any such unauthorized person(s) or entity(ies).

- Except as may be otherwise stated in the letter of engagement, the Appraiser shall not be required to give testimony in any court or administrative proceeding relating to the Property or the Appraisal.

- The Report assumes (a) responsible ownership and competent management of the Property; (b) there are no hidden or unapparent conditions of the Property, subsoil or structures that render the Property more or less valuable (no responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them); (c) full compliance with all applicable federal, state and local zoning and environmental regulations and laws, unless noncompliance is stated, defined and considered in the Report; and (d) all required licenses, certificates of occupancy and other governmental consents have been or can be obtained and renewed for any use on which the value opinion contained in the Report is based.

- The physical condition of the improvements considered by the Report is based on visual inspection by the Appraiser or other person identified in the Report. C&W assumes no responsibility for the soundness of structural components or for the condition of mechanical equipment, plumbing or electrical components.

- The forecasted potential gross income referred to in the Report may be based on lease summaries provided by the owner or third parties. The Report assumes no responsibility for the authenticity or completeness of lease information provided by others. C&W recommends that legal advice be obtained regarding the interpretation of lease provisions and the contractual rights of parties.

- The forecasts of income and expenses are not predictions of the future. Rather, they are the Appraiser's best opinions of current market thinking on future income and expenses. The Appraiser and C&W make no warranty or representation that these forecasts will materialize. The real estate market is constantly fluctuating and changing. It is not the Appraiser's task to predict or in any way warrant the conditions of a future real estate market; the Appraiser can only reflect what the investment community, as of the date of the Report, envisages for the future in terms of rental rates, expenses, and supply and demand.

- Unless otherwise stated in the Report, the existence of potentially hazardous or toxic materials that may have been used in the construction or maintenance of the improvements or may be located at or about the Property was not considered in arriving at the opinion of value. These materials (such as formaldehyde foam insulation, asbestos insulation and other potentially hazardous materials) may adversely affect the value of the Property. The Appraisers are not qualified to detect such substances. C&W recommends that an environmental expert be employed to determine the impact of these matters on the opinion of value.

- Unless otherwise stated in the Report, compliance with the requirements of the Americans with Disabilities Act of 1990 (ADA) has not been considered in arriving at the opinion of value. Failure to comply with the requirements of the ADA may adversely affect the value of the Property. C&W recommends that an expert in this field be employed to determine the compliance of the Property with the requirements of the ADA and the impact of these matters on the opinion of value.

- If the Report is submitted to a lender or investor with the prior approval of C&W, such party should consider this Report as only one factor, together with its independent investment considerations and underwriting criteria, in its overall investment decision. Such lender or investor is specifically cautioned to understand all Extraordinary Assumptions and Hypothetical Conditions and the Assumptions and Limiting Conditions incorporated in this Report.

- In the event of a claim against C&W or its affiliates or their respective officers or employees or the Appraisers in connection with or in any way relating to this Report or this engagement, the maximum damages recoverable shall be the amount of the monies actually collected by C&W or its affiliates for this Report and under no circumstances shall any claim for consequential damages be made.

- If the Report is referred to or included in any offering material or prospectus, the Report shall be deemed referred to or included for informational purposes only and C&W, its employees and the Appraiser have no liability to such recipients. C&W disclaims any and all liability to any party other than the party that retained C&W to prepare the Report.

- Unless otherwise noted, we were not given a soil report to review. However, we assume that the soil's load-bearing capacity is sufficient to support existing and/or proposed structure(s). We did not observe any evidence to the contrary during our physical inspection of the property. Drainage appears to be adequate.

- Unless otherwise noted, we were not given a title report to review. We do not know of any easements, encroachments, or restrictions that would adversely affect the site's use. However, we recommend a title search to determine whether any adverse conditions exist.

- Unless otherwise noted, we were not given a wetlands survey to review. If subsequent engineering data reveal the presence of regulated wetlands, it could materially affect property value. We recommend a wetlands survey by a professional engineer with expertise in this field.

- Unless otherwise noted, we observed no evidence of toxic or hazardous substances during our inspection of the site. However, we are not trained to perform technical environmental inspections and recommend the hiring of a professional engineer with expertise in this field.

- Unless otherwise noted, we did not inspect the roof nor did we make a detailed inspection of the mechanical systems. The appraisers are not qualified to render an opinion regarding the adequacy or condition of these components. The client is urged to retain an expert in this field if detailed information is needed.

- By use of this Report each party that uses this Report agrees to be bound by all of the Assumptions and Limiting Conditions, Hypothetical Conditions and Extraordinary Assumptions stated herein.

CERTIFICATION OF APPRAISAL

We certify that, to the best of our knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- We have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
- We have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
- Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the Uniform Standards of Professional Appraisal Practice.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- John R. Mako, MAI, SRA did make a personal inspection of the property that is the subject of this report.
- We have not performed prior services involving the subject property within the three-year period immediately preceding the acceptance of the assignment.
- No one provided significant real property appraisal assistance to the persons signing this report.
- As of the date of this report, John R. Mako, MAI, SRA has completed the continuing education program for Designated Members of the Appraisal Institute.

John R Mako

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ADDENDA CONTENTS

ADDENDUM A: GLOSSARY OF TERMS & DEFINITIONS

The following definitions of pertinent terms are taken from *The Dictionary of Real Estate Appraisal*, Fifth Edition (2010), published by the Appraisal Institute, Chicago, IL, as well as other sources.

AS IS MARKET VALUE

The estimate of the market value of real property in its current physical condition, use, and zoning as of the appraisal date. (Proposed Interagency Appraisal and Evaluation Guidelines, OCC-4810-33-P 20%)

BAND OF INVESTMENT

A technique in which the capitalization rates attributable to components of a capital investment are weighted and combined to derive a weighted-average rate attributable to the total investment.

CASH EQUIVALENCY

An analytical process in which the sale price of a transaction with nonmarket financing or financing with unusual conditions or incentives is converted into a price expressed in terms of cash.

DEPRECIATION

1. In appraising, a loss in property value from any cause; the difference between the cost of an improvement on the effective date of the appraisal and the market value of the improvement on the same date. 2. In accounting, an allowance made against the loss in value of an asset for a defined purpose and computed using a specified method.

DISPOSITION VALUE

The most probable price that a specified interest in real property is likely to bring under all of the following conditions:

- Consummation of a sale will occur within a limited future marketing period specified by the client.
- The actual market conditions currently prevailing are those to which the appraised property interest is subject.
- The buyer and seller is each acting prudently and knowledgeably.
- The seller is under compulsion to sell.
- The buyer is typically motivated.
- Both parties are acting in what they consider their best interest.
- An adequate marketing effort will be made in the limited time allowed for the completion of a sale.
- Payment will be made in cash in U.S. dollars or in terms of financial arrangements comparable thereto.
- The price represents the normal consideration for the property sold, unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Note that this definition differs from the definition of market value. The most notable difference relates to the motivation of the seller. In the case of Disposition value, the seller would be acting under compulsion within a limited future marketing period.

ELLWOOD FORMULA

A yield capitalization method that provides a formulaic solution for developing a capitalization rate for various combinations of equity yields and mortgage terms. The formula is applicable only to properties with stable or stabilized income streams and properties with income streams expected to change according to the J- or K-factor pattern. The formula is
RO = [YE – M (YE + P 1/Sn¬ – RM) – ΔO 1/S n¬] / [1 + ΔI J]
where
RO = Overall Capitalization Rate
YE = Equity Yield Rate
M = Loan-to-Value Ratio
P = Percentage of Loan Paid Off
1/S n¬ = Sinking Fund Factor at the Equity Yield Rate
RM =Mortgage Capitalization Rate
ΔO = Change in Total Property Value
ΔI = Total Ratio Change in Income
J = J Factor
Also called mortgage-equity formula.

EXPOSURE TIME

1. The time a property remains on the market. 2. The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective estimate based on an analysis of past events assuming a competitive and open market. See also marketing time.

EXTRAORDINARY ASSUMPTION

An assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser's opinions or conclusions.

Comment: Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

FEE SIMPLE ESTATE

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.

HYPOTHETICAL CONDITIONS

A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.

Comment: Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

INSURABLE VALUE

A type of value for insurance purposes.

INTENDED USE

The use or uses of an appraiser's reported appraisal, appraisal review, or appraisal consulting assignment opinions and conclusions, as identified by the appraiser based on communication with the client at the time of the assignment.

INTENDED USER

The client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client at the time of the assignment.

LEASED FEE INTEREST

A freehold (ownership interest) where the possessory interest has been granted to another party by creation of a contractual landlord-tenant relationship (i.e., a lease).

LEASEHOLD INTEREST

The tenant's possessory interest created by a lease. See also negative leasehold; positive leasehold.

LIQUIDATION VALUE

The most probable price that a specified interest in real property is likely to bring under all of the following conditions:

- Consummation of a sale will occur within a severely limited future marketing period specified by the client.
- The actual market conditions currently prevailing are those to which the appraised property interest is subject.
- The buyer is acting prudently and knowledgeably.
- The seller is under extreme compulsion to sell.
- The buyer is typically motivated.
- The buyer is acting in what he or she considers his or her best interest.
- A limited marketing effort and time will be allowed for the completion of a sale.
- Payment will be made in cash in U.S. dollars or in terms of financial arrangements comparable thereto.
- The price represents the normal consideration for the property sold, unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Note that this definition differs from the definition of market value. The most notable difference relates to the motivation of the seller. Under market value, the seller would be acting in his or her own best interests. The seller would be acting prudently and knowledgeably, assuming the price is not affected by undue stimulus or atypical motivation. In the case of liquidation value, the seller would be acting under extreme compulsion within a severely limited future marketing period.

MARKET RENT

The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the lease agreement, including permitted uses, use restrictions, expense obligations, term, concessions, renewal and purchase options, and tenant improvements (TIs).

MARKET VALUE

As defined in the Agencies' appraisal regulations, the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.

Implicit in this definition are the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- Buyer and seller are typically motivated;
- Both parties are well informed or well advised, and acting in what they consider their own best interests;
- A reasonable time is allowed for exposure in the open market;
- Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.[1]

MARKETING TIME

An opinion of the amount of time it might take to sell a real or personal property interest at the concluded market value level during the period immediately after the effective date of an appraisal. Marketing time differs from exposure time, which is always presumed to precede the effective date of an appraisal. (Advisory Opinion 7 of the Appraisal Standards Board of The Appraisal Foundation and Statement on Appraisal Standards No. 6, "Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions" address the determination of reasonable exposure and marketing time.) See also exposure time.

MORTGAGE-EQUITY ANALYSIS

Capitalization and investment analysis procedures that recognize how mortgage terms and equity requirements affect the value of income-producing property.

OPERATING EXPENSES

Other Taxes, Fees & Permits - Personal property taxes, sales taxes, utility taxes, fees and permit expenses.

Property Insurance – Coverage for loss or damage to the property caused by the perils of fire, lightning, extended coverage perils, vandalism and malicious mischief, and additional perils.

Management Fees - The sum paid for management services. Management services may be contracted for or provided by the property owner. Management expenses may include supervision, on-site offices or apartments for resident managers, telephone service, clerical help, legal or accounting services, printing and postage, and advertising. Management fees may occasionally be included among recoverable operating expenses

Total Administrative Fees – Depending on the nature of the real estate, these usually include professional fees and other general administrative expenses, such as rent of offices and the services needed to operate the property. Administrative expenses can be provided either in the following expense subcategories or in a bulk total. 1) Professional Fees – Fees paid for any professional services contracted for or incurred in property operation; or 2) Other Administrative – Any other general administrative expenses incurred in property operation.

Heating Fuel - The cost of heating fuel purchased from outside producers. The cost of heat is generally a tenant expense in single-tenant, industrial or retail properties, and apartment projects with individual heating units. It is a major expense item shown in operating statements for office buildings and many apartment properties. The fuel consumed may be coal, oil, or public steam. Heating supplies, maintenance, and workers' wages are included in this expense category under certain accounting methods.

Electricity - The cost of electricity purchased from outside producers. Although the cost of electricity for leased space is frequently a tenant expense, and therefore not included in the operating expense statement, the owner may be responsible for lighting public areas and for the power needed to run elevators and other building equipment.

Gas - The cost of gas purchased from outside producers. When used for heating and air conditioning, gas can be a major expense item that is either paid by the tenant or reflected in the rent.

Water & Sewer - The cost of water consumed, including water specially treated for the circulating ice water system, or purchased for drinking purposes. The cost of water is a major consideration for industrial plants that use processes depending on water and for multifamily projects, in which the cost of sewer service usually ties to the amount of water used. It is also an important consideration for laundries, restaurants, taverns, hotels, and similar operations.

Other Utilities - The cost of other utilities purchased from outside producers.

Total Utilities - The cost of utilities net of energy sales to stores and others. Utilities are services rendered by public and private utility companies (e.g., electricity, gas, heating fuel, water/sewer and other utilities providers). Utility expenses can be provided either in expense subcategories or in a bulk total.

Repairs & Maintenance - All expenses incurred for the general repairs and maintenance of the building, including common areas and general upkeep. Repairs and maintenance expenses include elevator, HVAC, electrical and plumbing, structural/roof, and other repairs and maintenance expense items.

[1] "Interagency Appraisal and Evaluation Guidelines." Federal Register 75:237 (December 10, 2010) p. 77472.

Repairs and Maintenance expenses can be provided either in the following expense subcategories or in a bulk total. 1) Elevator - The expense of the contract and any additional expenses for elevator repairs and maintenance. This expense item may also include escalator repairs and maintenance. 2) HVAC – The expense of the contract and any additional expenses for heating, ventilation and air-conditioning systems. 3) Electrical & Plumbing - The expense of all repairs and maintenance associated with the property's electrical and plumbing systems. 4) Structural/Roof - The expense of all repairs and maintenance associated with the property's building structure and roof. 5) Pest Control – The expense of insect and rodent control. 6). Other Repairs & Maintenance - The cost of any other repairs and maintenance items not specifically included in other expense categories.

Common Area Maintenance - The common area is the total area within a property that is not designed for sale or rental, but is available for common use by all owners, tenants, or their invitees, e.g., parking and its appurtenances, malls, sidewalks, landscaped areas, recreation areas, public toilets, truck and service facilities. Common Area Maintenance (CAM) expenses can be entered in bulk or through the sub-categories. 1) Utilities – Cost of utilities that are included in CAM charges and passed through to tenants. 2) Repair & Maintenance – Cost of repair and maintenance items that are included in CAM charges and passed through to tenants. 3) Parking Lot Maintenance – Cost of parking lot maintenance items that are included in CAM charges and passed through to tenants. 4) Snow Removal – Cost of snow removal that are included in CAM charges and passed through to tenants. 5) Grounds Maintenance – Cost of ground maintenance items that are included in CAM charges and passed through to tenants. 6) Other CAM expenses are items that are included in CAM charges and passed through to tenants.

Painting & Decorating - This expense category is relevant to residential properties where the landlord is required to prepare a dwelling unit for occupancy in between tenancies.

Cleaning & Janitorial - The expenses for building cleaning and janitorial services, for both daytime and night-time cleaning and janitorial service for tenant spaces, public areas, atriums, elevators, restrooms, windows, etc. Cleaning and Janitorial expenses can be provided either in the following subcategories or entered in a bulk total. 1) Contract Services - The expense of cleaning and janitorial services contracted for with outside service providers. 2) Supplies, Materials & Misc. - The cost any cleaning materials and any other janitorial supplies required for property cleaning and janitorial services and not covered elsewhere. 3) Trash Removal - The expense of property trash and rubbish removal and related services. Sometimes this expense item includes the cost of pest control and/or snow removal .4) Other Cleaning/Janitorial - Any other cleaning and janitorial related expenses not included in other specific expense categories.

Advertising & Promotion - Expenses related to advertising, promotion, sales, and publicity and all related printing, stationary, artwork, magazine space, broadcasting, and postage related to marketing.

Professional Fees - All professional fees associated with property leasing activities including legal, accounting, data processing, and auditing costs to the extent necessary to satisfy tenant lease requirements and permanent lender requirements.

Total Payroll - The payroll expenses for all employees involved in the ongoing operation of the property, but whose salaries and wages are not included in other expense categories. Payroll expenses can be provided either in the following subcategories or entered in a bulk total. 1) Administrative Payroll - The payroll expenses for all employees involved in on-going property administration. 2) Repair & Maintenance Payroll - The expense of all employees involved in on-going repairs and maintenance of the property. 3) Cleaning Payroll - The expense of all employees involved in providing on-going cleaning and janitorial services to the property 4) Other Payroll - The expense of any other employees involved in providing services to the property not covered in other specific categories.

Security - Expenses related to the security of the Lessees and the Property. This expense item includes payroll, contract services and other security expenses not covered in other expense categories. This item also includes the expense of maintenance of security systems such as alarms and closed circuit television (CCTV), and ordinary supplies necessary to operate a security program, including batteries, control forms, access cards, and security uniforms.

Roads & Grounds - The cost of maintaining the grounds and parking areas of the property. This expense can vary widely depending on the type of property and its total area. Landscaping improvements can range from none to extensive beds, gardens and trees. In addition, hard-surfaced public parking areas with drains, lights, and marked car spaces are subject to intensive wear and can be costly to maintain.

Other Operating Expenses - Any other expenses incurred in the operation of the property not specifically covered elsewhere.

Real Estate Taxes - The tax levied on real estate (i.e., on the land, appurtenances, improvements, structures and buildings); typically by the state, county and/or municipality in which the property is located.

PROSPECTIVE OPINION OF VALUE

A value opinion effective as of a specified future date. The term does not define a type of value. Instead, it identifies a value opinion as being effective at some specific future date. An opinion of value as of a prospective date is frequently sought in connection with projects that are proposed, under construction, or under conversion to a new use, or those that have not yet achieved sellout or a stabilized level of long-term occupancy.

