

**BEFORE THE BOARD OF TAX APPEALS  
STATE OF KANSAS**

IN THE MATTER OF THE EQUALIZATION  
APPEALS OF WAL-MART STORES, INC.  
FOR THE YEAR 2016 IN JOHNSON  
COUNTY, KANSAS

Docket Nos. 2016-2691-EQ  
thru 2016-2693-EQ

IN THE MATTER OF THE EQUALIZATION  
APPEALS OF WAL-MART REAL ESTATE  
BUSINESS TRUST FOR THE YEAR 2016 IN  
JOHNSON COUNTY, KANSAS

Docket Nos. 2016-2694-EQ  
thru 2016-2701-EQ

IN THE MATTER OF THE EQUALIZATION  
APPEALS OF SAM'S REAL ESTATE  
BUSINESS TRUST FOR THE YEAR 2016 IN  
JOHNSON COUNTY, KANSAS

Docket Nos. 2016-2702-EQ  
thru 2016-2704-EQ

IN THE MATTER OF THE EQUALIZATION  
APPEAL OF TMM ROELAND PARK  
CENTER, L.L.C. FOR THE YEAR 2016 IN  
JOHNSON COUNTY, KANSAS

Docket No. 2016-2705-EQ

IN THE MATTER OF THE EQUALIZATION  
APPEALS OF WAL-MART REAL ESTATE  
BUSINESS TRUST FOR THE YEAR 2017 IN  
JOHNSON COUNTY, KANSAS

Docket Nos. 2017-4166-EQ  
thru 2017-4173-EQ

AND

IN THE MATTER OF THE EQUALIZATION  
APPEALS OF SAM'S REAL ESTATE  
BUSINESS TRUST FOR THE YEAR 2017 IN  
JOHNSON COUNTY, KANSAS

Docket Nos. 2017-4174-EQ  
& 2017-4175-EQ

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**FULL AND COMPLETE OPINION**

Now the above-captioned matters come on for consideration and decision by the Board of Tax Appeals of the State of Kansas. The Board conducted a hearing in these matters on January 7 through January 18, 2019. The above-captioned Taxpayers appeared by Linda Terrill, Attorney. Witnesses for the Taxpayers included Gerald Maier, MAI, Appraiser. Johnson County, Kansas (the "County")

was represented by Ryan Carpenter, Attorney, and Kathryn D. Myers, Attorney. Witnesses for the County included Kyle Blanz, BOTA Specialist; Peter Korpacz, MAI, Appraiser; and Robert E. Marx, MAI, Appraiser.

Pre-filed testimony and testimony given in previous Board matters including *In the Matter of the Equalization Appeal of Target Stores*, Docket Nos. 2016-1922-EQ *et al.*, BOTA *Summary Decision* issued February 23, 2018, *petition for judicial review* filed April 20, 2018, Case No. 119228, has been fully incorporated into the record at the agreement of the parties.

These matters were fully submitted to the Board on June 13, 2019. On June 26, 2019, the Board issued its *Summary Decision* and, on June 28, 2019, both the Taxpayers and the County filed requests for a *Full and Complete Opinion*.

After considering all of the evidence and arguments presented, the Board finds and concludes as follows:

#### *Jurisdiction*

The Board has jurisdiction of the subject matter and the parties, as equalization appeals have been properly and timely filed pursuant to K.S.A. 2018 Supp. 79-1609. The tax years in issue are 2016 and 2017.

