

STATE OF NORTH CAROLINA BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
COUNTY OF WAKE EQUALIZATION AND REVIEW
98 PTC 1

IN THE MATTER OF:
APPEAL OF **WINSTON-SALEM JOINT
VENTURE** from the decision of the Forsyth **FINAL DECISION**
County Board of Equalization and Review
concerning real property taxation for tax
year 1997.

This Matter came on for hearing before the North Carolina Property Tax Commission (hereinafter "Commission"), sitting as the State Board of Equalization and Review at its regularly scheduled Session of Hearings in the City of Raleigh, Wake County, North Carolina on September 20-24, 1999, October 20-22, 1999, and in the City of Greensboro, Guilford County, North Carolina on November 17, 1999, pursuant to the appeal of **Winston-Salem Joint Venture** (hereinafter "Taxpayer") from the decision of the Forsyth County Board of Equalization and Review (hereinafter "County Board") concerning real property taxation for tax year 1997.

Chairman Terry L. Wheeler presided over the hearing with Vice Chair Juleigh Sitton and Commission members R. Bruce Cope, Linda M. Absher and Wade F. Wilmoth participating.

The Taxpayer was represented at the hearing by Charles B. Neely, Jr., Nancy S. Rendleman, and James P. Regan; attorneys at law; Forsyth County was represented by John A. Cocklereece, Jr. and Paul A. Sinal, attorneys at law.

STATEMENT OF CASE

Effective January 1, 1997, the Forsyth County Tax Assessor appraised the Taxpayer's property at a total value of \$162,725,000. After receiving notice of the County's 1997 valuation assessment, the Taxpayer filed an appeal with the Forsyth County Board of Equalization and Review challenging the Assessor's assessment. By notice of decision, dated December 12, 1997, the County Board affirmed the assessment finding that the appraisal of the subject property by Forsyth County was correct and ordered no change in value. On January 2, 1998, Taxpayer, through counsel, filed a timely appeal with the Property Tax Commission and requested a full hearing in this matter pursuant to G.S. 105-290.

STATEMENT OF FACTS

The Taxpayer, Winston-Salem Joint Venture, is an Ohio general partnership that developed and owns Hanes Mall, a super regional shopping mall located in Winston-Salem, North Carolina. The property subject to this appeal is identified in the Forsyth County tax records as Tax Parcel Number 6230.004 and is referred to as "the Hanes Mall." The property under appeal contains the Hanes Mall in-line stores, common areas, service areas, parking lots, and cinema, which is located on a 40.98-acre tract of land. The subject property also includes the land under two restaurants, but does not include the improvements associated with the restaurants. Hanes Mall and the adjacent anchor department stores and out parcels are collectively referred to as the "Hanes Mall Complex." In addition to the subject property, the Hanes Mall Complex includes five anchor department stores, namely Belk, J.C. Penney, Sears, Hecht's and Dillard's and other developer owned out parcels. The anchor stores and their associated land and parking areas are not owned by the Taxpayer and are not appealed.

Taxpayer, through counsel, contends that Forsyth County's valuation of the subject property was both arbitrary and illegal, resulting in an assessment that substantially exceeds the true value in money of the subject property. Taxpayer contends that the true value in money of the subject real property as of January 1, 1997 was \$80,000,000. Taxpayer also contends that Forsyth County's valuation methodology of the subject property violated the uniformity requirements of the North Carolina Constitution, the United States Constitution and North Carolina State law, which mandates uniformity of assessment. Taxpayer further contends that Forsyth County, in reaching its excessive assessment of the subject property, appraised not only the real estate as mandated by the North Carolina Machinery Act, but assessed Taxpayer's "business enterprise value" which Taxpayer contends is not taxable under North Carolina law.

Forsyth County, through counsel, contends that property tax assessments are presumed correct and the burden is on the Taxpayer to show that the County's assessment of the subject property was erroneous. In order for the Taxpayer to rebut the presumption of correctness, it must prove that Forsyth County employed an arbitrary or illegal method of valuation and that the assessment of the subject property substantially exceeded the true value in money of the property as of January 1, 1997. Forsyth County also argues that the Commission should not adopt Taxpayer's argument that a portion of the income stream from Taxpayer's real property is attributable to non-realty value, referred to as "business enterprise value." The County asserts that in its appraisal of the subject property all factors affecting the value of the property were considered and that the County did uniformly assess the subject property in accordance with its duly adopted schedule of values, standards and rules. Forsyth County requests the Commission to affirm the value of \$162,725,000 assigned to the subject property by the County Board, effective January 1, 1997.

ISSUES

In the Order on Final Pre-Hearing Conference, the parties agreed as to the issues to be decided by the Commission. The Commission notes that the North Carolina Supreme Court has established guidelines for property tax appraisal appeals in the matter of Appeal of Amp, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975). The issues presented to the Commission were:

1. Did the County employ an arbitrary or illegal method of appraisal in arriving at the value assigned by the County Board to Taxpayer's real property as of January 1, 1997?
2. Did the value assigned by the County Board to Taxpayer's real property **substantially** exceed the true value in money of the property as of January 1, 1997?
3. If the two above issues are answered in the affirmative, what was the true value in money of Taxpayer's real property as of January 1, 1997?

Under the guidelines of Amp, supra, the Taxpayer has the burden of establishing:

1. The County employed an arbitrary or illegal method of appraisal; and
2. The value assigned by the County Board was **substantially** greater than the true value in money of the property as of January 1 for the year at issue.

The Commission also considered the following issues raised by the Taxpayer:

4. Did the County's assessment and method of assessment of Taxpayer's real property result in a denial of uniformity to Taxpayer?
5. If the fourth issue is answered in the affirmative, what is the proper assessment as of January 1, 1997 of Taxpayer's real property that would result in a uniform assessment of Taxpayer's real property with other property in Forsyth County?