PROSPECTIVE VALUE UPON REACHING STABILIZED OCCUPANCY

The value of a property as of a point in time when all improvements have been physically constructed and the property has been leased to its optimum level of long-term occupancy. At such point, all capital outlays for tenant improvements, leasing commissions, marketing costs and other carrying charges are assumed to have been incurred.

SPECIAL, UNUSUAL, OR EXTRAORDINARY ASSUMPTIONS

Before completing the acquisition of a property, a prudent purchaser in the market typically exercises due diligence by making customary enquiries about the property. It is normal for a Valuer to make assumptions as to the most likely outcome of this due diligence process and to rely on actual information regarding such matters as provided by the client. Special, unusual, or extraordinary assumptions may be any additional assumptions relating to matters covered in the due diligence process, or may relate to other issues, such as the identity of the purchaser, the physical state of the property, the presence of environmental pollutants (e.g., ground water contamination), or the ability to redevelop the property.

ADDENDUM B: PROPERTY INFORMATION

Exhibit A

Option to Purchase

THIS OPTION TO PURCHASE ("Option Agreement"), is made this _____ day of September 2013 by and between James R. and Jeanne Leonard 3394 Woodworth Road Geneva, New York 14456 ("Sellers") and Whitetail 414, LLC ("Whitetail"), with offices at Whitetail 414, LLC c/o Harris Beach PLLC 677 Broadway, Suite 1101 Albany, NY 12207 (collectively "the Parties").

1. Grant of Option. Sellers, in consideration of the premises and promises contained herein and for other valuable consideration, the receipt and sufficiency of which The Parties acknowledge, Sellers hereby grant to Whitetail an exclusive option (the "Option") to purchase Seller's interest in and to the premises including the buildings, structures and improvements located at Route 414 Tyre, New York, County of Seneca, State of New York Tax Map ID number 12-1-36 and more particularly described in the Property Description Report attached hereto and made part of as Exhibit A ("the Premises").

2. Term. The Option term shall commence on the date of this Option Agreement and expire twelve (12) months from the date hereof at 6:00 p.m. In addition, Whitetail shall have the right, exercisable no later than the thirtieth (30th) day prior to the end of the initial twelve (12) month term of this Option Agreement to extend the term of this Option Agreement for an additional period of twelve (12) months. In the event Whitetail shall fail to so exercise this Option, the Option shall thereupon cease to be of any further force and effect, and Sellers shall be entitled to retain and be credited with all of the Option payments and neither party shall have any further rights or liabilities as against the other.

3. Option Payments. Whitetail shall pay Sellers a payment (the "Option Payment") in the amount of Twenty Thousand and 00/100 Dollars ($20,000.00) within 10 days of Seller's execution of this Option Agreement. The Option Payment shall be non-refundable and shall apply toward the Purchase Price, but shall only be so applied if a closing occurs. In the event Whitetail extends the Option Agreement for an additional twelve (12) month period, Whitetail shall pay Sellers an Additional Option Payment in the amount of Twenty Thousand Dollars ($20,000.00). The Additional Option Payment shall be non-refundable and shall apply toward the Purchase Price, but shall only be so applied if a closing occurs.

$600,000

4. Purchase Price. If the Option is exercised by Whitetail, then Whitetail shall pay Sellers the total purchase amount of Five Hundred Thousand Dollars ~~($500,000.00),~~ by good certified or bank check for the purchase of Seller's Fee interest in the premises. After crediting Whitetail for the Option Payments paid pursuant to this Option, the balance of the Purchase Price shall be due and payable upon the Notice of Exercise (of this Option).

5. Notice of Exercise. This Option is to be exercised by Whitetail by written notice signed by Whitetail and sent to Sellers prior to the expiration date.

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6. **Failure to Exercise Option.** If Whitetail does not exercise this Option within the terms of this Option Agreement or any extension thereof, neither party shall have any further rights or claims against the other, including, but not limited to, any right of Whitetail to obtain a refund of the Option Payment or a right by Whitetail to secure a conveyance of the Premises. Nor shall Whitetail possess any claim in equity or at law to any payments made hereunder.

7. **Termination of Option.** Whitetail in its sole discretion shall have the right to terminate this Option at any time during the term of this Option Agreement or any extension thereof. Whitetail shall terminate by delivery to Seller of thirty (30) days written notice of its intention to terminate the Option. Thereafter, the Option shall automatically cease and terminate as of the thirtieth (30^{th}) day from the date of such notice. If Whitetail elects to terminate this Option, then neither party shall have any further rights or claims against the other, including, but not limited to, any right of Whitetail to obtain a refund of the Option Payment, or a right by Whitetail to secure a conveyance of the Premises.

8. **Seller's Default.** In the event Sellers fail to perform or observe any of the covenants or obligations to be performed by the Sellers under this Option Agreement, Whitetail shall have the right to bring an action for specific performance and may seek injunctive relief prohibiting any conveyance or encumbrance of Seller's Interest in the Premises in contravention of this Option Agreement. In addition Whitetail shall be entitled to reimbursement of all reasonable third party actual costs incurred, including legal, engineering and architectural costs, all actual damages, attorneys fees incurred enforcing this Option Agreement, and a right to seek consequential damages that result from Seller's breach of this Option Agreement.

9. **Closing.** The closing shall be held at the office of Whitetail's attorneys on or about the closing date specified in Whitetail's notice of its exercise of the Option herein, (which date shall be no later than sixty (60) calendar days following exercise of the Option) or at such other time and/or place as shall be mutually agreed by The Parties.

10. **Representations and Warranties.** Sellers represents and warrants to Whitetail that it is the sole owners of the Premises and that it has the sole and unrestricted right to grant this Option and to perform the obligations of Sellers set forth herein. Sellers agrees it shall not assign, lease, transfer, convey, grant a security interest or otherwise encumber the premises during the Option term or any extension thereof, prior to closing.

11. **Entire Agreement.** This Option Agreement constitutes the entire agreement between The Parties and may be changed only by an agreement in writing signed by The Parties.

12. **Benefit.** The Option shall inure to the benefit of, and shall bind, the heirs, successors and permitted assigns of the respective parties. Notwithstanding the

Initial ______
Initial ______

foregoing, Whitetail may assign, transfer or otherwise convey its rights under this Option Agreement, without prior written consent of Sellers.

13. **AS IS; WHERE IS.** Except as expressly set forth in Paragraph 11 of this Option Agreement, it is understood and agreed that Sellers are not making and has not at any time made any warranties or representations of any kind or character, express or implied, with respect to the Premises including, but not limited to, any warranties or representations as to habitability, merchantability or fitness for a particular purpose and the Premises are to be taken AS IS unless otherwise mutually agreed to in writing by both parties..

14. **Confidentiality.** Sellers acknowledges and agrees that the existence of this Option Agreement and any information contained herein, including, without limitation, the purchase price, shall be confidential and shall not be disclosed by Sellers to any agency, corporation, firm, individual, partnership, person or other entity prior to closing, without Whitetail's prior written consent, which consent shall be within the sole discretion of Whitetail. Notwithstanding the foregoing, Sellers may disclose this Option Agreement and the information contained herein to its accountants, appraisers and attorneys, but such third party professionals shall be bound by the foregoing confidentiality provisions to the extent permitted by law. Sellers shall indemnify, defend and hold Whitetail safe and harmless from and against all losses, damages, costs, expenses (including reasonable attorneys' fees and disbursements), claims, counterclaims and causes of action, suffered, paid or incurred by, or asserted against, Whitetail , directly or indirectly, by reason of any breach of Sellers of any of the provisions of this Paragraph 15. Seller's obligations pursuant to this Paragraph 15 shall survive the termination of this Option Agreement. Without limiting the generality of the foregoing, neither this Option Agreement, nor any memorandum hereof, may be recorded in the real estate records of the Monroe County Clerk's Office.

15. **Brokers.** Sellers agree to pay a sales commission to Pyramid Brokerage Company/Cushman Wakefield ("Pyramid") in the amount of ten percent (10%) of the purchase price.

16. **Due Diligence.** During the term of this Option Agreement, Whitetail and its agents shall have the right to enter upon the Premises for the purpose of conducting tests, taking measurements and related matters (individually an "Investigation" and collectively, the "Investigations") upon reasonable hours notice to Sellers. In this regard, Whitetail and its designated agents may enter upon the Premises for the purpose of the Investigations; provided however, that: (a) the Investigations shall be arranged with Sellers as to minimize interruption or disturbance to Sellers; (b) upon the completion of any Investigation which alters or affects the physical condition of the Leasehold, Whitetail shall immediately restore the Premises to the condition which existed prior to such Investigation; (d) Whitetail shall keep the Premises free and clear of any liens related to the Investigations and shall promptly discharge of record any such lien; and (e) Whitetail shall defend, indemnify and hold Sellers harmless from and against any injuries or damage or any losses, costs or expenses occurring as a result of any Investigations.

Initial ______
Initial ______

Sellers further agrees to reasonably cooperate with Whitetail 's efforts to obtain approvals or permits that may be required in connection with the development, construction and financing of improvements to the Premises, including any of Whitetail 's efforts to obtain any municipal, county, state or federal development incentives. Within 30 days of the execution of this Option Agreement, Sellers shall deliver to Whitetail the following:

a) A photocopy of the abstract of title or any existing title insurance policy or commitment in Seller's possession or control;

b) A copy of the most recent survey of the Premises;

c) Copies of all reports in Seller's possession or control that relate to soil conditions, engineering, improvement plans and related matters pertaining to the Premises;

d) Copies of receipted real estate tax bills for the Premises for the past twenty-four months;

e) Copies of the most recent Environmental Reports done on the Premises;

g) Such other documentation regarding the Premises readily available to Seller's as Whitetail may reasonably request.

17. **Notice.** Any notice under this Option Agreement (including, but not limited to, notice of exercise of the Option pursuant to Paragraph 5 above) shall be sent by Federal Express or similar recognized overnight courier to The Parties at the addresses set forth above. All notices, including notice of exercise of the Option, shall be effective upon confirmation of receipt by the addressee.

18. **Counterpart.** This Option Agreement may be executed in any number of counterparts, each of which shall be considered an original, but all of which together shall constitute one instrument.

19. **Tests.** During the term of this Option Agreement, Whitetail shall have the right to enter into and upon the Premises from time to time for the purpose of making engineering studies, structural inspections, percolation tests, water tests, test borings, engineering studies, phase 1 and phase 2 environmental due diligence reviews, and otherwise examine, investigate, test, survey, map and inspect the Premises. Whitetail shall indemnify and hold Sellers harmless from any and all claims and demands of third parties for personal injuries and property damage resulting therefrom including reasonable attorney's fees and costs. Whitetail shall restore the Premises to its original condition for any damage caused to the premises by reason of the performance of work on the Premises by Whitetail, its agents, employees, or representatives.

Initial ______
Initial ______

20. **Assumption of Risk:** Whitetail expressly and affirmatively assumes all risk and liability of operation of the equipment and conduct of activities upon the subject premises in accordance with this Option Agreement, exclusive of that risk which is the result of Seller's negligence.

21. **Indemnification:** Whitetail agrees to fully indemnify, save, and hold harmless Sellers and all of its successors, affiliates, agents, and employees from and against any and all liability of any type whatsoever, including but not limited to, any and all damages, expenses, causes of action, lawsuits, claims, penalties, fines, assessments or judgments relating to, arising out of, or occurring in connection with the conduct of Whitetail ' activities upon the premises in accordance with this Option Agreement. Whitetail shall, at it's sole cost and expense, defend any and all actions and suits which may be brought against Sellers or any of its affiliates, agents, or employees, or in which Sellers or said affiliates, agents, or employees which may be impleaded with others upon any such above mentioned claims. In the event of Whitetail's failure to do so, Sellers, at its option, without being obliged to do so, and at Whitetail 's sole cost and expense, may defend any and all judgments that may be recovered against Sellers or any of its affiliates, agents or employees in any such suits or actions which may be brought against Sellers or any of its affiliates, agents, or employees as may be impleaded with others.

22. **Liens:** In the event any lien is filed against the property or any part thereof for work claimed to have been performed at or materials and/or equipment supplied to the premises by agents, contractors, and/or subcontractors of Whitetail, Whitetail hereby covenants and agrees, at its sole cost and expense, to bond such lien pursuant to applicable law or have such lien discharged of record by depositing the full amount of the lien, together with interest, in the Office of the Monroe County Clerk within ten (10) days after notice of lien has been received by Sellers. Whitetail further covenants and agrees to provide Sellers with complete and legally sufficient waivers of lien which may arise out of the performance of work and/or the supply of materials or equipment to the property. In lieu of said waivers, and at the option of Sellers, Whitetail may provide releases in full by way of affidavit from agents, contractors, or subcontractors that said releases include all labor, services, materials and equipment for which a lien could be filed, and that all payroll, materials and equipment bills, and any other indebtedness connected with the work have been paid or otherwise satisfied in full.

23. **Insurance:** Prior to entry upon the premises, Whitetail shall obtain liability insurance naming Sellers, its successors and assigns, as the additional insured and shall further deliver to Sellers a certificate of insurance which recites the same, in the amounts as follows:

(a) Compensation Insurance: Whitetail shall procure and maintain during the life of this Agreement, Workman's Compensation Insurance and Disability Coverage for its employees to be assigned to work upon the subject premises.

(b) General Liability Insurance: Whitetail shall procure and maintain until full performance of this Agreement, such General Liability Insurance as shall protect it from claims from damages for personal injuries, including accidental death, as

Initial ____
Initial ____

Exhibit B

FIRST AMENDMENT TO OPTION TO PURCHASE

This **FIRST AMENDMENT TO OPTION TO PURCHASE ("Amendment")** is made as of this _____ day of November 2013 by and between James R. and Jeanne Leonard **("Sellers")** 3394 Woodworth Road Geneva, New York 14456 and Whitetail 414 LLC **("Whitetail")**, a New York limited liability company with offices at Whitetail 414 LLC c/o Harris Beach PLLC 677 Broadway, Suite 1101 Albany, NY 12207 (collectively **"the Parties"**).

WHEREAS, Sellers and Whitetail have entered into a certain Option to Purchase, dated October 6, 2013 (the "Option to Purchase") concerning certain premises owned by Sellers situated within the Town of Tyre, County of Seneca and State of New York, as more particularly described in the Option to Purchase and known and described as Tax Account No. 12-1-36 (83.40 acres) ("Premises"), and

WHEREAS, Sellers and Whitetail mutually desire to amend the terms of the Option to Purchase in certain respects, as set forth in this First Amendment.

NOW, THEREFORE, in consideration of the Premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged. Seller and Whitetail agree as follows:

In the event Whitetail exercises the Option to Purchase and purchases the Premises, Whitetail agrees, at its sole expense, to move and relocate the small cemetery presently on the Premises to a location acceptable to Sellers, provided that such location is within Seneca County or any immediately adjacent county within the State of New York.

This First Amendment may be recorded in the Seneca County Clerk's Office.

IN WITNESS WHEREOF, the parties have hereunto caused this First Amendment to be signed this 15 day of December 2013.

SELLERS:

James R Leonard
JAMES R. LEONARD

Jeanne C. Leonard
JEANNE LEONARD

WHITETAIL 414 LLC

By: Paul J Wright
authorized officer

AGREEMENT TO RECORD OPTION AND RELATED FIRST AMENDMENT IN THE SENECA COUNTY CLERK'S OFFICE

AGREEMENT made as of the 5th day of December 2014 between **James R. and Jeanne Leonard** with an address of 2294 Woodworth Road, Geneva, New York 14456 ("**Sellers**") and **Whitetail 414, LLC**, a New York limited liability company with offices at c/o Wilmorite, Inc. 1265 Scottsville Road, Rochester, New York 14624 ("**Whitetail**" and together with the Sellers, the "**Parties**").

WHEREAS, the Parties have entered into a certain Option to Purchase dated October 6, 2013 in the form attached hereto as Exhibit A and a related First Amendment to Option to Purchase in the form attached as Exhibit B with respect to certain premises situated in the Town of Tyre, County of Seneca, as more particularly described in the Option to Purchase and known and described as tax parcel number 12-1-36 (the "Premises"); and

WHEREAS, the Parties desire to sign this Agreement in notarized form to enable the parties to record this Agreement with attached Option to Purchase and First Amendment to Option to Purchase in the Seneca County Clerk's Office.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree to have this Agreement with attached Option to Purchase and attached First Amendment to Option to Purchase recorded in the Seneca County Clerk's Office.

IN WITNESS WHEREOF, the Parties have hereunto caused this Agreement with attachments to be executed in the presence of a notary for recording as of the date first above written.