#### *Subject Property*

The subject matter of these equalization appeals consists of eleven separate big-box properties located in Johnson County, Kansas operated as Wal-marts or Sam's Clubs retail stores. The stores range from 107,927 square feet to 227,293 square feet in size with the oldest store constructed in 1991 and the newest store constructed in 2013. The Taxpayers challenge the 2016 and 2017 appraised values of the properties, which are as expressed in the following table:

<u>Docket Number</u>	<u>Taxpayer</u>	<u>Address</u>	<u>County's 2016/2017 Appraised Values</u>	<u>Taxpayers' 2016/2017 Values</u>
2016-2700 & 2017-4166	Wal-Mart Real Estate Business Trust	5701 Silverheel, Shawnee, KS	\$17,751,000	\$8,750,000/ \$9,150,000
2016-2698 & 2017-4172	Wal-Mart Real Estate Business Trust	15700 Metcalf Ave, Overland Park, KS	\$18,584,000	\$10,000,000/ \$10,500,000

<u>Docket Number</u>	<u>Taxpayer</u>	<u>Address</u>	<u>County's 2016/2017 Appraised Values</u>	<u>Taxpayers' 2016/2017 Values</u>
2016-2701 & 2017-4171	Sam's Real Estate Business Trust	1725 E. Santa Fe, Gardner, KS	\$15,778,000	\$10,150,000/ \$10,650,000
2016-2697 & 2017-4173	Wal-Mart Real Estate Business Trust	16100 West 65 <sup>th</sup> St. Shawnee KS	\$20,875,000	\$10,150,000/ \$10,700,000
2016-2699 & 2017-4170	Wal-Mart Real Estate Business Trust	395 N. K7 Hi-way, Olathe, KS	\$21,558,000	\$11,600,000/ \$12,150,000
2016-2694 <sup>1</sup> & 2017-4169	Wal-Mart Real Estate Business Trust	13600 S. Alden, Olathe, KS	\$16,104,000	\$11,350,000/ \$11,900,000
2016-2705 <sup>2</sup>	TMM Roeland Park Center, LLC	5150 Roe Blvd, Roeland Park, KS	\$9,264,000	\$5,000,000
2016-2696 & 2017-4167	Wal-Mart Real Estate Business Trust	7701 Frontage Road, Overland Park, KS	\$10,947,000	\$5,350,000/ \$5,650,000
2016-2695 & 2017-4168	Wal-Mart Real Estate Business Trust	11701 Metcalf Ave., Overland Park, KS	\$13,977,000	\$6,950,000/ \$7,300,000
2016-2702 & 2017-4175	Sam's Real Estate Business Trust	8300 W. 135 <sup>th</sup> St., Overland Park, KS	\$15,648,000	\$8,050,000/ \$8,400,000
2016-2703 <sup>3</sup> & 2017-4174	Sam's Real Estate Business Trust	12200 W 95 <sup>th</sup> St., Lenexa, KS	\$13,150,000/ \$14,756,000	\$6,650,000/ \$7,000,000

### *Issues Presented*

The Taxpayers challenge the County's appraised values noting that the subject property's 2016 and 2017 appraised values were nearly double their respective 2015 appraised values. The Taxpayers contend that the County has utilized an appraisal methodology that improperly adds value to the subject real property based on the business operating in the property. Most specifically, the

<sup>1</sup> This property contains ancillary parcels consisting of Docket No. 2016-2691-EQ with a 2016 appraised value of \$650,660; Docket No. 2016-2692-EQ with a 2016 appraised value of \$99,980; and Docket No. 2016-2693-EQ with a 2016 appraised value of \$582,050.

<sup>2</sup> For Docket No. 2016-2705-EQ TMM Roeland Park Center, there is only a 2016 tax year appeal; no 2017 appeal for TMM Roeland Park Center is included in these consolidated matters.

<sup>3</sup> This property contains an ancillary parcel consisting of Docket No. 2019-2704-EQ with a 2016 appraised value of \$266,030.

Taxpayers assert the appraisal methodology employed by the County in compiling its market rental rates is in direct violation of Kansas law.

The County responds that only its experts have appraised the subject property utilizing generally accepted appraisal procedures (K.S.A. 79-503a) and in a manner compliant with the Kansas statutory definition of real property (K.S.A. 79-102). The County argues that the Taxpayers' theory that a fee simple valuation means appraising a property "as if vacant and available for lease" is in violation of the Kansas Constitution, was not accepted by the Kansas appellate court, and is not a generally accepted appraisal procedure.