EVIDENCE

The Commission received the following evidence:

1. Taxpayer Exhibit 1 - Aerial photograph of Hanes Mall, dated October 1998
2. Taxpayer Exhibit 2- Hanes Mall site plan, dated May 20, 1997

3. Taxpayer Exhibit 3 – Photographs showing Hanes Mall anchor stores and in-line store exterior elevations:
 - a. Old Mall – East Elevation (J.C. Penney to Sears)
 - b. New Mall – East Elevation (Hecht’s to J.C. Penney)

4. Taxpayer Exhibit 4 – Photographs showing Hanes Mall interior:
 - a. Old Mall – Upper Level (J.C. Penney Court Entrance)
 - b. Old Mall – Lower Level (J.C. Penney Court Structure)
 - c. Old Mall – Lower Level (Sears Court Entrance)
 - d. Old Mall – Lower Level (Facing Center Court)
 - e. New Mall – Upper Level (Facing Hecht’s)
 - f. New Mall – Upper Level (Facing Food Court)
 - g. New Mall – Lower Level (Facing Hecht’s)
 - h. New Mall – Lower Level (Facing Center Court)
 - i. New Mall – Lower Level (Facing J.C. Penney)

5. Taxpayer Exhibit 5 – Amended and restated Easement, Restrictions and Operating Agreement, dated February 1, 1990

6. Taxpayer Exhibit 6 – Supplemental Agreement, dated February 1, 1990 between Taxpayer and Belk

7. Taxpayer Exhibit 7 – Supplemental Agreement, dated February 1, 1990 between Taxpayer and Sears

8. Taxpayer Exhibit 8 – Supplemental Agreement, dated February 1, 1990 between Taxpayer and J.C. Penney

9. Taxpayer Exhibit 9 – Supplemental Agreement, dated February 1, 1990 between Taxpayer and Thalhimer (Hecht’s)

10. Taxpayer Exhibit 10 – Supplemental Agreement, dated February 1, 1990 between Taxpayer and Ivey (Dillard’s)

11. Taxpayer Exhibit 11- Hanes Mall Marketing Plan

12. Taxpayer Exhibit 12 – Sample Hanes Mall tenant lease

13. Taxpayer Exhibit 13 – 1996 Income and Expense Report for Hanes Mall

14. Taxpayer Exhibit 14 – Lower Level floor lease plan

15. Taxpayer Exhibit 15 – Upper Level floor lease plan
16. Taxpayer Exhibit 16 – Street Map of area around Hanes Mall
17. Taxpayer Exhibit 17 – Aerial photographs showing Hanes Mall neighborhood in September 1998:
 - a. Photograph showing area southeast of Hanes Mall
 - b. Photograph showing area southwest of Hanes Mall
18. Taxpayer Exhibit 19 – Forsyth County Tax Cards for Hanes Mall:
 - a. January 8, 1997 Tax Cards
 - b. January 21, 1997 Tax Cards
 - c. March 27, 1997 Tax Cards
 - d. October 29, 1997 Tax Cards
 - e. December 12, 1997 Tax Cards
 - f. December 11, 1998 Tax Cards
 - g. June 18, 1999 Tax Cards
19. Taxpayer Exhibit 20 – Forsyth County Tax Cards for Hanes Mall anchor stores:
 - a. Hecht's/Talhimer's Tax Cards – January 8, 1997
 - b. Hecht's/Talhimer's Tax Cards – January 21, 1997
 - c. Hecht's/Talhimer's Tax Cards – March 27, 1997
 - d. Hecht's/Talhimer's Tax Cards – October 29, 1997
 - e. Hecht's/Talhimer's Tax Cards – December 11, 1998
 - f. J.C. Penney Tax Cards – January 9, 1997
 - g. J.C. Penney Tax Cards – January 21, 1997
 - h. J.C. Penney Tax Cards – March 27, 1997
 - i. J.C. Penney Tax Cards – October 29, 1997
 - j. J.C. Penney Tax Cards – December 11, 1998
 - n. Sears Tax Cards – January 8, 1997
 - o. Sears Tax Cards – January 21, 1997
 - p. Sears Tax Cards – March 27, 1997
 - q. Sears Tax Cards – October 29, 1997
 - r. Sears Tax Cards – December 11, 1998
 - s. Belk's Tax Cards – January 8, 1997
 - t. Belk's Tax Cards – January 21, 1997
 - u. Belk's Tax Cards – March 27, 1997
 - v. Belk's Tax Cards – October 29, 1997
 - w. Belk's Tax Cards – December 11, 1997

20. Taxpayer Exhibit 21 – Appraisal Standards Board, Uniform Standards of Professional Appraisal Practice (1997 ed.) (“USPAP”)
21. Taxpayer Exhibit 22 – The Appraisal Institute, The Appraisal of Real Estate, (11th ed. 1996)
22. Taxpayer Exhibit 23 – The Appraisal Institute, Dictionary of Real Estate Appraisal (3rd ed. 1993)
23. Taxpayer Exhibit 26 – 1997 Forsyth County Schedule of Values
24. Taxpayer Exhibit 27 – July 15, 1999 Deposition of William Albert Rodda and all exhibits thereto
25. Taxpayer Exhibit 28 – July 15 and 17, 1999 Deposition of John Gregory Potter and all exhibits thereto
26. Taxpayer Exhibit 29 – July 16-17, 1999 Deposition of Matthew Thomas Grantonic and all exhibits thereto
27. Taxpayer Exhibit 32 – July 2, 1996 Subpoena issued by Forsyth County Assessor to Taxpayer
28. Taxpayer Exhibit 33 – Taxpayer’s Response to July 2, 1996 Subpoena and all documents produced pursuant to the Subpoena:
 - a. August 26, 1996 letter to William A. Rodda from Nancy S. Rendleman, Esq.
 - b. Income and expense statements for the years ending December 31, 1993 through December 31, 1995. (Document Nos. HM:000001-HM000006)
 - c. Vacancy reports for the years ending December 31, 1993 through December 31, 1995. (Document Nos. HM:000007-HM:000012)
 - d. 1996 Operating Budget for the Mall which shows fixed rental charges, estimated overages, CAM charges, utility and insurance charges, etc. (Documents Nos. HM:000013-HM:000039)
 - e. Lease data for in-line Mall stores that constitutes an abstract of the leases. (Document Nos. HM:000040-HM:000066)
 - f. A document entitled “Hanes Mall Lease Data, Department Stores, All Rents” which does not actually represent rents but instead shows CAM reimbursements
 - g. A site plan dated May 20, 1996, (Document No. HM:000068) and leasing plans LP-1 daated August 8, 1996, (Document No. HM:000069) and LP-2 dated August 8, 1996. (Document No. HM:000070)