SELLERS

JAMES R. LEONARD

JEANNE LEONARD

WHITETAIL 414, LLC

By: Paul J. Wilmot

STATE OF NEW YORK)
COUNTY OF MONROE) ss.:

On the 5th day of February, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Paul J. Wilmot, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

SHAWN M. GRIFFIN
Notary Public, State of New York
Reg. 02GR4972696
MONROE COUNTY
Commission Expires Oct. 1, 20 15

STATE OF NEW YORK)
COUNTY OF ONTARIO) ss.:

On the 12 day of February, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared JAMES R. LEONARD, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Ann M. Harvey
Notary Public

ANN M. HARVEY
NOTARY PUBLIC, State Of New York
Qualified In Ontario County
No. 01HA6061643
Commission Expires July 16, 2015

STATE OF NEW YORK)
COUNTY OF ONTARIO) ss.:

On the 12 day of February, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared JEANNE LEONARD, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Ann M. Harvey
Notary Public

ANN M. HARVEY
NOTARY PUBLIC, State Of New York
Qualified In Ontario County
No. 01HA6061643
Commission Expires July 16, 2015

Lago Resort & Casino Draft

July 22,2014

CONSTRUCTION + HARD FF & E

			UNIT COST	Total Project Costs	Taxable Component	BREAKOUT CONSTRUCTION: Construction	Hard FF & E	AV
HOTEL								
GUESTROOM TOWER: Suite Mix at	126,596 Keys	208 @ $152,329	$250	$ 31,684,349	$ 12,869,075	$ 25,738,150	$ 5,515,400	$ 430,759
LOBBY, FRONT DESK & PUBLIC	8,195 SF		$496	$ 4,066,475	$ 1,694,103	$ 3,388,207	$ 597,556	$ 80,712
CENTRAL HOUSEKEEPING & BOH	4,838 SF		$241	$ 1,164,977	$ 582,488	$ 1,164,977	$ -	$ -
SPA & FITNESS CENTER	9,942 SF	9 Treatment Rooms	$500	$ 4,974,387	$ 2,149,971	$ 4,299,941	$ 540,161	$ 134,284
POOL & RECREATION AREA	40,000 SF		$68	$ 2,724,778	$ 1,124,249	$ 2,248,499	$ 431,500	$ 44,779
CASINO FLOOR & CIRCULATION	~~94,001~~ SF	2,000 Slots	$422	$ 39,683,851	$ 17,362,298	$ 34,724,596	$ 4,107,989	$ 851,266
GAMING SUPPORT	16,911 SF	80 Tables	$516	$ 8,733,812	$ 3,925,469	$ 7,850,938	$ 653,782	$ 229,092
RESTAURANTS	31,895 SF	713 Seats	$478	$ 15,241,820	$ 6,757,643	$ 13,515,285	$ 1,565,695	$ 170,840
BARS	3,773 SF	28 Seats	$635	$ 2,396,237	$ 993,713	$ 1,987,426	$ 256,359	$ 152,451
EVENT CENTER	40,028 SF	1,800 Seats	$402	$ 16,085,741	$ 5,908,903	$ 11,817,807	$ 3,074,337	$ 1,193,597
RETAIL	3,997 SF		$323	$ 1,291,224	$ 580,164	$ 1,160,328	$ 113,172	$ 17,725
BACK OF HOUSE	59,111 SF		$216	$ 12,772,876	$ 5,757,160	$ 11,514,319	$ 1,050,510	$ 208,047
SHELL (UNASSIGNED)	3,731 SF		$84	$ 314,317	$ 157,158	$ 314,317	$ -	$ -
PARKING GARAGE	733 Car	310,000 sf	$20,303	$ 14,881,962	[redacted]	$ 14,616,747	$ 87,800	$ 177,415
CENTRAL PLANT				$ 512,148	$ 256,074	$ 512,148	$ -	$ -
DEMOLITION / TEMPORARY CONSTRUCTION				$ -	[redacted]	$ -	$ -	$ -
SITE	60 Acre		$395,223	$ 23,695,569		$ 23,524,834	$ -	$ 170,735
	2,345 Car	(Surface Parking in Site)		$ -				
DAY CARE CENTER	4,500 SF		$185	$ 834,172	$ 379,586	$ 759,172	$ 75,000	$ -
GREEN INFRASTRUCTURE				$ 5,000,000	[redacted]	$ 5,000,000	$ -	$ -
OFFSITE				$ 6,952,500		$ 6,952,500	$ -	$ -
	403,018 SF Enclosed Program		SUBTOTAL	$ 193,011,195	$ 60,498,055	$171,090,191	$ 18,059,262	$ 3,861,743
ADDITIONAL HARD COST	$ 478.91							
			DESIGN & ENGINEERING	$ 8,000,000	[redacted]			
			SIGNAGE	$ 2,165,950				
			KITCHEN & BAR EQUIPMENT	$ 3,515,460				
			CONSTRUCTION & DESIGN ADMINISTRATION	$ 6,466,082				
			INSURANCE	$ [illegible]				
			[illegible] INSPECTION & [illegible] FEES	$ [illegible]				
			TESTING & COMMISIONING	$ 1,072,412				
			LEGAL	$ 750,000				
			EXTERNAL AUDIT	$ 325,500				
			SUBTOTAL	$ 27,795,721				
HARD COST CONTINGENCY				$ 10,000,000		5.18%	TOTAL CONTINGENC $	11,037,427.84
FF & E OPERATIONS CONTINGENCY				$ 1,037,428				
OPERATIONS "SOFT" FF & E COSTS				$ 63,296,949				
			SUBTOTAL	$ 295,141,292				
OTHER COSTS						NOTES:		
			PRE-OPENING	$ 7,588,039	[redacted]			
			BASE STOCK	$ 2,681,820				
			INVENTORY	$ 951,694				
			BANKROLL	$ 8,500,000				
			* LAND	$ ✓ 1,000,000				
			HOST COMMUNITY AGREEMENT FEE	$ 1,000,000				
			P PREDEVELOPMENT/ CHASE COST	$ 3,219,902				
			$ CONSTRUCTION MANAGEMENT FEE	$ 4,594,628				
			CAPITALIZED INTEREST	$ -				
			HCA PRE-FUNDING	$ 2,000,000				
			LICENSE FEE	$ 50,000,000				
			APPLICATION FEE	$ 1,000,000				
	yp first		INTEREST RESERVE	$ 34,602,188		1.25 years at 9.00%		
		Credit Suisse	FINANCE FEE	$ 8,920,438		2,000,000 plus 2.25%		
			OTHER CHASE COSTS	$ 800,000				
			DEVELOPMENT FEE	$ 3,000,000		200,000 /mo for 1.25 years		
			SUBTOTAL OTHER COSTS	$ 129,858,798				
			PROJECT GRAND TOTAL	$ 425,000,000	60,498,055			

ADDENDUM C: QUALIFICATIONS OF THE APPRAISERS

PROFESSIONAL QUALIFICATIONS

John R. Mako, MAI, SRA
Executive Director
Valuation & Advisory

Mr. Mako has been in the real estate business since 1975. He was appointed an officer of the Bank of New York, responsible for commercial and residential construction and mortgage lending in the Central New York area. He has been in the consulting and valuation area of the practice since 1978, as a partner in an Upstate New York valuation firm. Prior to joining Cushman & Wakefield, Inc., he most recently was the managing partner of Summit Associates, a full service valuation and consulting company serving the Upstate New York market. In addition, he has had additional experience in office, residential, and retail leasing and property management.

Mr. Mako joined Cushman & Wakefield, Inc. in January 2007, as Senior Director of the Upstate New York Office. He was appointed Executive Director in April 2014.

Experience
Appraisal and consulting assignments have included vacant land, air rights, office buildings, shopping centers, industrial complexes, commercial properties, residential properties, subdivisions, hotels, golf courses, manufactured home communities, self-storage properties, parking facilities, and investment properties throughout the Upstate New York area. Mr. Mako has been qualified as an expert witness in the State of New York Court of Claims, by the Federal Bankruptcy Court, and for real estate and valuation issues in the New York State Supreme Court, including issues involving tax certiorari, matrimonial, partnership dissolutions, foreclosures, and other matters, and has been qualified as an expert witness in New York State Surrogates Court. Mr. Mako has been a guest speaker at various real estate, banking, and legal organization meetings in New York State. Mr. Mako has lectured and taught real estate analysis through local real estate schools, Onondaga Community College, and as an approved instructor in real estate brokerage and real estate appraisal by the New York State Department of State.

Education
New York University, New York, New York, Graduated 1974
Degree: Bachelor of Arts, Psychology and Business Administration

Appraisal Education
Successfully completed all courses and experience requirements to qualify for the MAI designation. Also, he has completed the requirements of the continuing education program of the Appraisal Institute.

Memberships, Licenses and Professional Affiliations

- Certified General Real Estate Appraiser New York State 46-000000993
- Member, Appraisal Institute – MAI, SRA
  - Past President, Upstate New York Chapter – 1997 and 2013
  - Past President, Central New York Chapter SREA No. 48 - 1990
- Regional Advisor to the New York State Appraisal Board 1992 to present
- Licensed Real Estate Broker, New York State
- Member of the NYSSREA Board of Directors, 1998-2004

247 WEST FAYETTE STREET SUITE 315
SYRACUSE, NY 13202-2290

September 30, 2014

Mr. Ronald F. McGreevy
Town Supervisor
Town of Tyre
1907 West Tyre Road
Seneca Falls, NY 13148

Re: Appraisal of Real Property
In an Appraisal Report

Proposed Wilmorite Casino Project
NYS Route 414 @ Interstate 90
Tyre, Seneca County, NY 13148

C&W File ID: 14-12002-902030-001

Dear Mr. McGreevy:

At your request, we are pleased to transmit our appraisal of the above property in a USPAP Compliant Appraisal Report dated September 30, 2014. The effective date of value is September 01, 2014, the date of our property inspection, assuming that the property improvements were completed and operating, as of that date. This valuation assignment is provided to assist the Town of Tyre in estimating an appropriate assessment level for the property, if completed, for planning purposes.

This Appraisal Report has been prepared in accordance with the *Uniform Standards of Professional Appraisal Practice* (USPAP) and the requirements of the Code of Professional Ethics of the Appraisal Institute.

The subject property consists of a proposed resort/casino to be constructed on an 83.40± acre parcel of land located at the intersection of the New York State Thruway and NYS Route 414 in the Town of Tyre. The casino requires the issuance of a gaming license by the State of New York. Although application has been made, the competition for the available licenses is keen, and there are no current assurances that the subject's required license will be granted.

The property will consist of a hotel, casino, parking garage, spa, and employee use day-care center. The facility will operate as an integrated resort, but will be highly dependent upon the casino portion of the operation as a demand generator. The site is located approximately mid-way between the Syracuse and Rochester city centers, in a rural location. It is anticipated that the facility will draw from each of these MSA's as well as from the Finger Lakes region just to the south. The total property will contain approximately 702,605± square feet of building area, based on current design/construction plans. This size and configuration has been modified a number of times, and may be further refined. Our valuation is for assessment purposes, as if the property were completed and operating, as of our valuation date. This hypothetical condition is appropriate for the purpose/intended use of this report, to provide assistance to the Town of Tyre Assessor, for planning purposes.

Based on the agreed-to Scope of Work, and as outlined in the report, we developed the following opinion of Market Value for Assessment Purposes:

Value Conclusions

Appraisal Premise	Real Property Interest	Date Of Value	Assessed Value Conclusion
Estimated Market Value for Assessment Purposes As if Completed	Fee simple/Real Property Value For Assessment Purposes	9/1/2014	$102,700,000

Compiled by Cushman & Wakefield, Inc.

The value opinion in this report is qualified by certain assumptions, limiting conditions, certifications, and definitions, as well as the following extraordinary assumptions and hypothetical conditions, if any.

EXTRAORDINARY ASSUMPTIONS

For a definition of Extraordinary Assumptions please see the Glossary of Terms & Definitions. The use of extraordinary assumptions, if any, might have affected the assignment results.

The subject property is a potential casino development, to include a hotel, casino floor, spa, day-care center, and parking garage. The intended use of this report is to assist the Town of Tyre in forecasting an appropriate assessment level for the proposed project. However, it is noted that the final plans for the project have not been completed, changes in size, design, and configuration are anticipated, and the casino gaming license has not been obtained. This analysis is subject to updating once construction and licensing details are finalized.

The subject property will require a gaming license from the State of New York. This license is not yet approved for the subject site. Once, and if, obtained, it will be for a ten year period, a significantly shorter period than the expected useful life of the proposed improvements. This is a limitation upon the extended use of the property improvements, for their intended purpose, creating a significant level of obsolescence to the property improvements.

We have not valued the underlying land. The assessor will establish land value for the property assessment, once the approvals and final plans are in place. We have utilized a land value for our analysis of $1,650,000, based on preliminary discussions with the assessor.

HYPOTHETICAL CONDITIONS

For a definition of Hypothetical Conditions please see the Glossary of Terms & Definitions. The use of hypothetical conditions, if any, might have affected the assignment results.

The subject property is being valued as if constructed and operating as of the current date. The gaming license to operate the property has not been approved and the improvements have not been constructed as of this date. Therefore, this is a valuation subject to a hypothetical condition. Once the approvals and construction are completed, there may be significant variances in cost/construction. It is suggested that the final assessed value be based upon the final completed project, along with its associated costs and any inherent changes from our forecast.

This letter is invalid as an opinion of value if detached from the report, which contains the text, exhibits, and Addenda.

Respectfully submitted,

CUSHMAN & WAKEFIELD, INC.

John R. Mako, MAI, SRA
Executive Director
NY Certified General Appraiser
License No. 46000000993
john.mako@cushwake.com
(315) 579-2206 Office Direct
(315) 472-2148 Fax

27 N.J.Tax 469
Tax Court of New Jersey.

Marina District Development Co., LLC, Plaintiff,
v.
City of Atlantic City, Defendant.

| Decided: October 18, 2013

Synopsis

Synopsis

Background: Owner of casino-hotel complex filed complaints challenging municipality's property tax assessments on subject property for tax years 2009 and 2010. Municipality filed counterclaims for each year seeking to raise the assessments.

Holdings: The Tax Court, DeAlmeida, P.J.T.C., held that:

[1] owner overcame the presumption of validity attached to the assessments under review;

[2] the income approach was the best and most reliable method to determine the true market value of the subject property; and

[3] owner's second appraisal expert presented the most credible opinion of the value of the subject property on the two valuation dates.

Ordered accordingly.

West Headnotes (23)

[1] **Taxation**
Presumptions

Original property tax assessments are entitled to a presumption of validity.

Cases that cite this headnote

[2] **Taxation**
Presumptions

The presumption of correctness with regard to an original property tax assessment arises from the view that in tax matters it is to be presumed that governmental authority has been exercised correctly and in accordance with law.

Cases that cite this headnote

[3] **Taxation**
Presumptions

The presumption of validity with regard to an original property tax assessment remains in place even if the municipality utilized a flawed valuation methodology, so long as the quantum of the assessment is not so far removed from the true value of the property or the method of assessment itself is so patently defective as to justify removal of the presumption of validity.

Cases that cite this headnote

[4] **Taxation**
Presumptions

In the absence of a motion to dismiss, the presumption of validity with regard to an original property tax assessment remains in the case through the close of all proofs. N.J. Ct. R. 4:37–2(b).

Cases that cite this headnote

[5] **Taxation**
Presumptions

In making the determination of whether the presumption of validity with regard to an original property tax assessment has been overcome, the tax court should weigh and analyze the evidence as if a motion for judgment at the close of all the evidence had been made, employing the evidentiary standard applicable to such a motion; the court must accept as true the proofs of the party challenging the assessment and accord that party all legitimate favorable inferences from that evidence. N.J. Ct. R. 4:40–1.

Cases that cite this headnote

[6] **Taxation**

Presumptions

In order to overcome the presumption of validity with regard to an original property tax assessment, the evidence must be sufficient to determine the value of the property under appeal, thereby establishing the existence of a debatable question as to the correctness of the assessment.

Cases that cite this headnote

[7] **Taxation**

Proceedings for Review and Parties

Taxation

Presumptions

Only after the presumption of validity with regard to an original property tax assessment is overcome with sufficient evidence at the close of trial must the tax court appraise the testimony, make a determination of true value, and fix the assessment.

Cases that cite this headnote

[8] **Taxation**

Presumptions

If the tax court determines that sufficient evidence to overcome the presumption of validity with regard to an original property tax assessment has not been produced, the assessment shall be affirmed and the court need not proceed to making an independent determination of value.

Cases that cite this headnote

[9] **Taxation**

Presumptions

Owner of casino-hotel complex, which filed complaints challenging municipality's property tax assessments on subject property for tax years 2009 and 2010, overcame the presumption of validity attached to the assessments under review; two appraisal experts with extensive experience in appraising casino-hotels were called by owner during its case-in-chief and offered opinions of value more than a billion dollars below the assessments on the subject property on the relevant valuation dates, and the opinions were based on reasoned analysis of data of the type typically used by appraisers of casino-hotel properties and the opinions of value offered by the experts were arrived at through recognized appraisal techniques.

Cases that cite this headnote

[10] **Taxation**

Matters considered and methods of valuation in general

There is no single determinative approach to the valuation of real property for property tax purposes; the choice of the predominate approach will depend upon the facts of each case and the reaction of the experts to those facts.

Cases that cite this headnote

[11] **Taxation**

Capitalized income

The income capitalization approach is the preferred method of estimating the value of income producing property for property tax purposes; this approach generally applies to real property that generates income from the rental of the property, not from the business activities that take place at the property.

Cases that cite this headnote

[12] **Taxation**

Capitalized income

With regard to estimating the value of income producing property for property tax purposes using the income capitalization approach, where the sale of the subject property will include all assets of a business enterprise closely associated with the subject property, it is necessary to extract from the value conclusion the value of personal property, often referred to as furniture, fixtures and equipment, and the value of the business enterprise to arrive at a value of only real property.

Cases that cite this headnote

[13] **Taxation**

Replacement cost; depreciation and obsolescence

For property tax purposes, the cost approach is normally relied on to value special purpose property or unique structures for which there is no market; this approach involves a replication, through the use of widely accepted cost services of the cost of the components of the building to be valued, less depreciations.

Cases that cite this headnote

[14] **Taxation**

Replacement cost; depreciation and obsolescence

For property tax purposes, the cost approach, which is normally relied on to value special purpose property or unique structures for which there is no market, has two elements: land value and the reproduction or replacement cost of the buildings and other improvements; from the estimated reproduction cost is deducted depreciation from all causes.

Cases that cite this headnote

[15] **Taxation**

Replacement cost; depreciation and obsolescence

The cost approach is most effective when the property being valued for property tax purposes is new, in light of the difficulties in accurately estimating the various components of depreciation.

Cases that cite this headnote

[16] **Taxation**

Valuation

In tax assessment cases, it is the tax court's obligation to use the information that has been presented at trial by way of facts and expert opinion to fix the assessable values of real property before the court; the fact that property is difficult to value does not excuse the court from its obligation to determine value based on a preponderance of the competent evidence adduced by the parties.

Cases that cite this headnote

[17] **Taxation**

Capitalized income

Taxation

Valuation

Based on the evidence admitted at trial, the income approach was the best and most reliable method to determine the true market value of the subject property in action brought by owner of casino-hotel complex, in which it challenged municipality's property tax assessments on subject property for tax years 2009 and 2010; record contained uncontradicted credible evidence from three of owner's experts that buyers, sellers and lenders in the marketplace determined the value of casino-hotels based on the income generating potential of the property, and all appraisal experts who were presented at trial, including the municipality's appraisal expert, used the income approach to formulate a value opinion for the subject property.