The County, further, submits that build-to-suit rental rates, utilized by its various appraisers as comparables, are indicative of market rent for the highest and best use of the subject stores. The County asserts that build-to-suit rents can be probative of the market if it can be established that the rent applied is solely for the real property. The County contends the Taxpayers, through use of its value "as if vacant and available for lease" methodology, has appraised the subject stores at their disposal values to Walmart when the properties are at the end of their useful lives.

#### *Findings of Fact*

Kyle Blanz, BOTA Specialist, appeared as a witness for the County and testified regarding the County's valuation of the subject property. Blanz personally inspected each property and determined that all of the properties were located in areas with good visibility, strong demographics, and generally situated around other high credit tenants. Blanz concluded that most of the properties were an investment class of B, with the oldest store in Gardner with the least desirable demographics assigned a B minus investment class and the newest stores assigned a B plus investment class.

For its appraisals, the County compiled cost and income approaches placing primary reliance to its income approach. The County's income approaches utilized market income and expense data derived from the Valbridge Property Advisors *Big Box Retail Market Study*. Blanz testified that the increase in the properties' respective appraised values from 2015 to 2016 was due to changes in its appraisal inputs based on the Valbridge *Big Box Retail Market Study*. The County also presented a market rent analysis compiled by the County itself as well as a Big Box retail study compiled by the International Association of Assessing Officers, although the County did not rely on either for determination of its appraisal valuation inputs.

The County's income approach utilized rental rates of \$7.20 per square foot to \$10 per square foot depending on each store's investment class, and a vacancy and collection loss rate of 4%. The County applied operating expenses of \$0.50 per square foot for the investment class B minus stores, \$0.60 for the investment class B stores, and \$0.70 per square foot for the investment class B plus stores. The County subsequently applied a capitalization rate of 7.50% for the B plus investment class stores, and a capitalization rate of 7.75% for the B and B minus investment class properties for its respective valuation determinations.

The County also presented sales of comparable properties as a check for reasonableness. The County benchmarks sales indicated sales prices of \$161 per square foot and the subject stores have County appraised values that are significantly less. The County also presented appraisals compiled by appraisers Peter Korpacz, MAI, and Robert Marx, MAI, to support its recommended appraised values.

Bernie Shaner, MAI, Appraiser, appeared as a witness for the County and presented testimony regarding the Valbridge *Big Box Retail Market Study*, which he co-authored. Shaner testified that his study utilized build-to-suit comparables as he determined they were illustrative of market rent. Shaner testified that he attempted to gather comparables similar in age, size, structure, demographic location, and highest and best use as the property being appraised. Shaner acknowledged that his study contained no analysis of how build-to-suit rental rates relate to market rental rates, nor any analysis or discussion attempting to separate any non-realty components in the analysis of his build-to-suit rental comparables.

Peter Korpacz, MAI, Appraiser, appeared as a witness for the County and presented testimony regarding his appraisals of the six largest Wal-Mart properties at issue. The County did not rely on the Korpacz appraisals for its valuation conclusions. Korpacz compiled sales comparison and income approaches giving equal weight to each approach. Korpacz testified that he used sale leaseback and build-to-suit comparables in both approaches. Korpacz testified that such comparables should not be excluded out of hand as build-to-suit rental rates were reflective of the market when the rent did not include any compensation for non-realty components, and both the lessor and lessee determined the contract rent was at market rates. In his sales comparison approach, Korpacz compared the net operating income (NOI) from various sale leaseback and build-to-suit comparables to an estimated NOI for the subject stores. Korpacz adjusted these comparables for size, year built or renovated, tenant quality, and NOI per square foot.

Korpacz similarly reviewed sale leaseback and build-to-suit comparables in his income approach. Korpacz analyzed these comparables based on their demographic comparability to the subject stores through a review of statistics such

as population, households, average household growth and income, median household income, and major shopping center gross area. Korpacz determined market rental rates ranging from \$7.50 per square foot to \$10 per square foot to compile his NOI for each property and applied capitalization rates ranging from 6% to 6.50% as derived from his sales comparables and his review of capitalization rate data from the Boulder Group survey for his valuation determinations.