29. Taxpayer Exhibit 34 – County’s written responses to Taxpayer’s discovery requests
30. Taxpayer Exhibit 35 Resume of Jeffrey D. Fisher, Ph.D.
31. Taxpayer Exhibit 36 – Mark J. Eppli, Ph.D., *Valuation of Department Store Image at Hanes Mall* (August 12, 1999)
32. Taxpayer Exhibit 37 – Chart showing determinants of going concern value of a mall
33. Taxpayer Exhibit 38 – Martin and Associates, Appraisal Report – Hanes Mall, (September 1, 1999)
34. Taxpayer Exhibit 39 - Chart summarizing Mr. Nafe’s appraisal of the fee simple value
35. Taxpayer Exhibit 40 – Chart summarizing Mr. Nafe’s going concern value
36. Taxpayer Exhibit 41 – Chart summarizing Mr. Nafe’s appraisal
37. Taxpayer Exhibit 42 – July 16, 1999 Letter from Scott D. Nafe to Marshall and Swift
38. Taxpayer Exhibit 43 – July 20, 1999 Letter from Richard F. Harding of Marshall & Swift to Scott D. Nafe
39. Taxpayer Exhibit 44 – Graphs:
 - a. Big Box stores
 - b. Office buildings
 - d. Shopping centers
 - e. Nursing homes, theater and bowling alley
40. Taxpayer Exhibit 46 – Graph-Hanes Mall and properties in the Hanes Mall area
41. Taxpayer Exhibit 47 – Graph – Size and valuation of Hanes Mall and Hanes Mall anchor stores

42. Taxpayer Exhibit 48 – House Bill 295:
 - a. Version of H.B. 295 passed by the N.C. House of Representatives
 - b. Ratified version of H.B. 295
43. Taxpayer Exhibit 49 – August 1997 Formation Agreement
44. Taxpayer Exhibit 50 – 1990 TIAA loan documents:
 - a. Deed of Trust and Security Agreement
 - b. Assignment of Lessor’s Interest in Lease
 - c. UCC Financing Statement
 - d. Guaranty Agreement
 - e. Estoppel Certificates
45. Taxpayer Exhibit 51 –1998 TIAA Loan documents:
 - a. Deed of Trust, Assignments of Leases and Rents, Security Agreement and Fixture Filing Statements
 - b. Assignment of Leases and Rents
 - c. UCC Financing Statement
 - d. Estoppel Certificates
46. Oral Testimony of Mr. Stephen Huber, Senior Vice President, The Jacobs Group, Cleveland, Ohio
47. Oral Testimony of Mr. Ray Sankovich, Leasing Representative, The Jacobs Group, Cleveland, Ohio
48. Oral Testimony of Mr. Robert Sheehan, The Jacobs Group, Cleveland, Ohio Admitted as an expert in the area of research analysis in the shopping mall business.
49. Oral Testimony of Mr. Jeff Fisher, Professor of Real Estate, Indiana University, Indianapolis, Indiana. Admitted to testify as an expert in the area of real estate valuation with particular knowledge in the area of regional shopping mall techniques.
50. Oral Testimony of Mr. Scott Nafe, MAI, Winston-Salem, North Carolina Admitted to testify as an expert in the area of real estate valuation.

51. Oral Testimony of John G. Potter, ASA, Appraiser, Forsyth County Assessor Office, Winston-Salem, NC
 52. Oral Testimony of William A. Rodda, CAE, Forsyth County Tax Assessor and Collector, Winston-Salem, NC
 53. Oral Testimony of Thomas M. Grantonic, Appraiser, Forsyth County Tax Assessor, Winston-Salem, NC
 54. Oral Testimony of Mark Eppli, Professor of Finance & Real Estate, George Washington University, Washington, D.C.
 55. Oral Testimony of John C. Bailey, Director, Property Tax Division, North Carolina Department of Revenue, Raleigh, NC
1. County Exhibit 1— Spreadsheet entitled “Hanes Mall-Income Value” reflecting value of \$167,180,000 (rounded)
 2. County Exhibit 2 – Spreadsheet of comparable Mall Sales
 3. County Exhibit 3 – Property tax card for the Hanes Mall dated 6/18/1999 reflecting a value of \$162,725,000
 4. County Exhibit 17 – Deed of Trust and Security Agreement by and between Winston-Salem Joint Venture, as Grantor, and J. Daniel Lee, Jr. and Peter C. Clapman, as Trustee, and Teachers Insurance and Annuity Association of America, as Beneficiary, dated July 16, 1990, and recorded in the Forsyth County Register of Deeds Office on July 19, 1990 in Book 1607, at Page 649, securing indebtedness in the amount One Hundred and Twenty-five Million and no/100 Dollars (\$125,000,000)
 5. County Exhibit 19 – Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement by and between JG Winston-Salem, LLC, as borrower, and Jane Magioncalda, as Trustee, for the benefit of Teachers Insurance and Annuity Association, as Lender, dated as of June 17, 1998, and recorded in the Forsyth County Register of Deeds Office June 23, 1998 in Book 2010 at Page 376, securing indebtedness in the amount of One Hundred and Twenty-three Million and no/100 Dollars (\$123,000,000)

6. County Exhibit 23 – Taxpayer’s internal worksheet entitled “Hanes Mall 1994 Valuation Analysis at 4%” dated June 3, 1994 setting forth an estimate of the going concern value of Hanes Mall ranging for \$117,359,000 to \$167,978,000, based on capitalization rates ranging from 10% to 7% [Taxpayer # 1013-1016]
7. County Exhibit 24 – Taxpayer’s internal worksheet entitled “1995 Hanes Mall Valuation Analysis at 4%” dated April 1, 1996 setting forth an estimate of the going concern value of Hanes Mall ranging from \$118,392,000 to \$169,939,000, based on capitalization rates ranging from 10% to 7% [Taxpayer # 1017-1020]
8. County Exhibit 25 – Taxpayer’s internal worksheet entitled “1996 Hanes Mall Valuation Analysis at 4%” dated October 1, 1996 setting forth an estimate of the going concern value of Hanes Mall ranging from \$120,104,000 to \$172,934,000, based on capitalization rates ranging from 10% to 7% [Taxpayer # 1020-1022]
9. County Exhibit 27 – Formation Agreement Among the Richards E. Jacobs Group, Inc. NED Management Limited Partnership, J.W. O’Conner & Co., Incorporated, The Retail Property Trust, and Certain of their Affiliates dated as of August 7, 1997 [Taxpayer # 677-1012]
10. County Exhibit 28 – Summary Report Real Property Valuation of Hanes Mall, Winston-Salem, North Carolina for Bell, Davis & Pitt, PA as of January 1, 1997 prepared by Peter F. Korpacz & Associates, Inc.
11. County Exhibit 31 – “Regional Mall Sales 1996 Transaction Chart.” [Grantomic deposition Exhibit 23]
12. County Exhibit 32 – Grantomic analysis of Taxpayer’s Regional Mall Sales 1996 Transaction Chart
13. County Exhibit 33 – Korpacz Real Estate Investor Surveys for Fourth Quarter 1996; First Quarter 1997; and Second Quarter 1997
14. County Exhibit 34 – Deposition transcript of Scott D. Nafe
15. County Exhibit 37 – Business vs. Real Estate Value in Shopping Mall Valuation: A Critical Examination, Kerry V. Vandell, Tiefenthaler Chair and Director, Center for Urban Land Economics Research, University of Wisconsin-Madison; 1999 Summer Appraisal Institute Conference, Orlando, Florida, June 26, 1999
16. County Exhibit 38 – Hanes Mall form lease agreement [Taxpayer #1312-1371]