Cases that cite this headnote

[18] **Taxation**

Weight and Sufficiency of Evidence

The weight to be given to an expert's opinion depends upon the facts and reasoning which are offered as the foundation of his or her opinion.

1 Cases that cite this headnote

[19] **Taxation**

Weight and Sufficiency of Evidence

The weight and value of expert testimony are for the trier of fact.

Cases that cite this headnote

[20] **Taxation**

Weight and Sufficiency of Evidence

An expert's opinion may be adopted in whole or in part or completely rejected.

1 Cases that cite this headnote

[21] **Taxation**

Valuation

In action brought by owner of casino-hotel complex, in which it challenged municipality's property tax assessments on subject property for tax years 2009 and 2010, tax court would adopt the value opinion of owner's second appraisal expert in determining the true market value of the subject property under the income approach, as that expert presented the most credible opinion of the value of the subject property on the two valuation dates; expert's opinion was based on the most thorough and detailed analysis of the area's casino-hotel market, national economic trends, the growth in regional competition and the operating history of the subject property.

Cases that cite this headnote

[22] **Taxation**

Capitalized income

In tax appeal cases using the income approach, the valuation of the subject property, although based upon a forecast of earnings, must be found upon what was known and anticipated as of the assessing date, unaided by hindsight.

Cases that cite this headnote

[23] **Taxation**

Capitalized income

Taxation

Valuation

Income approach opinion of municipality's appraisal expert lacked credibility because, among other things, she did not extract the value of the business enterprise through application of an artificial management fee, in action brought by owner of casino-hotel complex, in which it challenged municipality's property tax assessments on subject property for tax years 2009 and 2010; all three appraisal experts in the case agreed that where a property was likely to be sold along with other assets of an ongoing business enterprise it was necessary to extract from the value conclusion the value of personal property and the value of the business, and this extraction of value was necessary because New Jersey law assessed local property tax on real property only.

Cases that cite this headnote

Attorneys and Law Firms

***474** *Herbert Bass, Esq.*, a member of the bar of the Commonwealth of Pennsylvania, admitted pro hac vice, for plaintiff (*Fox Rothschild, LLP*, attorneys, *Peter M. Sarkos, Esq.*, co-counsel at trial and on the briefs)

Michael J. Ash, Esq., for defendant (*DeCotiis, Fitzpatrick & Cole, LLP*, attorneys, *Russell J. Passamano, Esq.*, and *Megan E. Sassaman, Esq.*, co-counsel at trial and on the briefs)

Opinion

DeALMEIDA, P.J.T.C.

This opinion sets forth the court's findings of fact and conclusions of law after trial in the above-captioned matters.

I. *Introduction*

Plaintiff owns or leases seven parcels of real property in Atlantic City on which is located the Borgata Hotel and Casino. The complex, referred to in this opinion as "the Borgata," includes the Borgata Hotel, the Water Club Tower hotel, a large casino, restaurants, bars, entertainment venues, retail stores, spas, pools, parking lots and associated amenities. The parcels operate as a single economic unit. As part of a revaluation of all real property ***475** in the city for tax year 2008, the municipal tax assessor set assessments on the parcels totaling approximately $2.21 billion. The assessments were increased to approximately $2.26 billion for tax years 2009 and 2010, the periods addressed in this opinion. Plaintiff challenged the assessments for those tax years, arguing that they exceed the true market value of the property as of October 1, 2008 and October 1, 2009, the relevant valuation dates. The municipality filed counterclaims for each year seeking to raise the assessments.

After careful consideration of the evidence admitted at trial, the court concludes that plaintiff is entitled to a significant reduction in the assessments on the subject property for both tax years. There is little doubt that during the years in question the Borgata was the premier casino-hotel in Atlantic City. The facility is beautifully designed, well-appointed and attracts clients interested in a luxury hotel-spa experience and high-end gaming, shopping, entertainment and dining. In addition, during the periods at issue, plaintiff's casino-hotel was well managed and consistently led the Atlantic City market in gaming and hotel room revenue.

The facility's success after its 2003 opening resulted in two major expansions shortly before the relevant valuation dates. The original Borgata Hotel, a 43–story structure, had 2,001 rooms and a casino, restaurants, pools, retail space and other amenities. In 2007, plaintiff expanded the casino and added restaurant space and a nightclub to the facility. In June 2008, shortly before the first valuation date, plaintiff opened the Water Club Tower, a 38–story luxury hotel, with 798 additional hotel rooms, numerous pools, exceptional spa facilities, additional retail space and other amenities.

At first blush, these findings would suggest that the Atlantic City casino-hotel market was thriving during the periods at issue. On closer examination, however, the evidence admitted at trial establishes that beginning in 2007 and continuing to 2009 powerful forces were combining to undermine the Atlantic City casino-hotel market in ways that threatened lasting adverse economic consequences. By October 1, 2008, the first valuation date, the national ***476** economy had suffered a significant downturn, an unprecedented drop in the value of the stock market, the failure of major banking institutions, and a dramatic tightening of the credit market. These factors undercut consumer confidence, restricted investment opportunities in the gaming industry and placed serious stress on the ability of customers to spend money on the type of luxury hotel and gaming experience on which the Borgata had built its success. Although the full extent of the national economic downturn was not known on October 1, 2008, knowledgeable participants in the casino-hotel market would have had a pessimistic outlook on the Borgata's future earning potential as of that date.

In addition, and perhaps more importantly, by October 1, 2008, it was readily apparent that Atlantic City's long-held near monopoly on East Coast gaming was rapidly being eroded by the expansion of casino gaming in nearby States. While Atlantic City has always been the only municipality in New Jersey in which casino gaming is permitted, beginning in 2006 the States surrounding New Jersey authorized a significant expansion of gaming opportunities within driving distance of many of the customers on which Atlantic City depends. The Borgata, like all Atlantic City gaming venues, relies heavily on customers who travel to the city by car from relatively close proximity to gamble and spend money at casino-hotels. By October 1, 2008, seven gaming facilities with slot machines had opened in Pennsylvania alone. These facilities serve clientele that might otherwise drive to Atlantic City to spend money gambling, eating and renting a hotel room. As of that date, an additional seven slot-machine casinos were authorized under Pennsylvania law, but not yet constructed. Two of those casinos were slated to open in 2009, one in Bethlehem, a convenient and readily accessible location to the many New York City gamblers previously targeted by Atlantic City casino-hotels. Two other slot-machine casinos were planned for Philadelphia, a major source of customers for Atlantic City casino-hotels. Plaintiff produced credible expert testimony that this change was not a short-term setback. The gaming market had been reset and the ***477** economic prospects for Atlantic City's casino-hotels dimmed for the foreseeable future.

The situation only worsened by October 1, 2009, the second valuation date. By that time, the national economic condition had deteriorated and the expectation of a long-term period of economic stagnation had taken hold among investors and the public. The likelihood of a lengthy recovery period further soured the prospects for the Borgata maintaining its net revenue or experiencing an increase in net revenue in the near future. In addition, the spread of casino gaming in Atlantic City's feeder markets continued unabated. By late 2009, a virtual wall of casinos, constructed or planned, arose along the Pennsylvania–New Jersey border from Bethlehem to South Philadelphia and continued into northern Delaware. These casinos, which offered slot machines, restaurants and other amenities attractive to the Borgata's targeted customer base, skimmed clients from Atlantic City casino-hotels at a growing rate. Also by October 1, 2009, bills authorizing table games at casinos were pending in the Pennsylvania legislature and appeared likely to be enacted into law, further darkening the financial prospects of Atlantic City casino-hotels.

Because the court concludes that the income approach to valuation is the most credible method for determining the true market value of the subject property, these market changes are important to the court's resolution of the parties' claims.

While the Borgata remains a luxury facility with fine features and high-end amenities, the subject property does not have the market value it once did during Atlantic City's near monopoly on gaming. On October 1, 2008 and October 1, 2009, any reasonable participants in the casino-hotel market would, when negotiating a sales price for the subject property, project declining near-term profits and a stabilized future income below that which the Borgata had historically enjoyed. These projections would result in a negotiated true market value significantly below the assessments on the subject property, warranting a reduction in the assessments for each tax year.

***478** The court is mindful of the fact that the determination of the true market value of real property, particularly real property as complex and intertwined with a commercial enterprise as is the subject property, is not an exact science. Reasonable, experienced experts can differ on how best to predict the market's reaction to developing trends in the national economy and regional gaming competition. It is the court's obligation, however, to determine which of the expert opinions offered at trial, if any, provides the most credible evidence of the subject property's value on the relevant valuation dates. The court concludes that the opinion offered by one of plaintiff's appraisal experts is the most credible evidence of true market value of the subject property before the court. The court adopts that opinion.

The expert opinion offered by the municipality in support of the assessments did not fully account for the powerful economic and competitive factors undermining the subject property's market value on the relevant valuation dates. That expert's prediction of future net revenue from the Borgata relied too heavily on the subject property's past successful performance during better economic times and prior to the growth in regional competition. In addition, the municipality's expert failed to account adequately for the value of the intangible business assets of the Borgata when formulating an opinion of value under the income approach. As a result, the court concludes that the opinion of true market value offered by Atlantic City, while undoubtedly based on the expert's sincerely held opinion, was not as credible as the opinion offered by plaintiff's appraisal expert.

II. *Findings of Fact and Procedural History*

The following findings of fact are based on the testimony of the trial witnesses and exhibits introduced into evidence.

A. *The Subject Property.*

Plaintiff Marina District Development Company, LLC ("MDDC") is a joint venture between Boyd Gaming Corporation and MAC Corporation, which is wholly owned by MGM Mirage. MDDC owns one of the parcels at issue here (Block 576, Lot 1.03) ***479** and leases the remaining parcels from MAC Corporation, the fee simple owner of those lots.

The property, commonly known as One Borgata Way, is situated on the north side of Huron Avenue and the south side of Clam Thorofare, in the marina district of the city adjacent to the Absecon Inlet. The parcels total approximately 45.49 acres zoned for hotel-casino operations as part of the Huron North Redevelopment Area. The redevelopment area was created to permit the transformation of a former landfill into three large casino-hotel resorts. MGM Grand, Inc. acquired the property in 2000 and MGM Mirage reclaimed the landfill, developed infrastructure and entered into the joint partnership MDDC. MGM Mirage contributed the land and Boyd Gaming Corporation contributed approximately $90 million and became the operating partner of the venture.

The Borgata first opened in July 2003. The original hotel had 2,001 rooms in 43 stories as well as a casino. The room mix subsequently was refigured and, as of the valuation dates, the original hotel had 1,970 rooms. In June 2006, the "Northern Expansion" of the casino floor opened, adding approximately 520 slot machines, 42 table games, a 100–seat race book, a poker room, three signature restaurants, a food court and a nightclub. In June 2008, approximately four months prior to the first valuation date, the Borgata opened the Water Club Tower expansion, a 38–story, 798–room hotel, which includes five pools, the Immersion Spa and fitness center, the Sunroom lounge, a pool snack bar and a retail promenade with five stores. In 2007 and 2008, other capital improvements included a new parking garage, a new casino entry, and the refurbishment and conversion of some public space to smoking lounges.

As of the valuation dates, the Borgata consisted of 3,508,231 square feet of gross building area and approximately 7,675 parking spaces in three parking structures, as well as 900 surface parking spaces. The facility has 2,768 hotel rooms, 62,248 square feet of banquet and meeting space and 16,200 square feet of ***480** theater space, two spas comprising 42,490 square feet, and several indoor and outdoor pools.

The gaming facilities included 160,287 square feet of casino area, of which approximately 136,667 square feet constitute the casino floor. The remaining gaming facilities space is comprised of a cash room, cashiers, and the back of the house facilities. As of December 2007, the casino had 4,027 slot machines, 93 poker tables, and 179 table games offering blackjack, craps, baccarat, roulette, Pai Gow and other games. The poker room is approximately 20,489 square feet in size and hosts daily poker tournaments and an annual poker tournament with a large prize pool.

The sub-level basement includes a cafeteria-style eatery with approximately seven food vendors. Also on the sub-level basement are a lounge, nightclub, mechanical areas, storage facilities, administrative offices and employee facilities.

The first floor of the main hotel casino includes the casino floor, the hotel lobby-reception area, a 940–seat theater, business center, back of the house facilities, seven fine dining restaurants (including kitchens and service facilities), a buffet restaurant (with kitchen and service facilities), two retail plazas, a high-limit game area, a nightclub, casino cage, poker room, security offices, cash services and bars. The first floor of the Water Club Tower includes an additional retail plaza, lounge/bar, business center, indoor pool area with lap pool, outdoor spa facilities, and a separate lobby-reception area.

The mezzanine of the main facility includes the banquet space, meeting rooms, executive offices, employee facilities, laundry, medical clinic, surveillance room and IT services. The mezzanine of the Water Club Tower includes meeting space, board rooms and a terrace balcony.

The main hotel has a spa/pool area. The Water Club Tower has a spa/pool area on the 32nd floor. The Immersion Spa in the Water Club Tower contains a lap pool and Jacuzzis with spa treatment areas, a fitness center, lounges and locker rooms.

***481** All of the facilities are in excellent condition. Interior finishes include custom carved wood, limestone, onyx, marble, granite and colored glass. There are custom features, architectural elements and fine art, sculptures and glass fixtures throughout the property. The overall appearance of the casino-hotel is one of luxury and fine appointments. [1]

B. ***The National Economic Downturn.***

The national economy began to soften in late 2007, primarily due to the subprime housing crisis. By October 1, 2008, the economy suffered a significant downturn triggered by the collapse of the mortgage markets and the failure of Bear Stearns and Lehman Brothers. The government-sanctioned bailout of Bear Stearns as a banking institution "too big to fail" set off alarms concerning the stability of the American banking system. The mid-September 2008 collapse of Lehman Brothers led to a sharp drop-off in the stock market and the beginning of the worst recession since the Great Depression.

In addition, the tourism industry faced a significant public stigma nicknamed the AIG effect. In 2008, American International Group, Inc., or AIG, a multinational insurance company, experienced a serious public relations backlash after it hosted a lavish corporate event during the height of the national economic crisis. The bad publicity caused other corporate entities to cancel events and to be more hesitant about hosting corporate functions at high-end resorts, such as the Borgata. These economic forces had a detrimental effect on the Borgata's revenues. The stagnant national economy affected consumer confidence, inhibiting spending on luxuries and entertainment.

***482** By October 1, 2009, the national economic condition had further deteriorated. According to one expert who testified at trial "as of October 1, 2009, the macro economy had entered into what many commentators termed a 'New Normal,' meaning that the developed nations would enter into a prolonged period of low growth, high unemployment and a need for de-leveraging. This would add to the uncertainty surrounding the gaming industry in general and in Atlantic City specifically, as of the valuation date." Unemployment rates started to increase significantly in 2008 and were still rising as of September 2009. This fact is significant because low unemployment rates are indicative of increased consumer spending on such discretionary items as gaming and entertainment. The perception that the nation's economic trouble was not a transitory downturn, but a long-term recalibration of the economy, was hardening among the public and participants in the financial markets as of the second valuation date.

C. ***Increase in Regional Competition for Gaming Revenue.*** Atlantic City casino-hotels have historically relied on customers who arrive by automobile. In 2008, 81.4% of Atlantic City visitors arrived by car and 15.4% arrived by bus. Visitors arriving by automobile have been growing as a percentage of total visitors since 1992. Only a small portion of visitors arrive by air, highlighting the local and regional nature of Atlantic City as a destination. Atlantic City casino-hotels have relied most heavily on patrons from New Jersey, Pennsylvania, New York and Delaware.

In 2004, Pennsylvania enacted legislation allowing for the first time the installation and operation of slot machines at licensed gaming facilities. The law authorized the issuance of 14 slot-machine gaming licenses for locations throughout the State. As of October 1, 2008, seven slot-machine casinos had opened in Pennsylvania. Although two of the slot-machine casinos opened prior to October 1, 2008 are in the Pittsburgh area, the remainder are in eastern Pennsylvania, within driving distance of many of the Borgata's customers. The resulting impact on revenue at the Borgata was established at trial. In addition, by October 1, 2008, two additional slot-machine casinos—the Sands Bethlehem and the ***483** Rivers Casino—were scheduled to open in 2009. The Bethlehem facility is closer to New York City by car than is the Borgata. That casino provides a convenient location for a large number of gaming customers who might otherwise drive to Atlantic City. Two additional slot-machine casinos were planned for Philadelphia.

As of October 1, 2009, the second valuation date, the situation had worsened for the Atlantic City casino-hotel industry. Both the Sands Bethlehem and the Rivers slot-machine casinos had opened in Pennsylvania. Pending bills in the Pennsylvania Legislature to permit table games at casinos in that State were seen as likely to pass. The introduction of table games in Pennsylvania would allow casinos there to compete more directly with Atlantic City casino-hotels.

D. ***The Weakening Atlantic City Casino–Hotel Market.***

As of October 1, 2008, the Atlantic City gaming industry was showing signs of distress. The Revel, a 1,900–room, high-rise, luxury casino-hotel on the Atlantic City boardwalk was partially built. The project's anticipated completion date was summer 2010, although the prospects for the project's continued construction were uncertain. Plans for a $1.5 billion resort casino-hotel by Pinnacle Entertainment at the site of the former Sands Casino Hotel near the Revel project were placed on hold as of October 1, 2008. Also placed on indefinite hold as of October 1, 2008 were plans for the construction on the 72–acre parcel adjacent to the Borgata of the MGM Grand Atlantic City with three hotel towers holding 3,000 rooms, a large casino and 50,000 square feet of retail space. In the summer of 2008, the Tropicana Atlantic City casino-hotel entered bankruptcy after its gaming license was revoked for a "demonstrated lack of financial integrity." [2]

***484** As of October 1, 2009, construction of the Revel was indefinitely suspended. In addition, the sale of Bader Field, a decommissioned municipal airport in Atlantic City, for redevelopment as a casino-hotel had been indefinitely suspended. By October 1, 2009, Trump Entertainment, which owned three Atlantic City casino-hotels, joined the Tropicana in bankruptcy proceedings. In March 2009, management of the Borgata opted to close the Water Club Tower Tuesdays through Thursdays between November and May because of lack of demand.