Robert E. Marx, MAI, Appraiser, appeared as a witness for the County and presented testimony regarding his appraisals of the remaining five Wal-Mart properties not appraised by Korpacz. The County did not rely on the Marx appraisals for its valuation conclusions. Marx compiled sales comparison and income approaches giving no weight to his sales comparison approach.

For his income approaches, Marx testified regarding the challenges in finding rental data for big-box stores as most big-box stores are owner-occupied and, therefore, most lease data is derived from build-to-suit leases. Marx determined that a store's location was pertinent and could support higher market rental rates. Marx testified that subject properties have characteristics of both retail stores and discount warehouse stores. Marx testified that build-to-suit and sale leaseback rental rates could be used to determine fee simple rental rates if any non-realty components were properly excluded. Marx testified that he separated the realty and non-realty components utilizing his market rent analysis technique, which involved an examination of each property's highest and best use, a regional rental survey of properties over 100,000 square feet in size, a local discount warehouse stores rental survey, a re-lease of a Home Depot located at 95<sup>th</sup> and Metcalf, and current rental listings.

Marx ultimately determined rental rates ranging from \$7 per square foot and \$9.50 per square foot for tax year 2016, and slightly higher rental rates for the subsequent tax year. Marx applied operating expenses that were equivalent to the County and capitalized his NOI determinations utilizing capitalization rates ranging from 7.25% to 7.75% for his respective valuation determinations.

Gerald Maier, MAI, Appraiser, appeared as a witness for the Taxpayer and presented testimony regarding his appraisals of the subject stores. Maier compiled all three standard approaches placing most reliance on his sales comparison and income approaches. As the subject stores, except the Roeland Park store, are owner-occupied, Maier concluded his sales comparison approach was most reliable. Maier examined sales of big-box properties specifically excluding build-to-suit and sale leaseback sales as well as sales of second generation leased properties. Maier focused on sales that he determined only the real property was transferred, which he categorized as "fee simple sales." Maier adjusted the fee simple sales for time & market conditions, location, quality & utility, and investment quality for a per

square foot unit value, which he then applied to each property for an opinion of value.

Maier's income approach for each property consisted of both a direct capitalization analysis and a discounted cash flow analysis. For his direct capitalization analysis, Maier similarly gathered three categories of rent comparables: Build-to-suit rents, second generation rents, and second generation rents where the tenant takes the property vacant and available to be leased at market rates. Maier determined this last category of comparables to be most probative for determining the market value of the fee simple estates of the subject stores as the rents paid were for solely the real property. Maier adjusted each lease for time & market conditions, lease terms, suite size, age and condition, location, construction quality & utility.

Maier reviewed capitalization rate data published by the Boulder Group and the PriceWaterhouseCoopers surveys, and concluded that the capitalization rate was related to the term of the lease of the credit tenant. Maier ultimately determined a 10% capitalization rate and submitted that the risk associated with the subject stores, assuming Wal-Mart vacates at the time of sale, is significantly higher than that for a leased fee estate, even with a relatively short remaining lease term.

Maier's discounted cash flow analysis utilized rents and expenses derived from his direct capitalization method with a 3% annual increase. Maier concluded an 18 month shelf life with a 12% investor yield, a reversionary sale of the property at the end of a 5 year period, and an 8% capitalization rate that assumes a remaining lease term of 6 to 8 years with a creditworthy tenant.

Both parties also presented expert witnesses to rebut the opposing party's experts as well as various witnesses who respectively opined regarding other valuation topics.