17. County Exhibit 47 – Schedule of net operating income of Winston-Salem Joint Venture, Taxpayer, for 1996 (Part of Taxpayer’s written responses to County’s discovery request)
18. County Exhibit 48 – “Sales Assessment Ratio Studies as of January 1, 1997” published by the Property Tax Division of the North Carolina Department of Revenue
19. Oral Testimony of Mr. Kerry D. Vandell, Professor of Real Estate and Land Economics, University of Wisconsin, Madison, Wisconsin
20. Oral Testimony of Mr. Peter F. Korpacz, MAI, Frederick, Maryland. Admitted to testify as an expert in the field of real estate appraisal with a particular emphasis on the appraisal and valuation of regional shopping malls.
21. Oral Testimony of Mr. William A. Rodda, CAE, Forsyth County Tax Assessor and Collector, Winston-Salem, NC

COMMISSION EXHIBITS

In addition to the evidence presented by the parties, the Commission considered all pleadings and procedural documents, including, but not limited to:

1. Commission Exhibit 1 - Notice of Appeal, filed January 2, 1998.
2. Commission Exhibit 2 - Commission acknowledgment of Commission Exhibit 1, dated January 5, 1998.
3. Commission Exhibit 3 – Application for Hearing, filed January 23, 1998.
4. Commission Exhibit 4 - Commission acknowledgment of Commission Exhibit 3, dated January 26, 1998.
5. Commission Exhibit 5 – Forsyth’s County Response to the Application for Hearing, filed January 28, 1998.
6. Commission Exhibit 6 - Commission acknowledgment of Commission Exhibit 5, dated January 30, 1998.
7. Commission Exhibit 7 – Notice of Appearance by John A. Cocklereece as counsel for Forsyth County, filed September 14, 1998.

8. Commission Exhibit 8 – Commission acknowledgment of Commission Exhibit 7, dated September 15, 1998.
9. Commission Exhibit 9 – Letter from Property Tax Commission Secretary to Taxpayer’s Attorney, dated October 13, 1998.
10. Commission Exhibit 10 - Letter from Property Tax Commission Secretary to Taxpayer and County Attorneys, dated November 25, 1998
11. Commission Exhibit 11 - Letter from County Attorney to Commission Secretary, filed June 25, 1999.
12. Commission Exhibit 12 – Proposed hearing calendar for September session of the Property Tax Commission, dated August 3, 1999.
13. Commission Exhibit 13 – Forsyth County’s Motion for entry of Confidentiality Order, filed August 18, 1999.
14. Commission Exhibit 14 – Transmittal letter and Confidentiality Order, dated August 30, 1999.
15. Commission Exhibit 15 – Taxpayer’s Motion for Admission Pro Hac Vice, filed August 23, 1999.
16. Commission Exhibit 16 – Order allowing Appearance Pro Hac Vice, entered August 27, 1999.
17. Commission Exhibit 17 – Transmittal letter for Commission Exhibit 16, dated August 31, 1999.
18. Commission Exhibit 18 – Notice of Hearing (Taxpayer) dated August 31, 1999.
19. Commission Exhibit 19 - Notice of Hearing (County), dated August 31, 1999.
20. Commission Exhibit 20 – Forsyth County Documents: Commission to take discovery proceedings in State of Virginia, and Notice of Deposition, filed September 1, 1999.

21. Commission Exhibit 21 - Forsyth County's Memorandum in support introduction into evidence of the April 30, 1998 Appraisal Report prepared by Anthony J. Oddo and Associates, faxed September 3, 1999.
22. Commission Exhibit 22 - Taxpayer's objections to County's Motions; Taxpayer's Motion to Quash Deposition Notice, filed September 3, 1999.

STIPULATIONS

The Stipulations of the parties are attached hereto and incorporated by reference herein.

BASED UPON THE EVIDENCE PRESENTED AND THE STIPULATIONS OF THE PARTIES, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The property under appeal is the Taxpayer's Winston-Salem regional shopping mall known as "the Hanes Mall" and identified in the Forsyth County tax records as tax parcel number 6230.004. In particular, the real property under appeal is the Hanes Mall in-line stores, common areas, service areas, parking lots and a cinema, which is located on a 40.98-acre tract of land. The subject property also contains the land under two restaurants but does not include the improvements associated with the restaurants. Hanes Mall and the adjacent anchor department stores and out parcels are collectively referred to as the "Hanes Mall Complex." In addition to the subject property, the Hanes Mall Complex includes five anchor stores, (namely, Belk, J.C. Penney, Sears, Hecht's and Dillard's) and other developer owned out parcels. The anchor stores and their associated land and parking areas are not owned by the Taxpayer and are not appealed.

2. The Taxpayer, Winston-Salem Joint Venture, is an Ohio general partnership that developed and owns Hanes Mall, the only regional shopping mall, located in Forsyth County. The Hanes Mall Complex opened in 1975 with three anchor department stores, namely J.C. Penney, Sears and Belk, and 356,230 square feet of gross leasable in-line store space. In 1990, the Hanes Mall Complex was expanded to include additional in-line store space and two more anchor department stores, namely Hecht's and Dillard's. As of January 1, 1997, Hanes Mall, (excluding the cinema), contained 806,457 square feet of gross building area, which included 553,481 square feet of gross leaseable area.

3. Effective January 1, 1997, pursuant to its general reappraisal of all real property situated within its jurisdiction, Forsyth County appraised the subject property at a total value of \$162,725,000. Taxpayer appealed Forsyth County's appraisal of the subject property to the Forsyth County Board of Equalization and Review. The Forsyth

County Board of Equalization and Review affirmed the County's assessment of \$162,725,000, finding that the reappraisal of the subject property was correct and ordered no change in value. From that decision, Taxpayer filed a timely appeal with the Commission and requested a full hearing in the matter pursuant to G.S. 105-290.

4. In North Carolina, a county is required to value all property for ad valorem tax purposes at its true value in money, which is "market value." An important appraisal factor used in determining market value of property is its highest and best use. Thus, to establish the market value of the subject property as January 1, 1997, the property must be valued at its highest and best use.

5. The highest and best use of the subject property, as of January 1, 1997, is its present use as a regional shopping mall.