All three appraisal experts to testify at trial agreed that gaming revenue in the Atlantic City casino-hotel market declined during the period 2007 to 2009. The Borgata was the best performing of the casino-hotels during that time. Yet, the subject property generated less revenue than would be expected with the opening of its new hotel tower and expanded casino. The Borgata experienced a significant dip in revenue in 2009.

E. ***The Assessments.***

The assessments on the subject property for tax year 2009 are as follows:

Block and Lot	Description	Land Assessment	Improvement Assessment	Total Assessment
Block 576; Lot 1.03	Casino/Hotel/Garage	$395,938,600	$1,144,956,900	$1,540,895,500
Block 576; Lot 1.05	Employee Garage	$ 31,169,600	$ 33,063,500	$ 64,233,100
Block 576; Lot 1.07	Surface Parking	$127,297,500	$ 00	$ 127,297,500
Block 576; Lot 1.08	Casino Expansion	$ 54,013,400	$ 169,752,400	$ 223,765,800
Block 576; Lot 1.10	Employee Garage	$ 41,865,600	$ 54,486,900	$ 96,352,500

Block 576; Lot 1.11	Water Club Tower	$ 22,000,000	$ 164,637,000	$ 186,637,000
Block 576; Lot 1.12	Vacant Land	$ 21,288,800	$ 00	$ 21,288,800
Total		$693,573,500	$1,566,896,700	$2,260,470,200

For tax year 2010, the assessments were carried forward, with one exception. The assessment on Block 576, Lot 1.11 was raised ***485** to $188,558,100, apparently because the completion of the Water Club Tower in 2008 resulted in a partial assessment for 2009. The tax year 2010 assessment on that parcel was allocated as $23,921,100 for land and $164,637,000 for improvements. This brings the total assessment for tax year 2010 to $2,262,391,300.

The average ratio for Atlantic City for tax year 2009 is 100.46%. *See N.J.S.A.* 54:1–35a(a). The average ratio for Atlantic City for tax year 2010 is 102.16%.

F. ***The Tax Court Complaints and Counterclaims.***

On March 30, 2009, plaintiff filed Complaints with this court challenging the tax year 2009 assessments on the subject property. The municipality filed Counterclaims with this court on April 7, 2009, seeking to raise the assessments on the subject property for tax year 2009.

On March 18, 2010, plaintiff filed Complaints with this court challenging the tax year 2010 assessments on the subject property. The municipality filed Counterclaims with this court on April 12, 2010, seeking to raise the assessments on the subject property for tax year 2010.

The matters proceeded through discovery together and were consolidated for purposes of trial and this opinion.

G. ***Pretrial Proceedings.***

Both parties filed pretrial motions to exclude testimony from the experts offered by their opponents. On March 14, 2013, the court, after hearing oral argument from counsel, denied the municipality's motion to exclude plaintiff's experts. The court thereafter held a two-day, pretrial hearing pursuant to *N.J.R.E.* 104 with respect to plaintiff's motion to exclude the municipality's appraisal expert. On April 1, 2013, the court denied plaintiff's motion.

H. ***The Trial.***

During twenty-one days of trial, the parties presented the testimony of five experts to assist the court in determining the ***486** true market value of the subject property. Plaintiff produced two real estate appraisers with significant experience valuing casinos and casino-hotels. Two additional experts called by plaintiff, an economics professor and a casino-industry analyst, provided testimony concerning economic obsolescence and casino-hotel capitalization rates. The municipality presented one real estate appraiser who has long-time experience appraising Atlantic City casino-hotels. The experts agreed that the highest and best use of the subject property is as a casino-hotel and that the Borgata was well managed on the relevant valuation dates. The court accepts those conclusions and considered them to be true for the purpose of this opinion.

1. ***Plaintiff's First Appraisal Expert.***

Plaintiff's first appraisal expert has fifty years of experience in appraising real property. He has appraised casinos and casino-hotels for more than forty years, having offered opinions of value with respect to more than 200 casino-hotels, including four casino-hotels in Atlantic City. Over the municipality's objection, he was qualified as an expert in the appraisal of real estate and the appraisal of casino-hotels. He relied on the income approach to formulate an opinion of value of the subject property. He was of the opinion that the income approach is the primary, if not sole, method used in the marketplace to arrive at a purchase price for casino-hotel properties. He credibly testified that it is exceedingly rare for a casino-hotel enterprise to sell only its real property. In the marketplace, casino-hotel sales include all of the assets of an ongoing business enterprise, including personal property and the business operations, along with the real property. Because the sale of the subject property would necessarily involve the sale of the Borgata's ongoing business enterprise, plaintiff's first appraisal expert determined a true market value for the entire casino-hotel enterprise. From this value he extracted the true market value of the personal property, commonly known as the furniture, fixtures, and equipment, as well as the true market value of the casino-hotel business—including all elements of the ***487** going concern—to determine the true market value of the real property.

Many of the precedents from this court employ the direct capitalization method when determining the true market value of income-generating real property. Under that method, projected net income of the property is divided (or capitalized) by a rate of return derived from transactions in the marketplace, surveys and/or a weighted cost of capital. *Parkway Village Apartments Co. v. Township of Cranford*, 108 *N.J.* 266, 270, 528 *A.*2d 922 (1987); *Hull Junction Holding Corp. v. Borough of Princeton*, 16 *N.J.Tax* 68, 79 (Tax 1996). According to the credible testimony of the appraisal experts for both parties, for a casino-hotel, a direct capitalization rate can be derived from the value conclusion reached through application of what is known as an EBITDA multiple. Marketplace participants determine the sales price of a casino-hotel by calculating the property's EBITDA, or earnings before interest, taxes, depreciation and amortization, in the trailing twelve months leading to the date on which a sales price is determined. An EBITDA multiple is negotiated by market participants based on an assessment of risk regarding the property's capacity to generate EBITDA during a holding period. The more likely it is that the casino-hotel will maintain or increase its EBITDA, the more likely that the parties will agree on a higher EBITDA multiple. The more likely it is that the casino-hotel will suffer a decrease in EBITDA, the more likely the parties will agree on a lower EBITDA multiple. Application of an EBITDA multiple to the property's EBITDA results in a sales price. The capitalization rate for the transaction can be derived using a simple mathematical formula once the sales price, projected EBITDA and the EBITDA multiple are known.

With respect to tax year 2009, plaintiff's first appraisal expert began his net operating income analysis for the subject property by examining actual income and expenses reported by the Borgata for income tax purposes for the years 2005 to 2008. To the Borgata's reported net operating income he added back expenses deducted by the Borgata for depreciation and amortization. While these expenses are appropriately deducted for federal income tax ***488** purposes, they are not deducted as expenses for purposes of determining value under the income approach. In addition, the expert added back rent that the Borgata paid to MAC Corporation on the ground lease for the parcels not owned by plaintiff. This add-back allows for the valuation of a fee simple interest in the subject property, as required by New Jersey law. The expert also added back pre-opening expenses associated with the expansion of the casino floor and the opening of the Water Club Tower, as those expenses are non-recurring and would not appropriately be considered when determining a stabilized net operating income over the expected holding period of the subject property.

After these adjustments, plaintiff's first appraisal expert calculated net EBITDA as follows

2005	$256,474,000
2006	$250,095,000
2007	$246,560,000

Because the relevant valuation date for tax year 2009 is October 1, 2008, at the time of the hypothetical sale, the buyer and seller would have data relating to only the nine months ending September 30, 2008. Plaintiff's first appraisal expert, therefore, used the same approach to calculate net EBITDA for the nine months ending September 30, 2007 and September 30, 2008. He calculated those figures as follows:

09/30/07	$197,170,000
09/30/08	$173,871,000

The expert noted that by the end of September the Borgata had earned between 80% and 86% of its income for the calendar year, even though only 75% of the year has passed. He attributed this to increased revenue for Atlantic City casino-hotels in the summer months.

These figures show a steady decline in net income beginning in 2006, even with the expansion of the casino in 2007 and the opening of the Water Club Tower hotel in June 2008. This is true because an increase in gross income from those expansions was offset by additional expenses associated with operating the expanded casino and new hotel/spa facility.

***489** The expert opined that a hypothetical buyer and seller would on October 1, 2008 consider the expansion and expected further expansion of casino gaming in the

Borgata's market as a major factor when negotiating a projected stabilized net EBITDA for the subject property. He opined that the expanded competition created instability in the Atlantic City casino-hotel market and uncertainty as to when and if stabilization would occur for the subject property. In addition, he offered the opinion that the general declining national economy as of October 1, 2008 and its impact on consumer confidence and the availability of consumer funds for gaming and entertainment would influence the determination of a stabilized net EBITDA for the subject property.

The expert ultimately opinioned a stabilized net EBITDA for tax year 2009 of $230,000,000.

With respect to tax year 2010, plaintiff's first appraisal expert applied the same methodology to calculate the following net actual EBITDA for the period 2005 through 2008:

2005	$256,474,000
2006	$250,095,000
2007	$246,560,000
2008	$203,056,000

He calculated net EBITDA for the periods ending September 30 as follows:

09/30/08	$173,871,000
09/30/09	$171,180,000

Again, although gross revenues increased in 2008 from the expanded casino and hotel, net income dropped because of increased expenses associated with the first full-year of operation of the Water Club Tower.

The expert stabilized net EBITDA for the subject property for tax year 2010 at $213,000,000. He considered in his determination of a stabilized net EBITDA the further expansion of casino gaming in the Borgata's market, as well as the continued and deepening decline in the national economy. In addition, the expert considered the continued decline in net EBITDA and the then approximately year-old implementation of the partial smoking ban in Atlantic City.

***490** When formulating his opinion on stabilized net EBITDA, plaintiff's first appraisal expert did not consider actual income and expense data from any period after the relevant valuation dates. He credibly testified that consideration of such evidence would not be appropriate because a hypothetical buyer and hypothetical seller on the valuation dates would not have the benefit of actual income and expense data from subsequent periods when negotiating the true market value of the property.

Plaintiff's first appraisal expert examined casino-hotel sales from across the country to identify a range of EBITDA multiples for purposes of determining a market EBITDA multiple for the subject property on the two valuation dates. The expert analyzed the same casino-hotel transactions for both tax years. Having found no casino-hotel sales in New Jersey which were arms' length transactions, the expert relied on casino-hotel sales in Nevada, as well as riverboat casino sales in Mississippi, Indiana, Missouri and Louisiana. He determined both the sales price and the trailing twelve-month EBITDA for each transaction. From that information he calculated the EBITDA multiple for each sale.

The EBITDA multiples for the Nevada casino sales ranged from 3.81 to 5.9. The EBITDA multiples for the riverboat sales ranged from 3.7 to 5.78. All of the sales occurred prior to the economic downturn of late 2008 and in locations in which there was fairly substantial gaming demand and no threat of significant growth in competition. The expert converted the EBITDA multiples to capitalization rates, which ranged from 17% to 26.22% for the Nevada casino-hotel sales and 17.3% to 27% for the riverboat sales.

Included among the sales on which plaintiff's first appraisal expert relied was the March 2009 sale of the Treasure Island casino-hotel in Las Vegas. Treasure Island is a casino-hotel constructed in 1992. It has 2,885 rooms, fifteen restaurants, over 1,600 slot machines, 74 table games, a sports book, Keno, 55,000 square feet of gaming space and 5,800 parking spaces. This transaction was the subject of extensive testimony at trial.

***491** While plaintiff's two appraisal experts agreed that the Treasure Island sale was first publically announced in December 2008, no expert could identify with certainty the date on which the parties to the transaction reached agreement on a purchase price. The date on which the parties came to agreement on a purchase prices is important, given that the EBITDA multiple is determined by considering the EBITDA for the twelve months preceding the date on which the sales price was determined. Conflicting accounts of negotiations for the Treasure Island sale were reported in newspaper articles offered at trial. Because those articles were themselves hearsay and were embedded with additional hearsay statements, the court did not admit the articles into evidence. [3]

Plaintiff's first appraisal expert offered the opinion that the terms of the transaction were agreed upon in mid–2008, prior to October 1, 2008, the first valuation date, and prior to the significant drop in the national economy. The expert reported that the property sold for $775 million. He opined an EBITDA multiple for the sale of 7.01, which converted to a capitalization rate of 14.3%. This capitalization rate is lower than the ranges for the sales he previously identified. He explained this by noting that the Treasure Island was one of the premier hotels in Las Vegas, was on the famed Las Vegas strip, the country's premier gaming location, and that the purchase price was negotiated in a stable market. Cross-examination revealed that the purchase price effectively was reduced to $755 million by the early payment of debt ***492** by the purchaser. This changed the EBITDA multiple for the sale to 6.8, which converts to a capitalization rate of 14.7%.

For both tax years, plaintiff's first appraisal expert selected an EBITDA multiple of 5 for the subject property, which converts to a capitalization rate of 20%. This rate reflects, in the opinion of plaintiff's first appraisal expert, not only the increased and increasing competition in Atlantic City on the two valuation dates, but also the overall deteriorating economic trends for the general economy as of October 1, 2008 and October 1, 2009.

Applying this capitalization rate to his opinion of net EBITDA, plaintiff's first appraisal expert opined a value of $1,150,000,000 for the entire casino-hotel enterprise as of October 1, 2008 ($230,000,000 ÷ .20 = $1,150,000,000). The expert opined that the value of the real property could not possibly exceed this amount for tax year 2009, given that this value includes all elements of the casino-hotel operation.

With respect to tax year 2010, applying the capitalization rate to his opinion of net EBITDA, plaintiff's first expert opined a value of $1,065,000,000 for the entire casino-hotel enterprise as of October 1, 2009 ($213,000,000 ÷> .20 = $1,065,000,000). The expert opined that the value of the real property could not possibly exceed this amount for tax year 2010, given that this value includes all elements of the casino-hotel operation.

From these amounts plaintiff's first appraisal expert deducted the business or ongoing concern value. He made this determination through application of an artificial management fee. *See Glenpointe Assocs. v. Township of Teaneck,* 10 *N.J.Tax* 380, 391 (Tax 1989), *aff'd,* 12 *N.J.Tax* 118 (App.Div.1990). This approach to valuation, known as the Rushmore approach, which will be discussed in greater detail below, has long been recognized for use in valuing hotels. *See Prudential Ins. Co. v. Township of Parsippany–Troy Hills,* 16 *N.J.Tax* 58, 60 (Tax 1995). The appraisal theory uses the hypothesis that the property owner employs a professional management agent to take over the day-to-day operations of the business enterprise. This premise puts the property owner in the position of a passive investor in real property who ***493** makes no profit from the business operation conducted at the property. The business value—deducted in the form of a hypothetical market rate management fee—represents the value of the business enterprise. *See Westmount Plaza v. Township of Parsippany–Troy Hills,* 11 *N.J.Tax* 127, 135 (Tax 1990).

No outside management contracts for Atlantic City casino-hotels were in place on the valuation dates. Similarly, no outside management contracts existed for the major casino-hotels in Nevada as of the valuation dates. However, plaintiff's first appraisal expert estimated a hypothetical management fee based on his experience with internal management contracts at casino-hotels in Nevada. In his opinion, such contracts generally have rates of 5% to 6% of gross revenues.

With respect to tax year 2009, plaintiff's first appraisal expert applied these percentages to both the actual gross revenue for 2007, and actual gross revenue for the first nine months of 2008. He reconciled these figures to arrive at an estimated fee of $60,000,000. Because it is the expert's experience that management companies pay the salaries of the top manager and two assistants under the top manager, he deducted from his estimated management fee $1,129,000 that the Borgata paid to its top manager and two ***494** assistants. This resulted in an estimated management fee of $58,871,000 to deduct for business value, leaving an estimated net EBITDA of $171,129,000 ($230,000,000 -$58,871,000 = $171,129,000). Application of the 20% capitalization rate to the adjusted EBITDA resulted in an estimate of true market value of $855,645,000 for tax year 2009 ($171,129,000 ÷ .20 = $855,645,000).

With respect to tax year 2010, plaintiff's first expert applied the 5% and 6% to both the actual gross revenue for 2008, and actual gross revenue for the first nine months of 2009. He reconciled these figures to arrive at an estimated fee of $55,000,000. Because it is the expert's experience that management companies pay the salaries of the top manager and two assistants under the top manager, he deducted from his estimated management fee $1,743,914 that the Borgata paid to its top manager and two assistants. This resulted in an estimated management fee of $53,256,000 to deduct for business value, leaving an estimated net EBITDA of $159,744,000 ($213,000,000 - $53,256,000 = $159,744,000). Application of the 20% capitalization rate to the adjusted EBITDA resulted in an estimate of true market value of $798,720,000 for tax year 2010 ($159,744,000 ÷ .20 = $798,720,000).

From these figures plaintiff's first appraisal expert deducted the value of personal property that would be sold along with the subject real property. For tax year 2009, the expert used actual costs of personal property, as reported by the taxpayer, of $225,000,000. To this amount he attributed $34,500,000 in soft costs and financing charges (15% of the total soft costs and financing charges for the entire facility). He opined a total cost for the personal property new at $259,500,000 ($225,000,000 + $34,500,000 = $259,500,000). He thereafter estimated a 50% depreciation rate, given the rapidity at which personal property loses value because of physical wear and functional and external obsolescence. This indicates an estimated personal property value of $129,750,000 ($259,500,000 x .50 = $129,750,000).

After deducting the value of the personal property, plaintiff's first appraisal expert concluded a true market value of the subject property—land and improvements only —of $725,895,000 for tax year 2009 ($855,645,000 - $129,750,000 = $725,895,000).