#### *Applicable Law and Board Conclusions*

K.S.A. 79-102 defines "real property" and "real estate" to "include not only the land itself, but all buildings, fixtures, improvements, mines, minerals, quarries, mineral springs and wells, rights and privileges appertaining thereto." Because real property is defined to include all rights and privileges appertaining thereto, it is the "fee simple interest" that is valued for ad valorem taxation purposes in the State of Kansas. "Kansas tax statutes do not use the term 'fee simple'; however, it is clear that the legislative intent underlying the statutory scheme of ad valorem taxation in our State has always been to appraise the property as if in fee simple."

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*In re Prieb Properties, L.L.C.*, 47 Kan.App.2d 122, 130, 275 P.3d 56. (2012). The "fee simple interest" denotes "absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by governmental powers of taxation, eminent domain, police power, and escheat." *The Appraisal of Real Estate*, Appraisal Institute 111 (13<sup>th</sup> ed. 2008).

Each parcel of non-agricultural real property in Kansas is appraised at its fair market value. See K.S.A. 79-501. The term "fair market value" is defined as that "amount in terms of money that a well-informed buyer is justified in paying and a well-informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion." See K.S.A. 2018 Supp. 79-503a.

The ad valorem tax appraisal process also shall conform to generally accepted appraisal procedures adaptable to mass appraisal and consistent with the definition of fair market value, unless otherwise specified by law. See K.S.A. 79-505. See K.S.A. 79-504; *In re Yellow Freight System, Inc.*, 36 Kan.App.2d 210, 213, 137 P.3d 1051 (2006).

The subject property is primarily owner-occupied commercial use property and, for the sole leased commercial use property, the Taxpayer has provided the County with the subject property's prior three years' income and expenses statements. Therefore, pursuant to K.S.A. 2018 Supp. 79-1609, the County has the duty to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination. There shall be no presumption in favor of the county appraiser with respect to the validity and correctness of its determination. *Id.*

Each party presented expert appraisals designed to determine the fair market value of the real property at issue. Due to the nature of the subject property – first generation big-box stores – build-to-suit and sale/leaseback comparables can often be a significant segment of the universe of comparables available. The parties' experts employed disparate appraisal methodologies and exposed varied legal theories to derive a market rent for the subject real property. Kansas law, however, is well settled on the legal disputes presented and the County admittedly is making its record for an appeal seeking the reversal of Kansas precedent, most specifically, *In re Prieb Properties, L.L.C.*, 47 Kan.App.2d 122, 275 P.3d 56 (2012). County Closing Argument, Part V, p. 7. The County calls for the overturn of *Prieb* asserting, *inter alia*, that:

"Essentially, build-to-suit rents may be used if it can be established that the rent applied is solely for real property. This is what the "disentanglement" of build-to suit means. If the rent





includes a repayment for nonreality components[,] that portion of rent for those components must be disentangled. This record clearly establishes that there is nothing to disentangle." *Id.*

This tribunal is bound by the doctrine of *stare decisis* limited to published decisions of an appellate court. K.S.A. 74-2433(a). We find *Prieb's* admonition against the use of build-to-suit transactions to be clear and unambiguous. *Prieb* holds that build-to-suit transactions are essentially financing agreements between a lessor and lessee, and the rental rates arising therefrom are not derived from the market. *In re Prieb*, 47 Kan.App.2d at 132. In no uncertain terms, *Prieb* instructs that an income approach based on build-to-suit rental rates was improper "without a disentanglement by adjustments." *Id.* at 136.

In regard to the Taxpayers' appraisals, the County's argues that valuing the subject properties as "vacant and available to be leased at market rent" is in contravention of both Kansas law and generally accepted appraisal procedures. This argument is not novel and was raised at the Kansas Court of Appeals by the Sedgwick County, Kansas taxing authority in a big-box valuation appeal in *In re Target Corporation*, 55 Kan.App.2d 234, 410 P.3d 939 (2017). The *Target* court, quoting language from another appellate panel, rejected this argument holding that appraisals utilizing such a methodology were supported by substantial competent evidence and in compliance with USPAP (Uniform Standards of Professional Appraisal Practice) standards. *Id.* at 244 (quoting *In re ARC Sweet Life Rosehill*, No. 113,692, 2016 WL 3856666, at \*1, 15 (Kan. App. 2016) (unpublished opinion)). The *ARC Sweet Life Rosehill* court specifically found it permissible to "determine the difference between the value of the property under a hypothetical vacant condition and its value as occupied in order to isolate the value of the taxable real estate separate and apart from the business being conducted on it." 2016 WL 3856666 at \*15.