6. In order to determine market value for the subject property, it is imperative to apply a method of valuation that will show what willing and financially able buyers in the regional shopping mall market will pay for the property and what willing sellers would expect to receive from the buyers. True value or market value of the subject property is determined by at least considering the subject property's location, past income and probable future income.

7. In the regional shopping mall market, it is typical to enter into contracts, called operating agreements, with anchor department stores. These operating agreements are imperative to the mall owner because the agreements are necessary to obtain financing and attract in-line mall tenants. Once the operating agreements are executed, the mall owner may then enter into lease agreements with in-line tenants. The operating agreements between the mall owner and the anchor department stores enable it to obtain more rent from potential in-line tenants that desire to locate near the anchor department stores.

8. Typical lease agreements with in-line tenants provide for the payment of a base rent and percentage rent for the right to occupy a defined space at the mall. Additional terms under the lease agreements provide for the mall owner to receive utility, property tax reimbursements and other prorated costs from its tenants.

9. Regarding the subject property, Taxpayer's operating agreements with the anchor department stores are reflective of typical agreements executed between mall owners and anchor department stores in the regional shopping mall market. Taxpayer has obtained financing and has attracted in-line mall tenants at the subject property because of the agreements and is receiving more rent from in-line tenants who desire to locate near the anchor department stores. (See Appraisal Report by Mr. Peter F. Korpacz, MAI, County Exhibit 28).

10. The lease agreements between Taxpayer and the in-line tenants are rental agreements for space at the subject property. As is typical at any regional shopping mall, the in-line tenants at the subject property pay a base rent and percentage rent to occupy space. Thus, these agreements do not constitute a written agreement wherein the Taxpayer and the in-line tenants are acting in conjunction with the anchor department stores to operate a joint venture such as retail business promoting sales at the subject property.

11. Additional terms under the lease agreements provide for the Taxpayer to receive utility and tax reimbursements from its tenants at the subject property. (See Appraisal Report by Mr. Peter F. Korpacz, MAI, County Exhibit 28).

12. Effective January 1, 1997, Forsyth County used the direct capitalization method to arrive at a total value of \$162,725,000 for the subject property. This method is used to convert an estimate of one year's income expectancy, or an annual average of several years' income expectancy into an indication of value in one direct step. This is accomplished by either dividing the net income estimate by an appropriate capitalization rate or by multiplying the income estimate by an appropriate factor. The rate or factor selected represents the relationship between income and value observed in the market and is derived through comparable sales analysis. In general, the direct capitalization approach requires the use of comparable sales and the income derived therefrom to arrive at an appropriate capitalization rate. When using this approach to value the subject property, Forsyth did not apply or rely upon its 1997 schedule of values, rules and standards to arrive at the capitalization rate of 7.75%. Instead, the County used data developed for a prior appraisal assignment that did not correlate with the rate information used to develop the 1997 schedule of values, standards and rules. Hence, the County arrived at a capitalization rate of 7.75% and when that rate was applied to the applicable schedule of values, rules and standards it resulted in an improper classification of the subject property as an A plus mall.

13. At the hearing, the two expert appraisers testified regarding the three accepted appraisal approaches to value, namely the cost approach, comparable sales approach, and income approach. Each appraiser submitted written appraisal reports regarding their respective opinions of value. Mr. Scott Nafe, Taxpayer's expert witness, testified that the subject property is comprised of three elements of value, including a significant amount of value attributable to intangible property. In Mr. Nafe's opinion, the value of the subject property is composed of three components: (1) real estate, (2) Hanes Mall's internal profit centers, and (3) the intangible personal property associated with Hanes Mall's business. In addition, Mr. Nafe determined that the Taxpayer derived income in four ways from the profit centers: (1) purchasing utilities at bulk rate and then selling the utility service to the tenants; (2) selling insurance to the tenants; (3) renting strollers and (4) providing pay telephones, lockers and other miscellaneous services.

14. In Mr. Nafe's opinion, in order to determine fair market value, the appraiser must identify and segregate the non-realty elements of the subject property so that his appraisal of the subject property would be limited to the fee simple in the property's real estate value. In his report, Mr. Nafe considered the cost approach and income approach to valuation. In applying the cost approach, Mr. Nafe used a cost manual to determine the replacement cost of the improvements and after making adjustments for obsolescence and depreciation he estimated the value of the subject property to be \$84,000,000. Under the income approach, Mr. Nafe arrived at total value \$80,000,000 for the subject property when applying both the direct capitalization analysis and the discounted cash flow analysis. Mr. Nafe's going-concern value of the subject property as of January 1, 1997 was \$130,000,000, denoted as follows:

Fee simply real estate only:	\$80,000,000
Non-realty value:	\$50,000,000
Total Going Concern value:	\$130,000,000

15. In Mr. Nafe's opinion, the intangible component of value associated with the subject property was \$50,000,000 as of January 1, 1997. Hence, Mr. Nafe has attempted to arrive at a value to support Taxpayer's argument that a portion of the income stream from the subject property is attributable to non-realty value, referred to "business enterprise value."

16. Under Mr. Nafe's analysis, the going-concern value estimate includes the value of both the realty and non-realty interests. Mr. Nafe determined that a range of \$80,000,000 to \$84,000,000 would be supportable of the real estate value. In summary, Mr. Nafe concluded that the value of subject real property, which he believes consists of 40.98 acres of land, buildings and land improvements, was \$80,000,000 as of January 1, 1997. He reached this valuation by applying the income approach, which is typically given greatest weight in the analysis of income-producing property.

17. "Business enterprise value" is a concept defined as value enhancement that results from items of intangible personal property such as marketing and management skill, an assembled work force, working capital, trade names, franchises, patents, trademarks, non-realty related contracts or leases, and some operating agreements." The Appraisal Institute, The Appraisal of Real Estate, (11th ed. 1996).

18. "Going-concern value" is the value created by a proven property operation. It includes the incremental value associated with the business concern, which is distinct from the value of the real estate. Going-concern value includes an intangible enhancement of the value of the operating business enterprise, which is produced by the assemblage of the land, buildings, labor, equipment, and marketing operation." The Appraisal Institute, The Appraisal of Real Estate, (11th ed. 1996).

19. Assuming that some element of business enterprise value exists in the operation of the subject property, the Commission finds that the degree to which it exists was nominal. Excluding the \$21,000 attributed to stroller renters; there was no probative evidence offered to show what specific portions of the subject property's income stream were attributable to the non-realty components; defined as the Hanes Mall's internal profit centers, and the intangible personal property associated with Hanes Mall's business.

20. Investors in regional malls do not use the cost approach to determine market value because of the assumptions and wide variety of estimates that are placed upon such items as entrepreneurial profit, subsidies, and influences by anchor department stores. (See Appraisal Report by Mr. Peter F. Korpacz, MAI, County Exhibit 28).