For tax year 2010, the expert used actual costs of personal property, as reported by the taxpayer, of $225,000,000. To this amount he attributed $34,500,000 in soft costs and financing charges (15% of the total soft costs and financing charges for the entire facility). He opined a total cost for the personal property new at $259,500,000 ($225,000,000 + $34,500,000 = $259,500,000). He thereafter estimated a 50% depreciation rate, given the rapidity at which personal property loses value because of physical wear and functional and external obsolescence. This indicates an estimated personal property value of $129,750,000 ($259,500,000 x .50 = $129,750,000).

After deducting the value of the personal property, plaintiff's first appraisal expert concluded a true market value of the subject ***495** property—land and improvements only —of $668,970,000 for tax year 2010 ($798,720,000 - $129,750,000 = $668,970,000).

The expert made a final adjustment to his value conclusions. He observed that the court's adoption of his opinion of value would reduce plaintiff's taxes for each tax year. With respect to tax year 2009, plaintiff would benefit from a reduction of $25,326,155 in local property taxes. Because this reduction would reduce plaintiff's expenses by that amount, it is necessary for the expert to adjust his net EBITDA. This would add $126,630,775 in value to the subject property ($25,326,155 ÷ .20 = $126,630,775). This results in a final opinion of value of the subject property—land and improvements only—of $852,526,000 for tax year 2009 ($725,895,000 + $126,630,775 = $852,525,775).

With respect to tax year 2010, plaintiff would benefit from a reduction of $27,295,307 in local property taxes. Because this reduction would reduce plaintiff's expenses by that amount, it is necessary for the expert to adjust his net EBITDA. This would add $136,477,000 in value to the subject property ($27,295,307 ÷ .20 = $136,476,535). This results in a final opinion of value of the subject property—land and improvements only—of $805,447,000 for tax year 2010 ($668,970,000 + $136,477,000 = $805,477,000).[4]

2. *Plaintiff's Second Appraisal Expert.*

Plaintiff's second appraisal expert is an appraiser and consultant. At the time of trial, she had been an appraiser for 35 years. ***496** She has appraised several hundred casino-hotels, including at least five in Atlantic City. She is a frequent author of articles on valuation in the hotel and gaming industry and has published a chapter concerning hotel investments for a book on hotel valuation. Over defendant's objection, she was recognized by the court as an expert in real estate appraisal and casino-hotel appraisal.

Plaintiff's second appraisal expert took the income approach to determine the value of the subject property. She testified that it is her experience that participants in the casino-hotel marketplace determine the value of such properties by studying the trailing twelve months of EBITDA, as well as the demand and supply in the marketplace, and projecting income during a reasonable holding period. According to the expert, market participants apply an EBITDA multiple to determine a sales price and the marketplace does not determine sales prices for casino-hotels based on cost. In addition, it is her opinion that 99.5% or 99.9% of sales in the casino-hotel industry involve the sale of all assets—real property, personal property and the ongoing business enterprise. The real property is not sold separately, as its highest and best use is to generate income from gaming and hotel room rentals.

When determining projected revenues for the subject property, the expert considered gaming revenue and hotel room revenue separately. She began her analysis with a review of gaming revenue at all operating casino-hotels in Atlantic City during the period 2005 to October 1, 2008, the first valuation date. For slot machine income the industry realized a 3.5% increase from 2005 to 2006. From 2006 to 2007—after the start of economic recession and the introduction of slot machines in Pennsylvania—the Atlantic City casinos experienced a roughly 9% decline in slot machine revenue. In the twelve months leading to October 1, 2008, Atlantic City casinos experienced an additional 6.3% decline in slot machine revenue.

There was less erosion in table game revenue during that period. The expert attributed this to the fact that Pennsylvania casinos did not offer table games in the period leading to October 1, 2008. Table game revenue at Atlantic City casinos rose from ***497** 2005 to 2006 by 4.7% and rose an additional 2.7% from 2006 to 2007. However, table game revenue dropped 1.3% in the twelve months leading to October 1, 2008.

According to the credible testimony of plaintiff's second appraisal expert, from the period 2005 through 2007, the Borgata was on almost a stabilized operating trend with increasing revenue. During 2007, the Borgata experienced an increase in expenses associated with promotions to attract customers, a sign that regional gaming competition had increased. As the gaming environment became more competitive, the need to offer incentives—*e.g.*, free rooms, fee show tickets, free slot play—increased. In the twelve months leading to October 1, 2008, the Borgata experienced a slight uptick in revenues. While there was a decline in gaming revenue during this period, overall revenue rose, likely because of the opening of the Water Club Tower in June 2008. The expert offered the opinion that the slight increase in revenue was actually a negative indicator for the subject property, given that the opening of a 700–plus room hotel and spa during the peak summer season should have generated a much more significant boost in revenue than was realized by the Borgata.

In addition, after examining historic data regarding supply and demand, plaintiff's second appraisal expert concluded that as of the first valuation date, the Atlantic City gaming and hotel markets were oversupplied and intensely competitive. She projected that participants in the market on that date would forecast increased competition for a reasonable holding period, given the decline of the Atlantic City market and the rise in regional gaming opportunities.

After a detailed study of revenue statistics, supply levels, and attainable market penetration rates, plaintiff's second appraisal expert predicted that as of October 1, 2008, the Borgata's gaming revenue would decline by 1.2% for 2008, 6.3% for 2009 and 3.7% in 2010, reflecting primarily the impact of the national economic downturn and new regional gaming competition. She predicted modest increases in gaming revenue at the Borgata beginning in 2011.

***498** With respect to hotel room revenue, the expert examined first the Atlantic City casino-hotel market. She noted that during 2008, the Borgata, Harrah's and Trump Taj Mahal each added a hotel tower. Harrah's added 960 hotel rooms and the Trump Taj Mahal added 720 hotel rooms. At the end of 2008, Atlantic City casino-hotels had a supply of 17,059 hotel rooms. In the decade prior to the opening of new hotel towers, Atlantic City casino-hotels consistently achieved occupancy levels of more than 90%.

Beginning in 2008, Atlantic City hotel room supply began to outpace demand, due to the growth in regional gaming in Pennsylvania. As a result, hotel room occupancy rates began to decline. In addition, the "RevPAR," or revenue per available room, began to decline for Atlantic City casino-hotels beginning in 2007. For the period ending September

2008, yearly RevPAR at casino-hotels dropped 8.3% due to declines in both occupancy and average room rates. RevPAR continued to decline through 2009 due to the economic recession and increased local and regional competition. These trends were exacerbated by the fact that average room rates at casino-hotels are driven downward by offers of discounted and free hotel rooms to casino customers in order to promote gaming revenue. Atlantic City casino-hotels, including the Borgata, increased promotional offers effecting hotel room rates in response to increased competition in order to preserve market share.

During the relevant periods the Borgata was the market leader in Atlantic City in both hotel room occupancy and average room rate. Occupancy and average rates at the Borgata peaked in 2007, before the opening of the Water Club Tower. In the period ending September 2008, occupancy declined approximately 6% and RevPAR declined 6.3%. These declines continued through 2009. The expert attributed the declines to oversupply in the market, increased local and regional competition, and the economic recession.

The expert concluded that the Borgata, given its position as a market leader in Atlantic City, will likely achieve relatively high hotel room occupancy levels during a reasonable holding period ***499** for the subject property. The expert opined an occupancy level of 88% in 2008 and 82% in 2009. She further opined the subject property maintaining an occupancy level in the mid 80% to 90% range in the following years. Average daily room rates, she opined, will decrease through 2011 and stabilize in 2012, increasing at an assumed 2% rate of inflation.

The expert also compared the Borgata's budgeted income for 2008 with its actual income and noted that revenues did not meet budgeted levels. While the opening of the Water Club Tower in 2008 was expected to increase revenue significantly, only marginal gains were realized. Actual gaming revenue dropped, while other categories rose slightly due to the opening of the new hotel tower. Actual revenue achieved in 2008 was only 90% of budget, and actual house profit was only 74% of the budgeted amount. Promotional allowances, departmental expenses, and undistributed expenses increased in response to heightened competition.

The Borgata increased its profitability in 2009 versus 2008, even though revenue fell approximately 1.2% short of the budgeted amount. This was due, in the expert's opinion, to the implementation of extreme cost reductions due to good management in the face of tightening economic and competitive conditions. As noted above, austerity measures in 2009 included the mid-week closure of the Water Club Tower in the off-season and cost controls resulting in significant reductions in administrative and general expenses.

After a detailed analysis of every major category of income and expenses at the subject property, plaintiff's second appraisal expert estimated EBITDA for tax year 2009 of $229,677,000. This amount does not include real estate taxes, given that the purpose of the expert's formulation of an opinion of value is to determine the amount of real estate taxes due on the subject property. The expert accounted for real estate taxes later in her analysis. Nor does this amount reflect a large insurance payment received by plaintiff as the result of a major fire at the Water Club Tower during construction. Receipt of that payment represented an ***500** extraordinary event not likely to recur during a reasonable holding period.

Plaintiff's second appraisal expert thereafter extracted the value of the business enterprise by applying a hypothetical management fee. As explained above, the fee theoretically represents what a casino-hotel owner would pay to an outside entity to operate the facility. By placing the property owner in the position of a passive investor, the business value of the casino-hotel operation is extracted from the ultimate conclusion of value. She opined a theoretical management fee of 4% of net revenue. She reached this figure through analysis of management contracts in place at gaming facilities owned by Native American tribes, which are frequently the subject of management agreements with third parties with gaming expertise, as well as other casino management arrangements of which she was aware. She found no management fees in place at Atlantic City casino-hotels on the valuation dates. After adjustment for the management fee, the expert offered an opinion of EBITDA of $197,381,000 for tax year 2009.

The expert then applied a 2% of net revenue annual reserve for the replacement of furniture, fixtures, equipment and other personal property essential to the operation of a casino-hotel. This includes all non-real estate items that normally are capitalized and not expensed, such as slot machines, upholstered slot chairs, surveillance equipment, change carts, table games and hotel room furnishings. Personal property at casino-hotels is subject to heavy use and must be replaced periodically. After adjustment for this factor, the expert offered an opinion of EBITDA of $181,233,000 for tax year 2009.

Plaintiff's second appraisal expert then formulated an EBITDA multiple. She looked at EBITDA multiples derived from actual sales of gaming facilities and the EBITDA multiples developed by investment banking firms that study the gaming industry. The expert credibly testified that identifying the appropriate EBITDA multiple was a challenge because very few casino-hotels sold near the relevant valuation dates as a result of credit markets tightening during the beginnings of the national economic crisis in 2008. ***501** In addition, the sale of the Tropicana Atlantic City casino-hotel in March 2009 was given little weight because it arose from a bankruptcy. The sale of the Amelia Belle, a riverboat in Louisiana, in June 2009 was also given little weight because of its age and location in a secondary market.

In the expert's opinion, the sale of the Treasure Island hotel-casino in Las Vegas, discussed at greater length above, was the one institutional grade transaction to take place during this period. The expert determined this sale to be the most relevant transaction, as it reflected the price paid for a first-class casino-hotel in a major gaming market. She was of the opinion that the sales price for that property was reached in mid–2008 and announced to the public in December 2008. The transaction closed in March 2009. The expert determined that the EBITDA for the Treasure Island casino-hotel for the twelve months ending December 2008, the announcement date of the transaction, was approximately $100 million. Dividing the $755 million purchase price by 100 million resulted in this expert's opinion in an EBITDA multiple of 7.55.[5]

The expert also examined EBITDA multiples of major gaming companies. The multiples were derived by an investment bank as of the end of the third quarter of 2008 by dividing each company's total enterprise value by its reported EBITDA. She noted that EBITDA multiples declined since 2006, as gaming stocks suffered in the wake of the national economic downturn. These multiples fell in a broad range from 6.01 to 15.12. The higher end multiples were for companies with considerable existing and proposed investments in Macau and Asia, gaming markets that are much more vibrant than those in the United States. The two gaming companies with a 50% interest in the Borgata, MGM Mirage and Boyd Gaming, had EBITDA multiples of 7.39 and 7.32. These multiples are higher than would be the case for a stand-alone ***502** casino-hotel in Atlantic City, as they reflect the diversified gaming assets of MGM Mirage and Boyd Gaming, domestically and internationally, and their associated growth prospects.

Given the growing regional competition applying downward economic pressure on the Atlantic City market, Borgata's reliance on customers from the region in which gaming was expanding, and the national economic downturn, the expert concluded a EBITDA multiple of 6 for the subject property. According to the expert, this multiple also reflects the risk of owning a single asset and the generally unfavorable investment climate in Atlantic City as of October 1, 2008.

The EBITDA multiple was thereafter adjusted by the expert to reflect the effective tax rate if her conclusion of value were to be accepted by the court. This adjustment was based on a mathematical calculation including the Atlantic City tax rate for 2009, the equalization rate and the ratio of real to personal property she opined for the property. The expert's adjusted EBITDA multiple of 5.52 effectively builds the local property tax burden into the valuation calculation.

Applying the adjusted EBITDA multiple to the first year's projected net income (after deduction for reserve for replacement of personal property and the value of the business component), resulted in a value of $1,001,000,000 ($181,233,262 x 5.52 = $1,001,010,409).[6] This converts to an overall capitalization rate of 16.7%. The expert considered this rate to be appropriate given the projected long-term decline in the Borgata's net income and because of the significant risk due to increasing regional competition.

The expert also used a discounted cash flow analysis to estimate the value of the subject property. Her discounted cash flow ***503** analysis resulted in a value of $1,014,000,000. She reconciled the two values at $1,010,000,000.

The expert deducted from this figure the depreciated value of the furniture, fixtures and equipment that would be sold with the subject property. She began her analysis with the actual cost of the personal property and a pro-rata share of soft costs associated with the personal property. She estimated the total amount to be $259,431,000. She then deducted depreciation from the value of the personal property. She theorized that once a casino is operating for a period of time, its personal property is in a continuous state of refurbishment and replenishment, in light of the heavy use of personal property in a casino-hotel. She opined that at any given time, there are items of personal property near the end of their usefulness which have very little value and other items of personal property that were recently replaced and near full value. This is particularly true with respect to the subject property, where, on the valuation dates, the personal property in the Water Club Tower was relatively new and the personal property in the original Borgata was approaching the ten-year mark, a point at which, the expert opined, hotel personal property reaches the end of its usefulness. The expert opined that depreciation at mid-point, or 50%, would be appropriate to account for this state of affairs. At 50% depreciation, the value of the furniture, fixtures and equipment is $130,000,000.

The expert also considered working capital on hand at the Borgata on October 1, 2008. Cash, cash equivalents, accounts receivable, inventories, investments, advances and receivables are included in this category. From working capital was deducted accounts payable, income taxes payable and other accrued expenses and liabilities. Because liabilities exceeded working capital by $34,608,000, no deduction was made for this category.

By deducting the $130,000,000 value of the personal property from the $1,010,000,000 reconciled value for the entire property, the expert arrived at an opinion that the real property had a true market value of $880,000,000 as of October 1, 2008 ($1,010,000,000 - $130,000,000 = $880,000,000).

***504** Plaintiff's second appraiser applied the same analysis under the income approach when reaching an opinion of value of the subject property as of October 1, 2009, the second valuation date. According to the expert, as of that date, the economic outlook for the Atlantic City gaming industry continued to be grim. The legislation authorizing table games in Pennsylvania casinos appeared more certain to be enacted. The Sands casino opened in Bethlehem, Pennsylvania in May 2009, providing a convenient gaming option for customers in northern New Jersey and New York City. A $650 million casino with 3,000 slot machines had been approved for the Philadelphia waterfront with a planned opening date of October 2009. Pennsylvania's slot-machine casinos had begun installing "electronic table games," slot machines designed to act like table games with an electronic dealer. These machines had been growing in popularity, further cutting into the Atlantic City market.

In addition, by October 1, 2009, the bidding process was underway to operate the Aqueduct racetrack casino in Queens with 4,500 video lottery terminals. New York City is a major source of customers to the Atlantic City casino-hotel market. In Maryland, approvals were issued for that state's first gaming facility at Ocean Downs Racetrack. In Delaware, the legislature was considering a bill to authorize live table games and sports betting. Delaware is one of four states in which sports betting is not banned by federal law.

Atlantic City visitor statistics showed a 4.5% decline in visits from 2008 to 2009. Other Atlantic City casino-hotels were in bankruptcy and by 2009 every plan for major development of gaming resorts in the city had all been halted. In addition, as noted above, management of the subject property decided to close the Water Club Tower mid-week on a seasonal basis. Although by all accounts this decision is reflective of the good management in place at the Borgata, it is also evidence of the continued downward economic trend the facility was experiencing.

Plaintiff's second appraisal expert opined that the Atlantic City gaming market remained oversupplied and intensely competitive ***505** as of October 1, 2009. She projected increased competition and a dilution of the Atlantic City market. The expert opined that in late 2009 it was evident that "the Atlantic City gaming market was in a steep decline." Thus, even though the Borgata remained a market leader in Atlantic City and might even experience an increase in market share as compared to other Atlantic City casino-hotels, it will only garner a bigger percentage of an increasingly shrinking pie.

After a detailed analysis of every major category of income and expenses, plaintiff's second appraisal expert estimated EBITDA for tax year 2010 of $219,976,000. The expert thereafter extracted the value of the business enterprise by applying a hypothetical management fee. She used the same rate (4% of net revenue) that she used for tax year 2009. After application of that rate, the expert offered an opinion of EBITDA of $189,764,000 for tax year 2010. The expert then applied a 2% of net revenue annual reserve to account for the replacement of furniture, fixtures, equipment and other personal property. After this adjustment the expert offered an opinion of EBITDA of $174,658,000 for tax year 2010.

Plaintiff's second appraisal expert opined a slightly higher EBITDA multiple—6.25—for tax year 2010. In addition to the sales she relied upon with when calculating an EBITDA multiple for tax year 2009, the expert considered the April 2010 sales of the Rainbow Casino in Vicksburg, Mississippi. That facility is a docked riverboat casino, along with a land-based 89–room hotel and 20,000 square feet of meeting space. The sale had an EBITDA multiple of 7.3. The facility is of a lower quality than the subject property. The expert, however, found the EBITDA multiple to be useful information because it reflected the value the market placed on income earning potential. Again, the expert relied most heavily on the sale of the Treasure Island casino-hotel in Las Vegas. In addition, the EBITDA multiples of companies with assets most comparable to the subject property ranged from 7.58 to 9.81.