The Board has examined the evidence, arguments, and valuation methodologies presented while being fully apprised of these precedential rulings. The County's appraisals heavily relied on build-to-suit comparables, yet did not perform proper appraisal adjustments, as directed by *Prieb*, to ensure their derived appraisal inputs were free from any value attributable to the leased fee interest. The subject property's appraised values were determined by the County via income approaches that used inputs from the Valbridge *Big Box Retail Market Study*. The County also presented, yet did not rely on, appraisals compiled by appraisers Korpacz and Marx. Neither the Valbridge study nor Korpacz performed the *Prieb* directed adjustments to its build-to-suit lease comparables, and Marx's purported adjustments were both lacking and conclusory. For every property he appraised, Marx concluded that first generation build-to-suit and sale leaseback properties often have rental rates that are generally in-line with the overall fee simple market

rental rates. *See, for example, County Ex # 7, p. 70.* Moreover, and not pertinent to *Prieb*, for his market rent determination, Marx combined retail rental rates with discount store warehouse rental rates although the record indicates the subject stores are more accurately characterized as the latter. In summary, and for the reasons discussed below, the Board finds the appraisals compiled by Taxpayer appraiser Maier better adhered to the *Prieb* mandate regarding build-to-suit rental rates than the County appraisals.

Taxpayer appraiser Maier relied on his sales and income approaches. As first generation big-box properties are generally owner-occupied, Maier had challenges finding sales comparables truly similar to the subject stores. To protect against the pernicious effect of non-realty rental consideration, Maier deliberately avoided big-box sales under either build-to-suit or second generation leases. This appraisal decision, while well intended, resulted in big box sale comparables, deemed "fee simple sales" by Maier, that were generally much older and situated in less desirable locations than the subject stores.

As such, the Board finds Maier's income approaches (direct capitalization methodology) based on projected net operating income is the best indicator of the market value presented. For his direct capitalization income approach, Maier's appraisal decisions and adjustments regarding his selection of market data worked to competently "tease out the business/intangible element of the going concern and thereby arrive at the fair market value of the underlying real estate alone." *In re ARC Sweet Life Rosehill* at \*4. The Board, however, finds that one adjustment is needed for Maier's direct capitalization income approach. The substantial credible capitalization rate evidence supports an 8.5% capitalization rate rather than the 10% capitalization rate determined by Maier, for all of the subject properties other than the 7701 Frontage Road and 5151 Roe Blvd. stores. Both Maier's short term capitalization rate data, *for example, Taxpayer Ex # 1-1, p. 119* (indicating a capitalization rate of 8.5% for the shortest lease term), and Maier's supporting short term capitalization rate data such as the Boulder Group survey, *Id.* at p. 115 (indicating a capitalization rate of 7.5% for the shortest lease term), do not support a 10% capitalization rate. The Board finds that Maier's determination of 8.5% capitalization rate for a *de minimus* lease term is the best indicator presented.

Similarly, for the 7701 Frontage Road and 5151 Roe Blvd. stores, the Board finds that both Maier's short term capitalization rate data, *Taxpayer Ex # 1-7, p. 119* and *Taxpayer Ex # 1-8, p. 119* (indicating a capitalization rate of 9% for the shortest lease term), and Maier's supporting short term capitalization rate data such as the Boulder Group survey, *Id.* at p. 115 (indicating a capitalization rate of 7.25% for the shortest lease term), do not support the 10.50 % capitalization rate sponsored by Maier. The Board finds that Maier's determination a 9% capitalization rate for a *de minimus* lease term is the best indicator presented.