21. To arrive at an opinion of value for the subject property, Mr. Peter F. Korpacz, the county's expert witness, utilized the direct capitalization and yield capitalization approaches as recognized under the income method of valuation. While Mr. Korpacz utilized the sales comparison approach to value, he rejected the cost approach based upon his experience that investors in regional malls give little value to this approach to arrive market value.

22. Mr. Korpacz considered business enterprise value in his value analysis of the subject property, but he rejected this concept because, based upon his experience, regional mall investors do not recognize or reflect this concept when investing in this particular market. In Mr. Korpacz's expert opinion, "business enterprise value" is an academic theory with no recognized evidence or foundation in the market to substantiate it.

23. Mr. Korpacz's fee simple opinion of value for the subject property as of January 1, 1997, was \$140,000,000. He reached this value when applying the income approach; analyzing market rents and determining that the appropriate capitalization rate was 8.55%. Mr. Korpacz's appraisal correlates with the County's 1997 schedule of values, rules and standards in that his appraisal analysis yields a proper classification of the subject property as a B plus mall.

24. Of the three traditional appraisal methods considered by the Commission, the cost approach, the comparable sales approach, and the income approach, the income approach is the most reliable method in reaching market value for the subject property.

25. Even though the Commission considered the comparable sales and cost approaches to value, the Commission determined that those approaches would not yield fair market value of the subject property and should not be relied upon as the primary approaches to determine value.

26. Using the income method as the primary approach to value, the fair market value of the subject property as of January 1, 1997, was \$140,000,000.

27. As of the January 1, 1997, Forsyth County's internal sales ratio studies and the North Carolina Department of Revenue, Property Tax Division's sales ratio study both produced a sales assessment ratio at 100%; which equates to an uniform level of assessment of all the properties within the county and a COD of 10 indicates which uniformity of assessments. No data was provided regarding "a sales ratio study" of any particular class of property and simply arguing that the County used different appraisal approaches to assess the properties within its jurisdiction does not violate the uniformity requirements under the law.

BASED UPON THE FOREGOING FINDINGS OF FACT AND STIPULATIONS, THE NORTH CAROLINA PROPERTY TAX COMMISSION CONCLUDES AS A MATTER OF LAW:

1. The Commission has jurisdiction to hear this appeal and correct any assessment of real property that is shown to be based upon an arbitrary or illegal method of valuation and that the valuation substantially exceeds the true value in money.

2. In North Carolina, property must be valued for ad valorem tax assessment purposes at its "true value in money," which is statutorily defined as "market value." Specifically, G.S. §105-283 provides that:

"All property, real and personal, shall as far as practicable be appraised or valued at its true value in money. When used in this Subchapter, the words "true value" shall be interpreted as meaning market value, that is the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of all the uses to which the property is adapted and for which it is capable of being used."

3. Ad valorem assessments are presumed to be correct. In order for the Taxpayer to rebut the presumption of correctness, the Taxpayer must prove that the County employed an arbitrary or illegal method of valuation and that the assessment of the subject property substantially exceeded the true value in money of the subject property.

4. In accordance with G.S. §105-286, each county of this State shall reappraise properties within its jurisdiction every eighth year unless the date is advanced as provided by G.S. §105-286(a)(2). Pursuant to this statute, Forsyth County currently conducts a reappraisal of all real property within its jurisdiction at four-year intervals.

5. It is the function of the Commission to determine the weight and sufficiency of the evidence and the credibility of the witnesses, and to draw inferences from the facts and to appraise conflicting evidence. (See In Re S. Ry., 59 N.C. App. 119, 296 S.E.2d 463, rev'd on other grounds, 313 N.C. 177, 328 S.E.2d 235 (1985)).

6. In reaching a total assessed value for the subject property as of January 1, 1997, of \$162,725,000, the County failed to properly apply its schedule of values, rules and standards, as required and directed by G.S. 105-317 of the North Carolina Machinery Act. The income capitalization rate developed by the County does not correlate with an appropriate classification of the subject property under the County's schedule of values, rules and standards. (See In re Allred, No. 73PA98 (Oct. 8, 1999).

7. Taxpayer failed to show by competent, material or substantial evidence that the 1997 Forsyth County general reappraisal lacked uniformity of assessment in that Taxpayer provided no evidence to show that the assessed value of properties in the County differed from their fair market values. Merely arguing that the County used different appraisal approaches to assess the properties within its jurisdiction is not sufficient to show lack of uniformity in assessment under the law.

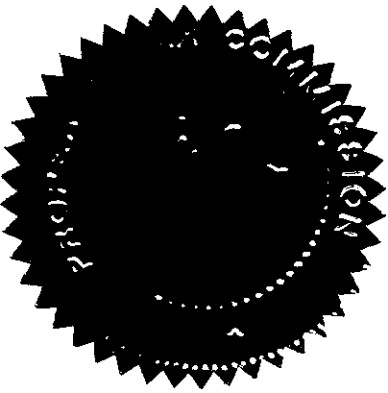
8. The County provided competent, material and persuasive evidence that the assessed values of the properties in Forsyth County equaled their fair market values.

9. The Taxpayer failed to show by competent, material or substantial evidence that specific portions of the subject property's income stream were attributable to the non-realty components, defined by the Taxpayer, as the Hanes Mall's internal profit centers, and the intangible personal property associated with Hanes Mall's business.

10. The income approach is the most probative means to establish the fair market value of the subject property and even though it is the preferred method, a combination of the three methods may be used as long as the income approach is given the greatest weight. In Re Belk-Broome Co., 119 N.C. App. 470, 458 S.E.2d 921 (1995), aff'd, 342 N.C. 890, 467 S.E. 2d 242 (1996).

11. The value of the subject property, relying primary on the income approach, as of January 1, 1997, was \$140,000,000.

THE COMMISSION NOW, THEREFORE, ORDERS, ADJUDGES AND DECREES that the decision of the Forsyth County Board of Equalization and Review dated December 12, 1997, for the subject real property is hereby **MODIFIED**, and that the County shall revise its tax records as may be necessary to reflect the Findings of Fact and Conclusions of Law of the Commission, assigning a value of \$140,000,000 to the subject property as of January 1, 1997.



NORTH CAROLINA PROPERTY TAX COMMISSION

Terry L. Wheeler

Terry L. Wheeler, Chairman

Vice Chair Sitton and Commissioners member Cope, Absher and Wilmoth concur.