The expert's EBITDA multiple for tax year 2010 was thereafter adjusted by the expert to reflect the effective tax rate if her ***506** conclusion of value were to be accepted by the court. This adjustment was based on a mathematical calculation concerning the Atlantic City tax rate for 2010, the equalization rate and the ratio of real to personal property she opined for the property. The adjusted EBITDA multiple of 5.71 builds the property tax burden into the valuation calculation.

Applying the adjusted EBITDA multiple to the first year's projected net income (after deduction for reserve for replacement of personal property and the value of the business component), resulted in a value of $997,000,000 ($174,658,414 x 5.71 = $997,018,740). This converts to a capitalization rate of 16.0%. The expert considered this capitalization rate to be appropriate given the projected decline in the Borgata's net income over a holding period.

The expert also used a discounted cash flow analysis to estimate the value of the subject property. Her discounted cash flow analysis resulted in a value of $1,047,000,000. She reconciled the two values at $1,000,000,000.

The expert then deducted the depreciated value of the furniture, fixtures and equipment that would be sold with the subject property. Using actual cost figures and the mid-point depreciation rate discussed above, the expert deducted $130,000,000 for the value of personal property. No deduction was made for working capital on hand as of October 1, 2009, because the amount of that asset was minimal (0.2%) compared to the overall value of the property.

By deducting the $130,000,000 value of the personal property from the $1,000,000,000 reconciled value, the expert arrived at an opinion that the real property had a true market value of $870,000,000 as of October 1, 2009 ($1,000,000,000 - $130,000,000 = $870,000,000).

Plaintiff's second appraisal expert also formulated an opinion of value of the subject property under the cost approach. She was of the opinion that the cost approach is not reliable when determining the value of a casino-hotel and is not used in the marketplace. She opined that the investment in constructing a casino-hotel may ***507** well exceed its income generating capacity. Conversely, the cost of constructing a casino-hotel, for example in a captive market, may be far less than the value attributable to the property's projected ability to generate income. The expert's initial report did not include the cost approach, given her views about its inapplicability in valuing a casino-hotel. She undertook a cost approach analysis only at the direction of plaintiff's counsel, who was concerned about this court's apparent dissatisfaction with not being presented with expert testimony based on the cost approach in *City of Atlantic City v. Ace Gaming, LLC,* 23 *N.J.Tax* 70 (Tax 2006), the only published opinion in New Jersey in which the true market value of a casino-hotel was determined for local property tax purposes.

The expert identified multiple difficulties with the cost approach, including the challenge in measuring accurately the cost to replace a large, complex casino-hotel. Perhaps more challenging is the accurate estimation of depreciation, which can be attributed to three factors, physical depreciation, functional obsolescence and economic (or external) obsolescence. In order to determine external or functional obsolescence, plaintiff's second appraisal expert relied on the reports of two other experts, an economics professor with expertise in determining economic obsolescence of commercial assets, and a casino gaming industry analyst. The analyst, whose opinion was also relied on by the economics professor in his analysis, offered an opinion on the utilization of the Borgata before and after the Water Tower Club expansion. Because the court does not rely on the cost approach to determine the value of the subject property, this approach, which was explored at length at trial, will not be detailed in this opinion.

Plaintiff's second appraisal expert did not use the sales comparison approach. She was of the opinion that participants in the marketplace do not value casino-hotels using the sales comparison approach. In addition, because each casino-hotel property has unique characteristics it would not be possible to identify reliable units of comparison in order to make adjustments to sales prices. She was of the opinion that the comparable sales approach would necessarily involve several speculative and unsupportable adjustments. ***508** She noted, however, that comparable sales are used by the casino-hotel industry to determine an EBITDA multiple for a property being valued, given that a property's ability to generate income is the sole measure of comparison used in the casino-hotel industry when determining value.

3. *Plaintiff's EBITDA Multiple/Capitalization Rate Expert.*

Plaintiff also offered the testimony of an expert casino industry analyst with respect to the appropriate EBITDA multiple to be applied when determining the true market value of the subject property. This expert, who also provided the utilization report relied on by plaintiff's second appraisal expert in her cost approach analysis, corroborated the opinion that in the marketplace the purchase price of a casino-hotel is determined by applying an EBITDA multiple to the trailing twelve months of EBITDA and not through the cost or comparable sales approaches.

This expert opined that the proliferation of regional gaming opportunities had a significant negative impact on casino-hotel revenue in Atlantic City. He also opined that the national economic crisis in late 2008 had a detrimental effect on gaming revenue and future earning potential for Atlantic City casino-hotels. The negative impact, according to the expert, came not only from customers deciding to frequent competing gaming facilities, but also from increased marketing costs to attract customers and increased labor costs associated with competitors attracting talented employees. According to the expert, all of these factors placed downward pressure on EBITDA multiples for the Atlantic City casino-hotel market.

This expert opined that the appropriate EBITDA multiple for the subject property as of October 1, 2008 was 5.4. The equivalent capitalization rate would be 18.6%, not adjusted to consider the tax rate were the value of the subject property to be reduced. He reached this figure through an analysis of the EBITDA multiples of publically traded gaming companies and gaming facility sales. One sale he considered was the purchase of the Treasure Island casino-hotel in Las Vegas. He concluded that the ***509** EBITDA for that sale was 6.9. To make this determination he used the trailing twelve months EBITDA at the time of the closing in March 2009. The expert opined that the correct EBITDA multiple for the subject was less than the Treasure Island EBITDA multiple because the subject property is not in the prime Las Vegas strip location of the Treasure Island and because of the significant increase in regional competition facing Atlantic City casino-hotels as of October 1, 2008, as well as the implementation of the municipal smoking ban.

With respect to tax year 2010, the expert opined an EBITDA multiple of 5.5. This converts to a capitalization rate of 18.3% without consideration of the tax burden if the value of the subject property is reduced. This EBITDA multiple was based on, in the expert's view, the worsening national economy, increased regional competition, and dimmed earning prospects for the Borgata as of October 1, 2009.

4. *Defendant's Appraisal Expert.*

Defendant presented the testimony of an expert real estate appraiser with experience valuing casino-hotels in Atlantic City. A longtime consultant to Atlantic City, as of the valuation date, the expert had appraised each of the twelve casino-hotels operating in Atlantic City. This expert took both the income approach and the cost approach to formulate an opinion of the true market value of the subject property. She did not use the comparable sales approach, given the lack of arms' length transactions involving casino-hotels in Atlantic City.

Defendant's expert began her income approach analysis with an examination of the Borgata's actual revenues and expenses for the years 2006 through 2009, as well as the performance of all other Atlantic City casino-hotels during that period. The expert acknowledged an overall decline in revenue for the Atlantic City casino-hotel industry from 2006 to 2009. While the Borgata and the other casino-hotels the expert considered to be top-tier facilities experienced declines in revenue during that period, they generally performed better than other Atlantic City casino-hotels. ***510** The Borgata had what could accurately be described as "the least worst" performance among Atlantic City casino-hotels, experiencing less sharp declines than its competitors and leading the pack in what was clearly a beleaguered industry.

From 2006 to 2007 the Borgata's declines in revenue were significantly less severe than experienced in 2008 and 2009. The more severe decreases in the later years resulted from both drops in gaming revenue and hotel room revenue. The expert summarized her findings as follows "the casino income components, in general, began to decline in 2007 for most casinos. The casinos with gaming floor area in excess of 100,000 square feet weathered the economic downturn slightly better than the small, older casinos. By 2009, all casinos in Atlantic City were feeling the [e]ffects of the economy and reported negative growth rates in almost all revenue components."

She attributed the declines to the negative effect of the downturn in the national and local economy and the Atlantic City partial smoking ban. She did not consider the expansion of gaming in the States surrounding New Jersey to have had a significant impact on the value of the subject property on the relevant valuation dates. According to the expert, the potential impact of Pennsylvania slot-machine casinos was unknown as of October 1, 2008 and October 1, 2009. She is of the opinion that with the benefit of hindsight we can see the detrimental effect of competition, but participants in the marketplace would not have known of that impact on the valuation dates. She admitted, however, that she "never studied" the question of how many Atlantic City casino-hotel customers came from Pennsylvania during the relevant periods. She did not, therefore, consider declines in visits from out-of-State customers when reaching her opinion with respect to the impact of gaming expansion on Atlantic City revenue. The expert also gave vague testimony that market participants in 2008 and 2009 suspected that Pennsylvania gaming would not be successful because of a "high tax rate" on revenues from slot machines. No evidence explaining this testimony was introduced at trial.

***511** The expert viewed the Atlantic City casino-hotel market to be in a transitional period on the two valuation dates. She did not consider the significant decline in revenue to be evidence of a long-term change in the Atlantic City casino-hotel market. Rather, she viewed the negative revenue figures to represent lean years in what is a cyclical industry. She therefore stabilized income for the subject property "not in the highs, not at the lows, somewhere that's in the middle that represents a place where the property may stay for a while." She explained that she was "going to try to find the middle ground." She described her analysis of the Borgata's income data from 2006 to 2009 as follows: "I looked at two highs and two lows and I took what would be called an average or equal weight." With respect to gaming revenue, her report states that "we feel the best stabilization of the gaming revenue is the average of four years including the two years under appeal (2006 through 2009)." She took the same approach with other categories of revenue, including hotel room revenue.

The expert estimated gross revenues of $1,045,563,000 for both October 1, 2008 and October 1, 2009. The expert explained that because she stabilized income by averaging four years of actual data it was not necessary for her to arrive at a separate estimate of gross revenue for each tax year.

The expert also used the four-year averaging approach to estimate the cost of promotional allowances and other expenses. After deduction for the promotion allowances and expenses calculated through averaging, the expert estimated gross operating profits of $235,879,000 for both tax years. Real estate taxes actually assessed against the subject property for the two tax years at issue were added back to the equation by the expert to bring gross operating expenses of $274,444,630 for tax year 2009 and $276,613,629 for tax year 2010.

Defendant's expert candidly acknowledged that she considered 2009 income and expenses when determining the value of the Borgata for tax years 2008 and 2009. Participants in the marketplace, however, would not have had data from 2009 when negotiating a purchase price for the subject property on October 1, 2008. ***512** Similarly, the expert acknowledged that she considered a full year of 2009 income and expense data when determining value as of October 1, 2009, even though market participants would not have had that information as of that valuation date. According to the expert's testimony at trial, "I know the Courts don't like me going to post-trial—post-valuation dates, but I felt in this instance I had to. I wouldn't normally do it. If there was other things that I thought would have been better, I would have done it. Maybe the Court doesn't agree and that's fine. I do believe I took the right approach by looking at those four years. I think I tried to do the best I could for the City and for the property owner to try to find that middle ground. And to me, that's what stabilization is." She justified looking at 2009 income and expense data because there were extraordinary expenses associated with the opening of the Water Club Tower and there was not a full year of income and expenses from the Water Club Tower and because the Borgata and the Atlantic City casino-hotel market were undergoing change on the valuation dates.

Defendant's expert made no deduction from her estimate of gross operating income for a hypothetical management fee to remove the value of the business enterprise. Although the expert generally was in agreement that it is appropriate under the income approach to extract business value through the application of a hypothetical management fee, she determined that no fee was warranted in this case. The expert's rationale for this conclusion is her opinion that the Borgata already has high level managers in place and the deduction of a management fee would be "double counting" and would artificially reduce the value of the subject property. She could not, however, identify with precision the amount that the Borgata paid during the relevant periods to its high-level managers. The expert testified that she was unable to identify the salaries and other compensation paid to the individuals she considered to be high-level managers who were the equivalent of a management team that would be provided through a management agreement. She could not, therefore, offer an opinion of whether the salaries and compensation paid by the Borgata represented a market rate for a management agreement.

***513** The expert made an adjustment for the return of short-lived personal property, primarily furniture, fixture and equipment. After an examination of actual costs incurred by the Borgata in replacing furniture and estimates on the useful life of various categories of property, the expert estimated a reserve for the replacement of personal property of $24,300,000 for each tax year.

Finally, defendant's expert considered other income and expenses associated with the operation of the Borgata. The expert examined interest income from operations, a return on the cash required to be kept on premises in the casino cage, and payments to the Casino Reinvestment Development Authority. Her calculation resulted in a net deduction of $9,435,000 for each tax year.

The expert arrived at an overall net operating income of $240,709,630 for tax year 2009 and $242,878,629 for tax year 2010.

Defendant's expert began her capitalization rate analysis with an examination of studies by PriceWaterhouse Coopers, LLC Korpacz, a well-known financial analysis firm. The Korpacz studies on which the expert relied are based on surveys completed by investors who took part in real estate transactions. The surveys concern equity yield and equity capitalization rates. Korpacz does not conduct studies of the casino-hotel industry. Defendant's expert relied, instead, on Korpacz studies concerning full-service and luxury hotels not associated with casinos. The expert made a 10% adjustment to the hotel data from the third quarter of 2008 and first quarter of 2009 to account for a decline in casino wins at the Borgata, resulting in overall capitalization rates ranging from 9.35% to 9.50%. The expert also undertook a band of investment analysis, resulting in an 8% capitalization rate. Finally, defendant's expert examined the Borgata's financing for its long-term debt, revolving loans and other outstanding loans. From this examination the expert derived a capitalization rate ranging from 4.8% to 7.2%.

After weighing the above-described data, defendant's expert concluded that "[b]ased on the size of the Borgata, its location and position in the market, an 8.0% capitalization rate is deemed appropriate." The expert adjusted the 8.0% capitalization rate to ***514** account for real estate taxes, which were excluded as an expense. Using the tax rates in place in Atlantic City during the relevant tax years, the expert concluded the capitalization rates of 9.713% for tax year 2009 and 9.809% for tax year 2010.

The expert also calculated a deduction to extract from her calculations the value of personal property that would be purchased along with real property in a hypothetical sale of the Borgata. Relying on the depreciated book value of the personal property, the expert deducted $105,667,729 for personal property for tax year 2009 and $81,971,623 for tax year 2010.

Application of the expert's net operating income, capitalization rates and personal property deduction resulted in opinions of true market value as follows:

Tax year 2009 $2,373,000,000 ($240,709,630 ÷ .09713 = $2,478,221,250 - $105,667,729 = $2,372,553,521).

Tax year 2010 $2,394,000,000 ($242,878,629 ÷ .09809 = $2,476,079,407 - $81,971,623 = $2,394,107,784).

Defendant's expert also used the cost approach to formulate an opinion of value for the subject property. Because the court concludes that the income approach is the most credible method for determining the true market value of the subject property, the court will not discuss the expert's cost approach analysis at length. It is important to note, however, that defendant's expert made no adjustment to her estimated depreciated cost new for economic obsolescence. She made the determination not to make an economic obsolescence adjustment based on her conclusion that the value she reached under the income approach exceeded the cost new of the subject property. She opined that this comparison supports the conclusion that the subject property is not subject to economic obsolescence. She ultimately concluded, under the cost approach, values of $2,200,000,000 for tax year 2009 and $2,019,000,000 for tax year 2010.

Defendant's expert gave slightly greater weight to the value she reached using the income approach because, in her words, "technically casinos are bought on their income. It's considered—supposedly *515 considered the better approach. So, I considered that the better of the two approaches...." She offered the opinion that the true market value of the subject property on each of the valuation dates was $2,300,000,000. She did not differentiate between the two tax years in her final conclusion of value.

The value opinions of the three appraisal experts can be summarized as follows:

Tax Year	Plaintiff«s# First Expert	Plaintiff«s# Second Expert	Defendant«s# Expert
2009	$852,526,000	$880,000,000	$2,300,000,000
2010	$805,447,000	$870,000,000	$2,300,000,000

III. *Conclusions of Law*

A. ***The Presumption of Validity.***

[1] The court's analysis begins with the familiar maxim that "[o]riginal assessments ... are entitled to a presumption of validity." *MSGW Real Estate Fund, LLC v. Borough of Mountain Lakes,* 18 *N.J.Tax* 364, 373 (Tax 1998). As Judge Kuskin explained, our Supreme Court has defined the parameters of the presumption as follows:

> The presumption attaches to the quantum of the tax assessment. Based on this presumption the appealing taxpayer has the burden of proving that the assessment is erroneous. The presumption in favor of the taxing authority can be rebutted only by cogent evidence, a proposition that has long been settled. The strength of the presumption is exemplified by the nature of the evidence that is required to overcome it. That evidence must be "definite, positive and certain in quality and quantity to overcome the presumption."

Ibid. (quoting *Pantasote Co. v. City of Passaic,* 100 *N.J.* 408, 413, 495 *A.*2d 1308 (1985) (citations omitted)).

[2] [3] The presumption of correctness arises from the view "that in tax matters it is to be presumed that governmental authority has been exercised correctly and in accordance with law." *Pantasote, supra,* 100 *N.J.* at 413, 495 *A.*2d 1308 (citing *Powder Mill, I Assocs. v. Township of Hamilton,* 3 *N.J.Tax* 439 (Tax 1981)); *see also Byram Twp. v. Western World, Inc.,* 111 *N.J.* 222, 544 *A.*2d 37 (1988). The presumption remains "in place even if the municipality utilized a flawed valuation methodology, so long as the *quantum* of the assessment is not so far removed from ***516** the true value of the property or the method of assessment itself is so patently defective as to justify removal of the presumption of validity." *Transcontinental Gas Pipe Line Corp. v. Township of Bernards,* 111 *N.J.* 507, 517, 545 *A.*2d 746 (1988) (citation omitted).