Based on these findings, the Board find and concludes that the below total valuations are indicated and hereby adopted for each property.

<u>Docket Number</u>	<u>Taxpayer</u>	<u>Address</u>	<u>2016 Total Value</u>	<u>2017 Total Value</u>
2016-2700 & 2017-4166	Wal-Mart Real Estate Business Trust.	5701 Silverheel, Shawnee, KS	\$10,153,000	\$10,548,000
2016-2698 & 2017-4172	Wal-Mart Real Estate Business Trust.	15700 Metcalf Ave, Overland Park, KS	\$11,738,000	\$12,229,000
2016-2701 & 2017-4171	Sam's Real Estate Business Trust	1725 E. Santa Fe, Gardner, KS	\$11,924,000	\$12,447,000
2016-2697 & 2017-4173	Wal-Mart Real Estate Business Trust.	16100 West 65 <sup>th</sup> St. Shawnee KS	\$12,048,000	\$12,603,000
2016-2699 & 2017-4170	Wal-Mart Real Estate Business Trust.	395 N. K7 Hi-way, Olathe, KS	\$13,578,000	\$14,137,000
2016-2694 & 2017-4169	Wal-Mart Real Estate Business Trust.	13600 S. Alden, Olathe, KS	\$13,381,000	\$13,957,000
2016-2705	TMM Roeland Park Center, LLC	5150 Roe Blvd, Roeland Park, KS	\$5,700,000	N/A
2016-2696 & 2017-4167	Wal-Mart Real Estate Business Trust.	7701 Frontage Road, Overland Park, KS	\$6,409,000	\$6,718,000
2016-2695 & 2017-4168	Wal-Mart Real Estate Business Trust.	11701 Metcalf Ave., Overland Park, KS	\$8,144,000	\$8,471,000
2016-2702 & 2017-4175	Sam's Real Estate Business Trust.	8300 W. 135 <sup>th</sup> St., Overland Park, KS	\$9,356,000	\$9,712,000
2016-2703 & 2017-4174	Sam's Real Estate Business Trust.	12200 W 95 <sup>th</sup> St., Lenexa, KS	\$7,838,000	\$8,183,000

**IT IS THEREFORE ORDERED** that, for the reasons stated above, the above listed total appraised values are hereby ordered for the subject property for the 2016 and 2017 tax years.

**IT IS FURTHER ORDERED** that the respective 2016 appraised values for the ancillary parcels are hereby sustained: Docket No. 2016-2691-EQ with a 2016

appraised value of \$650,660; Docket No. 2016-2692-EQ with a 2016 appraised value of \$99,980; Docket No. 2016-2693-EQ with a 2016 appraised value of \$582,050; and Docket No. 2019-2704-EQ with a 2016 appraised value of \$266,030.

IT IS FURTHER ORDERED that the appropriate officials shall correct the county's records to comply with this *Order*, re-compute the taxes owed by the taxpayer and issue a refund for any overpayment.

This order is a *Full and Complete Opinion* issued pursuant to K.S.A. 74-2426(a), and amendments thereto.

Any party who is aggrieved by this order may file a written petition for reconsideration with this Board as provided in K.S.A. 2018 Supp. 77-529. *See* K.S.A. 2018 Supp. 74-2426(b). The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Board's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to the Secretary of the Board of Tax Appeals. The written petition must be received by the Board within 15 days of the certification date of this order (allowing an additional three days for mailing pursuant to statute).

Rather than filing a petition for reconsideration, any aggrieved person has the right to appeal this order of the Board by filing a petition with the court of appeals or the district court pursuant to K.S.A. 2018 Supp. 74-2426(c)(4)(A). Any person choosing to petition for judicial review of this order must file the petition with the appropriate court within 30 days from the date of certification of this order. *See* K.S.A. 77-613(b) and (c) and K.S.A. 2018 Supp. 74-2426(c). Pursuant to K.S.A. 2018 Supp. 77-529(d), and amendments thereto, any party choosing to petition for judicial review of this order is hereby notified that the Secretary of the Board of Tax Appeals is to receive service of a copy of the petition for judicial review. Please note, however, that the Board would not be a party to any judicial review because the Board does not have the capacity or power to sue or be sued. *See* K.S.A. 2018 Supp. 74-2433(f).