Entered: March 20, 2000

ATTEST:

Janet L. Shires

Janet L. Shires, Secretary

recreational facilities. It is built around three or more full-line department stores of generally not less than 100,000 square feet each. In theory, the typical size of a super regional mall is about 1,000,000 square feet of gross leasable area for anchors and in line stores. In practice, the size ranges from about 600,000 square feet to more than 1,500,000 square feet. As defined, Hanes Mall, including all of the anchor stores, is a super regional mall.

7. The plat dated May 20, 1997 entitled "Site Plan" is an accurate depiction, as of January 1, 1997, of the Hanes Mall (including the land, the mall building, cinema building, parking areas and the out parcels contained in tax parcel 6230.004 which is the subject of this appeal). The plat is also an accurate depiction of the five anchor stores adjacent to the Hanes Mall and their parking areas, and adjacent developer outparcels, none of which are included in the property under appeal.

8. The plats dated May 20, 1997, entitled LP 1 Lower Level Lease Plan and LP 2 Upper Level Lease Plan, are accurate depictions of the leased areas of the Hanes Mall as of January 1, 1997.

9. Anchor Store Assessment History.

a) As of January 1, 1993, the original assessed values of the five anchor stores located adjacent to the Hanes Mall, prior to any appeals, were as set forth below. Although the County may have considered other approaches to value, the assessments below were based on the cost approach to value.

<u>Sears</u>	<u>Belk's</u>	<u>J.C. Penney</u>	<u>Dillard's</u>	<u>Hecht's</u>
\$11,667,500	\$16,101,900	\$12,496,500	\$10,078,600	\$11,373,700

b) After appeals of the January 1, 1993 assessments of the five anchor stores located adjacent to the Hanes Mall, the assessed values of the anchor stores were as set forth below. The revised assessments were based principally on the income approach to value. (Since Belk did not appeal, its assessment was based on the cost approach, although the County may have considered other approaches to value.)

<u>Sears</u>	<u>Belk's</u>	<u>J.C. Penney</u>	<u>Dillard's</u>	<u>Hecht's</u>
\$10,200,800	\$16,101,900	\$9,500,000	\$7,427,200	\$8,326,200

c) After the January 1, 1997 revaluation was completed, the assessed values of the five anchor stores located adjacent to the Hanes Mall were as set forth below. The income approach to value was principally used to determine the assessments.

<u>Sears</u>	<u>Belk's</u>	<u>J.C. Penney</u>	<u>Dillard's</u>	<u>Hecht's</u>
\$10,235,700	\$13,001,800	\$10,095,400	\$7,773,700	\$8,340,600

d) The following numbers are the approximate cost approach numbers as of January 1, 1997 for the properties listed below (the anchor stores adjacent to the Hanes Mall) as generated by the Forsyth County Assessors Office through its computer-driven mass appraisal system. The parties agree that these numbers represent approximations of the values that Forsyth County's cost approach to value would have produced if the Assessor's Office had used the cost approach to value.

<u>Sears</u>	<u>Belk's</u>	<u>J.C. Penney</u>	<u>Dillard's</u>	<u>Hecht's</u>
\$11,855,069	\$14,017,505	\$10,069,663	\$8,624,057	\$13,066,568

10. History of Hanes Mall Assessment.

a) As of January 1, 1993 and subsequent years in the revaluation cycle, the Hanes Mall's assessed value was \$55,530,000. Although the County may have considered other approaches to value, this assessment was based upon the cost approach to value.

b) As of January 1, 1997, the Hanes Mall's assessed value was \$162,725,000. Although the County may have considered other approaches to value, this assessment was based upon the income approach to value.

c) The following number is the approximate cost approach number as of January 1, 1997 for the property listed below as generated by the Forsyth County Assessors Office through its computer-driven mass appraisal system. The parties agree that this number represents an approximation of the value that Forsyth County's cost approach to value would have produced if the Assessor's Office had used the cost approach to value.

Hanes Mall

\$70,629,067

11. The Forsyth County tax rate for 1997 was \$.6515.

12. The Winston-Salem tax rate for 1997 was \$.525.

13. Forsyth County did not fully complete a cost approach valuation of, and did not use the cost approach to value for, the Hanes Mall or any of the five anchor stores adjacent to the Hanes Mall in connection with the 1997 revaluation of properties in Forsyth County.

14. On July 2, 1996 a subpoena was issued by the Chairman of the Forsyth County Board of Equalization and Review to Winston-Salem Joint Venture requesting that it produce data pertaining to the Hanes Mall. Through counsel, on August 26, 1996, Winston-Salem Joint Venture responded to the subpoena by producing the documents listed below:

a) Income and expense statements for the years ending December 31, 1993 through December 31, 1995. (Document Nos. HM:000001-HM:000006)

b) Vacancy reports for the years ending December 31, 1993 through December 31, 1995. (Document Nos. HM:000007-HM:000012)

c) 1996 Operating Budget for the mall which shows fixed rental charges, estimated overages, CAM charges, utility and insurance charges, etc. (Documents Nos. HM:000013-HM:000039)

d) Lease data for in-line mall stores which constitutes an abstract of the leases. (Document Nos. HM:000040-HM:000066)

e) A document entitled "Hanes Mall Lease Data, Department Stores, All Rents" which does not actually represent rents but instead shows CAM reimbursements. (Document No. HM:000067)

f) A site plan dated May 20, 1996, (Document No. HM:000068) and leasing plans LP-1 dated August 8, 1996, (Document No. HM:000069) and LP-2 dated August 8, 1996. (Document No. HM:000070)

15. The data set forth on the charts attached hereto as pages 15A and 15B is true and correct.

16. In performing its 1997 revaluation, the assessments made by the Forsyth County Assessor's Office of hotels and motels, investment grade apartment complexes, the Hanes Mall and the five anchor stores adjacent to the Hanes Mall were based upon the income approach to value, although the County may have considered other approaches to value. The assessments of all other commercial and industrial properties in Forsyth County including, but not limited to, strip centers and other shopping centers, retail stores, restaurants, nursing homes, bowling alleys, office buildings, theaters, and industrial enterprises were based upon the cost approach to value, although the County may have considered other approaches to value.

17. On an annual basis, an estimate of the going concern value of the Hanes Mall based upon a projected cash flow was prepared for Winston-Salem Joint Venture. Such estimates are as follows:

(a) The worksheets dated June 3, 1994 (HM1013) reflect a range of \$117,359,000 to \$167,978,000.

(b) The worksheets dated April 1, 1996 (HM1017) reflect a range of \$118,392,000 to \$169,939,000.

- (c) The worksheets dated October 1, 1996 (HM1020) reflect a range of one hundred twenty million one hundred four thousand dollars \$120,104,000 to one hundred seventy-two million nine hundred thirty-four thousand dollars \$172,934,000.