[4] [5] [6] "In the absence of a *R.* 4:37–2(b) motion ... the presumption of validity remains in the case through the close of all proofs." *MSGW Real Estate Fund, LLC, supra,* 18 *N.J.Tax* at 377. In making the determination of whether the presumption has been overcome, the court should weigh and analyze the evidence "as if a motion for judgment at the close of all the evidence had been made pursuant to *R.* 4:40–1 (whether or not the defendant or plaintiff actually so moves), employing the evidentiary standard applicable to such a motion." *Ibid.* The court must accept as true the proofs of the party challenging the assessment and accord that party all legitimate favorable inferences from that evidence. *Id.* at 376 (citing *Brill v. Guardian Life Ins. Co. of Am.,* 142 *N.J.* 520, 535, 666 *A.*2d 146 (1995)). The court is concerned with the existence of the evidence, not its weight. *Dolson v. Anastasia,* 55 *N.J.* 2, 5–6, 258 *A.*2d 706 (1969). In order to overcome the presumption, the evidence "must be 'sufficient to determine the value of the property under appeal, thereby establishing the existence of a debatable question as to the correctness of the assessment.' " *West Colonial Enters., LLC v. City of East Orange,* 20 *N.J. Tax* 576, 579 (Tax 2003)(quoting *Lenal Props., Inc. v. City of Jersey City,* 18 *N.J. Tax* 405, 408 (Tax 1999), *aff'd,* 18 *N.J. Tax* 658 (App.Div.), *certif. denied,* 165 *N.J.* 488, 758 *A.*2d 647 (2000)).

[7] [8] Only after the presumption is overcome with sufficient evidence at the close of trial must the court "appraise the testimony, make a determination of true value and fix the assessment." *Rodwood Gardens, Inc. v. City of Summit,* 188 *N.J.Super.* 34, 38–39, 455 *A.*2d 1136 (App.Div.1982) (citations omitted). If the court determines

that sufficient evidence to overcome the presumption has not been produced, the assessment shall be affirmed and the court need not proceed to making an independent determination of value. ***517** *Ford Motor Co. v. Township of Edison,* 127 *N.J.* 290, 312, 604 *A.*2d 580 (1992); *Global Terminal & Container Serv. v. City of Jersey City,* 15 *N.J.Tax* 698, 703–04 (App.Div.1996).

[9] Plaintiff has overcome the presumption of validity attached to the assessments under review. Two appraisal experts with extensive experience in appraising casino-hotels were called by plaintiff during its case-in-chief and offered opinions of value more than a billion dollars below the assessments on the subject property on the relevant valuation dates. The opinions are based on reasoned analysis of data of the type typically used by appraisers of casino-hotel properties and the opinions of value offered by the experts were arrived at through recognized appraisal techniques. Giving every positive inference to plaintiff, as is required at this juncture of the analysis, sufficient evidence was adduced at trial to raise a doubt in the court's mind with respect to the validity of the assessments on the property for tax years 2009 and 2010. The court, as a result, turns to the task of determining the true market value of the subject property on the relevant valuation dates.

B. ***Approaches to Value.***

[10] "There are three traditional appraisal methods utilized to predict what a willing buyer would pay a willing seller on a given date, applicable to different types of properties: the comparable sales method, capitalization of income and cost." *Brown v. Borough of Glen Rock,* 19 *N.J.Tax* 366, 376 (App.Div.)(citing Appraisal Institute, *The Appraisal of Real Estate* 81 (11th ed 2006)), *certif. denied,* 168 *N.J.* 291, 773 *A.*2d 1154 (2001). "There is no single determinative approach to the valuation of real property." *125 Monitor Street, LLC v. City of Jersey City,* 21 *N.J.Tax* 232, 237 (Tax 2004) (citing *Samuel Hird & Sons, Inc. v. City of Garfield,* 87 *N.J.Super.* 65, 72, 208 *A.*2d 153 (App.Div.1965); *ITT Continental Baking Co. v. Township of East Brunswick,* 1 *N.J.Tax* 244 (Tax 1980)), *aff'd,* 23 *N.J.Tax* 9 (App.Div.2005). "The choice of the predominate approach will depend upon the facts of each case and the reaction of the experts to those facts." *Id.* at 238 (citing *City of New Brunswick v. Division of Tax Appeals,* 39 *N.J.* 537, 189 *A.*2d 702 (1963); *Pennwalt Corp. v. Township of Holmdel,* 4 *N.J. Tax* 51, 61 (Tax 1982)).

***518** The comparable sales approach "usually provides the primary indication of market value in appraisals of properties that are not usually purchased for their income-producing characteristics." Appraisal Institute, *The Appraisal of Real Estate,* 419 (12th ed. 2001). This method of valuation has been defined as "[a] set of procedures in which a value indication is derived by comparing the property being appraised to similar properties that have been sold recently, applying appropriate units of comparison, and making adjustments to the sales prices of the comparables based on the elements of comparison." *Id.* at 417.

[11] The income capitalization approach is the preferred method of estimating the value of income producing property. *Parkway Village Apartments Co. v. Township of Cranford,* 108 *N.J.* 266, 270, 528 *A.*2d 922 (1987); *Hull Junction Holding Corp. v. Borough of Princeton,* 16 *N.J.Tax* 68, 79 (Tax 1996). "In the income capitalization approach, an appraiser analyzes a property's capacity to generate future benefits and capitalizes the income into an indication of present value." Appraisal Institute, *The Appraisal of Real Estate* 445 (13th ed 2008). This approach generally applies to real property that generates income from the rental of the property, not from the business activities that take place at the property.

Determining the value of real property pursuant to the income approach can be

	Effective Gross Income
-	Operating Expenses
	Net Operating Income
÷	Capitalization Rate
	Value of Property

[12] *See Spiegel v. Town of Harrison,* 19 *N.J.Tax* 291, 295 (App.Div.2001), *aff'g,* 18 *N.J.Tax* 416 (Tax 1999); Appraisal Institute, *The Appraisal of Real Estate* 466 (13th ed 2008). In addition, where the sale of the subject property will include all ***519** assets of a business enterprise closely associated with the subject property it is necessary to extract from the value conclusion the value of personal property, often referred to as furniture, fixtures and equipment, and the value of the business enterprise to arrive at a value of only real property. *Chesapeake Hotel, LP v. Township of Saddle Brook,* 22 *N.J.Tax* 525, 526 (Tax 2005).

[13] [14] [15] The cost approach is normally relied on to value special purpose property or unique structures for which there is no market. *Borough of Little Ferry v. Vecchiotti,* 7 *N.J.Tax* 389, 407 (Tax 1985); *Dworman v. Borough of Tinton Falls,* 1 *N.J.Tax* 445, 452 (Tax 1980), *aff'd,* 180 *N.J.Super.* 366, 3 *N.J.Tax* 1, 434 *A.*2d 1134 (App.Div.), *certif. denied,* 88 *N.J.* 495, 443 *A.*2d 709 (1981). The cost approach "involves a replication, through the use of widely accepted cost services ... of the cost of the components of the building to be valued, less ... depreciation[s]." *Gale & Kitson Fredon Golf, LLC v. Township of Fredon,* 26 *N.J.Tax* 268, 283 (Tax 2011) (quotations omitted). "A cost approach has two elements—land value and the reproduction or replacement cost of the buildings and other improvements." *International Flavors & Fragrances, Inc. v. Borough of Union Beach,* 21 *N.J.Tax* 403, 417 (Tax 2004). From the estimated reproduction cost is deducted depreciation from all causes. Depreciation is defined as a loss in value from three causes: physical depreciation, functional obsolescence and external economic factors. The cost approach is most effective when the property being valued is new, in light of the difficulties in accurately estimating the various components of depreciation. *See Worden–Hoidal Funeral Homes v. Borough of Red Bank,* 21 *N.J.Tax* 336, 338 (Tax 2004).

New Jersey law is not settled with respect to the best approach for determining the true market value of a casino-hotel and related facilities. In *Ace Gaming, LLC, supra,* the only published opinion in New Jersey in which the true market value of a casino-hotel was determined for local property tax purposes, the court used the income approach to determine value. The court's decision, however, was reached after the parties stipulated that they would not rely on the cost approach to determine the value in that case. The parties' stipulation was not endorsed by the court. ***520** Judge Bianco held that "the court cannot and will not accept by stipulation or otherwise, that the cost approach to value is inapplicable in this case or any other tax appeal involving casino hotel property." 23 *N.J.Tax* at 97–98. He observed that, given the nature of casino-hotels, the lack of precedent in New Jersey and the existence of published opinions in other states using the cost approach to value casino-hotels, "this court is not certain why counsel would agree not to use the cost approach to value in this matter, and why both expert appraisers would acquiesce in that agreement." *Id.* at 99. "With regard to the cost approach to value in the present matters, this court is only willing to accept that neither party ultimately opted to utilize that approach." *Id.* at 98.

Judge Bianco explained his decision to use the income approach as follows:

> It would have been preferable to have had the benefit of all three approaches to value given the novelty of the issue before the court. However, since the court finds the sales comparison approach of Atlantic City's expert to be insufficient to determine value, and since any determination of value under the cost approach has been denied to the court under agreement of the parties in the present matters, all that remain are the respective income approaches proffered by the experts herein. This court will not substitute its own judgment for theirs. Clearly the more reasonable course is to proceed to a determination of value under the income approach alone, particularly in view of the fact that the court is unable to discern the method by which the original assessment was determined, and since Atlantic City's expert concluded opinions of value that do not support Atlantic City's assessment in three of the four years under appeal.
>
> Atlantic City has convinced this court that the best way to proceed is to apply the Rushmore methodology most recently employed in *Chesapeake Hotel, L.P., supra,* even though it will be the first time known to this court that the methodology will be applied to a casino hotel as opposed to a conventional hotel.
>
> [*Id.* at 103.]

Also influencing the court's opinion in *Ace Gaming* was the unusual status of Atlantic City as the only location of legal gambling in New Jersey. As explained in *City of Atlantic City v. Atlantic County Bd. of Taxation,* 2 *N.J.Tax* 30, 43 (Tax 1980), *aff'd per curiam,* 4 *N.J.Tax* 685 (App.Div.1982), *certif. denied,* 93 *N.J.* 250, 460 *A.*2d 659 (1983):

> Atlantic City is unique. Of all of the 567 municipalities in the state of New Jersey [since reduced to 565], it is the only municipality mentioned by name in the State Constitution. *N.J. Const.* (1947) Art. IV, § VII, par. 2D. The financial well-being ***521** of the city is also of the utmost importance not only to the city itself and to its taxpayers, but to the county, the region and to the entire State.

The valuation of real property in the Atlantic City is complicated by

> the nature of the market, the sometimes limited number of sales for comparison purposes and the extraordinary financing arrangements which characterize almost every sale of casino-related property in the city.
>
> [*City of Atlantic City v. Ginnetti,* 17 *N.J.Tax* 354, 362 (Tax 1998), *aff'd,* 18 *N.J.Tax* 672 (App.Div.2000).]

"This unique nature imposes on litigants, lawyers and on the Tax Court itself, difficult valuations issues. The real estate market in Atlantic City does not necessarily behave in the same manner as real estate markets behave in other localities." *Id.* at 360.

[16] It is, however, the court's obligation to "use the information that has been presented [at trial] by way of facts and expert opinion to fix the assessable values of" Atlantic City real property before the court. *Id.* at 361; *see also Glen Wall Assocs. v. Township of Wall,* 99 *N.J.* 265, 280, 491 *A.*2d 1247 (1985). The fact that property is difficult to value does not excuse the court from its obligation to determine value based on a preponderance of the competent evidence adduced by the parties. *Ginnetti, supra,* 17 *N.J. Tax* at 360 (citing *Hackensack Water Co. v. Borough of Old Tappan,* 77 *N.J.* 208, 390 *A.*2d 122(1978); and *Cigolini Assocs. v. Borough of Fairview,* 208 *N.J.Super.* 654, 665, 506 *A.*2d 811 (App.Div.1986)). This court must apply its previously recognized "understanding and sensitivity to the vicissitudes of the unique Atlantic City real estate market and the impact of the casino industry on such market" when applying its "expertise ... in dealing with the complex issues presented here." *City of Atlantic City v. Boardwalk Regency Corp.,* 19 *N.J. Tax* 164, 191 (App.Div.2000).

[17] The court concludes that based on the evidence admitted at trial the best approach to determine the value of the subject property in these appeals is the income approach. The primary reason for this conclusion is that the record contains uncontradicted credible evidence from three of plaintiff's experts that buyers, sellers and lenders in the marketplace determine the value of ***522** casino-hotels based on the income generating potential of the property. In the marketplace, the parties to casino-hotel transactions begin with a determination of the property's EBITDA during the most recent trailing twelve-month period. The EBITDA is stabilized and a multiple is applied to determine sales price. The EBITDA multiple reflects the parties' educated prediction on the future earning potential of the property during a reasonable holding period. The EBITDA multiple can easily be converted to a capitalization rate through an arithmetic formula for purposes of applying the income approach to valuation.

The court acknowledges that, as is the case with most casino-hotels, the majority of the Borgata's revenue is derived from gaming and not from the rental of hotel rooms. The income approach to valuation has traditionally been applied to real property that generates rental income. Included in that category have been hotels not associated with casinos, which generate the majority of their income from room rentals. New Jersey law, however, does not create inflexible categories of property to which specific approaches to value apply. This court is charged with evaluating the testimony of expert appraisers and determining which, if any, of the approaches to valuing a property presented at trial is credible. Here, all appraisal experts who were presented at trial, including the municipality's appraisal expert, used the income approach to formulate a value opinion for the subject property. Each expert expressed confidence that he or she had made adequate adjustments to account for the value of personal property and business operations in order to derive an opinion of the value of real property only. The court is satisfied that there is sufficient credible, evidence on which to adopt the value conclusion of one of the appraisal experts under the income approach.

The court also concludes that the cost approach to value is less reliable in this case to determine the true market value of the subject property on the relevant valuation dates. As plaintiff's two appraisal experts credibly testified, participants in the casino-hotel industry do not use the cost approach to determine sales price. The court finds credible the experts' opinions that the quality and characteristics of the physical structure of a casino- ***523** hotel are generally not directly indicative of marketplace value. Plaintiff's experts credibly testified that it is not uncommon for the cost of construction of a casino-hotel to exceed market value, particularly where market changes take place during or shortly after the construction of the facility, as is the case here. The Borgata's two major expansions—the expansion of the casino and the construction of the Water Club Tower hotel—took place shortly before or during significant changes to the regional gaming market detrimental to Atlantic City casino-hotels. By the time the Water Club Tower opened in June 2008, casino gaming was rapidly expanding in the markets that provide a large number of the Borgata's customers. The fact that the Borgata did not experience a significant gain in revenue from these expansions, and, in fact, realized a loss in revenue shortly after the opening of the new hotel tower, is credible evidence that the amounts invested in constructing those facilities did not correlate to their value.

In addition, the cost approach necessarily requires the difficult task of accurately measuring economic obsolescence. Given that so much of the value of a casino-hotel's real property is tied to the earning potential of gaming operations, a credible analysis of economic conditions and the translation of those conditions into an appropriate measure of economic obsolescence are essential to reaching a reliable value under the cost approach. This is particularly true here, where the subject property underwent an expensive expansion approved shortly prior to drastic negative changes in the national economy and an expansion in regional competition. The court is not satisfied that, in light of the timing of construction and the changes in the economy and competitive environment, the cost approach would provide a more credible value determination than would the income approach. The court does not hold that the cost approach is inapplicable to the valuation of casino-hotels in New Jersey. It will suffice to hold that based on the record adduced at trial, the income approach is the most reliable method through which to determine the true market value of the subject property on the relevant valuation dates.

The court also concludes that the record contains no credible evidence with which to determine the true market value of the ***524** subject property using the comparable sales approach. None of the three appraisal experts used the comparable sales approach to formulate an opinion of value for the subject property. The experts were in agreement that there were no reliable sales of casino-hotels in Atlantic City in the period leading up to the valuation dates. There is, therefore, no expert opinion in the record on which the court could rely in making a value determination under the comparable sales approach.

C. *Adoption of The Value Opinion of Plaintiff's Second Appraisal Expert.*

> [18] [19] [20] The weight to be given to an expert's opinion depends especially upon the facts and reasoning which are offered as the foundation of his [or her] opinion. *Ocean County v. Landolfo,* 132 *N.J.Super.* 523, 528, 334 *A.*2d 360 (App.Div.1975). The weight and value of expert testimony are for the trier of fact. *Robbins v. Thies,* 117 *N.J.L.* 389, 398, 189 *A.* 67 (E & A 1937). An expert's opinion may be adopted in whole or in part or completely rejected. *Middlesex County v. Clearwater Village, Inc.,* 163 *N.J.Super.* 166, 174, 394 *A.*2d 390 (App.Div.1978), *certif. denied,* 79 *N.J.* 483, 401 *A.*2d 239 (1979).
>
> [*Ginnetti, supra,* 17 *N.J.Tax* at 362.]

[21] The court had the opportunity during live testimony to weigh the credibility of all of the experts at trial. [7] Because the matter was tried without a jury, as is the case in all Tax Court proceedings, in addition to the many questions asked of the experts by counsel, the court posed a limited number of questions to the witnesses to assist in clarifying their testimony. In addition, the court reviewed the written reports of the experts, examined the numerous documents admitted into evidence, read the transcripts of each day of trial, and reviewed the post-trial submissions of the parties. While the court finds that each expert expressed a sincerely held opinion with respect to the true market ***525** value of the subject property, the court concludes that plaintiff's second appraisal expert presented the most credible opinion of the true market value of the subject property on the two valuation dates.

The opinion of plaintiff's second appraisal expert was based on the most thorough and detailed analysis of the Atlantic City casino-hotel market, national economic trends, the growth in regional competition and the operating history of the subject property. The court finds credible the expert's determination of net operating income for the subject at a stabilized amount that reflects the effective reset of the gaming industry as a result of the growth of casino-gaming in Pennsylvania, New York, Delaware and Maryland. The record contains convincing evidence that the decline in revenue at the Borgata in the years leading to the valuation dates was not the result of a temporary drop in the casino-hotel market or transitory economic factors. As discussed