The address for the Secretary of the Board of Tax Appeals is Board of Tax Appeals, Eisenhower State Office Building, 700 SW Harrison St., Suite 1022, Topeka, KS 66603. A party filing any petition shall also serve a complete copy of the petition on all other parties.

IT IS SO ORDERED



THE KANSAS BOARD OF TAX APPEALS

*Ronald C. Mason*  
RONALD C. MASON, CHAIR

*James D. Cooper*  
JAMES D. COOPER, BOARD MEMBER

*Devin Sprecker*  
DEVIN SPRECKER, BOARD MEMBER

*Joelene R. Allen*  
JOELENE R. ALLEN, SECRETARY

**Attachment "A"**

<u>Docket No.</u>	<u>Applicant Name</u>	<u>Parcel ID#</u>
2016-2693	Wal-Mart Stores, Inc.	046-088-33-0-20-05-004.00-0
2016-2692	Wal-Mart Stores, Inc.	046-088-33-0-20-05-002.01-0
2016-2691	Wal-Mart Stores, Inc.	046-088-33-0-20-05-002.00-0
2016-2695	Wal-Mart Real Estate Business Trust	046-074-17-0-30-03-011.00-0
2016-2694	Wal-Mart Real Estate Business Trust	046-088-33-0-20-05-003.00-0
2016-2696	Wal-Mart Real Estate Business Trust	046-056-24-0-30-03-002.00-0
2016-2699	Wal-Mart Real Estate Business Trust	046-098-27-0-40-07-005.00-0
2016-2697	Wal-Mart Real Estate Business Trust	046-055-17-0-20-04-009.00-0
2016-2698	Wal-Mart Real Estate Business Trust	046-163-07-0-44-01-001.00-0
2016-2703	Sam's Real Estate Business Trust	046-058-34-0-40-06-020.00-0
2016-2701	Wal-Mart Real Estate Business Trust	046-149-30-0-10-04-001.00-0
2016-2700	Wal-Mart Real Estate Business Trust	046-042-10-0-21-11-002.00-0
2016-2702	Sam's Real Estate Business Trust	046-079-30-0-30-08-003.00-0
2016-2704	Sam's Real Estate Business Trust	046-058-34-0-40-06-021.01-0
2016-2705	TMM Roeland Park Center, L.L.C.	046-062-04-0-30-28-003.00-0
2017-4166	Wal-Mart Real Estate Business Trust	046-042-10-0-21-11-002.00-0
2017-4167	Wal-Mart Real Estate Business Trust	046-056-24-0-30-03-002.00-0
2017-4168	Wal-Mart Real Estate Business Trust	046-074-17-0-30-03-011.00-0
2017-4169	Wal-Mart Real Estate Business Trust	046-088-33-0-20-05-003.00-0
2017-4170	Wal-Mart Real Estate Business Trust	046-098-27-0-40-07-005.00-0
2017-4171	Wal-Mart Real Estate Business Trust	046-149-30-0-10-04-001.00-0
2017-4172	Wal-Mart Real Estate Business Trust	046-163-07-0-44-01-001.00-0
2017-4173	Wal-Mart Real Estate Business Trust	046-055-17-0-20-04-009.00-0
2017-4174	Sam's Real Estate Business Trust	046-058-34-0-40-06-020.00-0
2017-4175	Sam's Real Estate Business Trust	046-079-30-0-30-08-003.00-0

CERTIFICATION

I, Joelene R. Allen, Secretary of the Board of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket Nos. 2016-2691-EQ et al. and any attachments thereto, was placed in the United States Mail, on this 25<sup>th</sup> day of ~~September~~ 2019, addressed to:

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IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka,  
Kansas.

  
Joelene R. Allen, Secretary