18. On or about August 7, 1997, the Richard E. Jacobs Group entered into a Formation Agreement relative to a proposed merger among it, NED Management Limited Partnership, Retail Property Trust and JWL Connor & Co. Incorporated involving various properties owned by each of the parties. Exhibit J to the Agreement was a financial model that showed an "agreed upon value" for all the properties involved in the transaction and showed an "agreed upon value" for Hanes Mall of \$150,377,000 and an "adjusted agreed upon value" of \$145,700,000. The Formation Agreement provides that these were "estimates of the assigned value" of the Hanes Mall and the other properties. (The Formation Agreement is referenced as documents HM00677-HM01012.)

19. An Amended and Restated Easement, Restriction and Operating Agreement (the "Operating Agreement") was entered into as of February 1, 1990 by and among Belk Enterprises, Inc., Sears, Roebuck & Co., J.C. Penney Properties, Inc., Thalhimer Brothers, Incorporated, and J.B. Ivey & Company (collectively the "Hanes Mall anchor stores"), and Winston-Salem Joint Venture. Simultaneously therewith, each of the Hanes Mall anchor stores entered into separate Supplemental Agreements to supplement the Operating Agreement. Pursuant to the Operating Agreement and Supplemental Agreements, each of the Hanes Mall anchor stores agreed to operate at Hanes Mall a retail store of a certain minimum size for a specified term as follows:

- (a) The agreements provide that Belk Enterprises, Inc. could discontinue operations after September 30, 2004 or sooner if, *inter alia*, three of the other Hanes Mall anchors stores discontinued operations.
- (b) The agreements provide that Sears, Roebuck & Co. could discontinue operations after August 5, 1995.
- (c) The agreements provide that J.C. Penney Properties, Inc. could discontinue operations after August 5, 1995.
- (d) The agreements provide that Thalhimer Brothers, Incorporated could discontinue operations after October 3, 2005 or sooner if, *inter alia*, two of the other Hanes Mall anchors stores discontinued operations.
- (e) The agreements provide that J.B. Ivey & Company could discontinue operations after October 3, 2005 or sooner if, *inter alia*, two of the other Hanes Mall anchors stores discontinued operations.
- (f) The term of each of the agreements is through November 1, 2030.

20. On or about July 19, 1990, a Deed of Trust and Security Agreement dated July 16, 1990 in the principal sum of one hundred twenty-five million dollars (\$125, 000,000), was recorded in the Forsyth County Register of Deeds office in Book 1697, Page 0649 ("1990 Deed of Trust") granting a security interest in the real estate under appeal, other real estate, and certain other real and personal property interests. The 1990 Deed of Trust named Winston-Salem Joint Venture as grantor and Teachers Insurance and Annuity Association of America ("TIAA") as beneficiary. Simultaneously therewith, an Assignment of Lessor's Interest in Lease, dated July 16, 1990, was recorded in the Forsyth County Register of Deeds office at Book 1697, Page 0674, which Assignment named Winston-Salem Joint Venture as assignor and TIAA as assignee and assigned Winston-Salem Joint Venture's interest in the leases at Hanes Mall to TIAA as additional security. Simultaneously therewith, a Uniform Commercial Code Financing Statement was filed in the Forsyth County Register of Deeds office at File No. 189455, naming Winston-Salem Joint Venture as debtor and TIAA as secured party, encumbering personal property as additional security.

In connection with the 1990 financing, Estoppel Certificates addressed to TIAA were signed by each of the Hanes Mall anchor stores.

In connection with the 1990 financing, a Guaranty Agreement was executed on November 29, 1990 in favor of TIAA naming Richard E. Jacobs and David H. Jacobs, individuals, as guarantors.

21. On or about June 23, 1998, a Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated June 17, 1998 in the principal sum of one hundred twenty three million dollars (\$123,000,000), was recorded in the Forsyth County Register of Deeds office in Book 2010, Page 376 ("1998 Deed of Trust") granting a security interest in the real estate under appeal, other real estate, and certain other real and personal property interests. The 1998 Deed of Trust named JG Winston-Salem LLC (as successor in interest to Winston-Salem Joint Venture) as borrower and TIAA as lender. Simultaneously therewith, an Assignment of Leases and Rents dated June 17, 1998 was recorded in the Forsyth County Register of Deeds office at Book 2010, Page 452, which Assignment named JG Winston-Salem LLC as borrower and TIAA as lender and assigned JG Winston-Salem LLC's interest in the leases at Hanes Mall to TIAA as additional security. Simultaneously therewith, a Uniform Commercial Code Financing Statement was filed in the North Carolina Secretary of State's office at File No. 19980039782 encumbering real and personal property as additional security.

In connection with the 1998 financing, Estoppel Certificates addressed to TIAA were signed by each of the Hanes Mall anchor stores.

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September 10, 1999

Item 15A

HANES MALL NEIGHBORHOOD ASSESSMENTS

<u>NAME</u>	<u>BUILDING SIZE</u>	<u>TOTAL 1997 ASSESSMENT</u>	<u>TOTAL ASSESSMENT/SF</u>
Wal-Mart	200,139	\$11,320,000 ¹	\$56.56
Sam's	113,052	\$8,006,600	\$70.82
Home Depot	134,400	\$9,937,300	\$73.94
Lowe's	128,994	\$9,011,400	\$69.86
Circuit City	42,850	\$4,998,600	\$116.65
Best Buy	58,473	\$5,874,200	\$100.46
PETSmart	25,479	\$2,541,600	\$99.75
Sports Authority/Barnes & Noble	74,844	\$7,517,100	\$100.44
LA-Z-BOY	18,000	\$1,523,200	\$84.62
Toys-R-Us	44,910	\$4,318,300	\$96.15
Target	125,220	\$8,555,000 ²	\$68.32
Kohls	87,412	\$6,927,600 ³	\$79.25
Applebee's	5,574	\$1,588,200	\$284.93
Chili's	6,261	\$1,551,600 ¹	\$247.82
Macaroni Grill	7,322	\$1,879,500	\$256.69
Burger King	2,724	\$911,100	\$334.47
Out Back	6,067	\$1,489,500	\$245.51
Hanes Mall	821,078	\$162,725,000	\$198.18
J.C. Penney	191,648	\$10,095,400	\$52.68
Sears	218,803	\$10,235,700	\$46.78
Belks	241,607	\$13,001,800	\$53.81
Dillard's	141,148	\$7,773,700	\$55.07
Hechts	151,310	\$8,340,600	\$55.12
Stratford Commons	72,464	\$5,644,700	\$77.90
Pavillons	124,248	\$11,657,900	\$93.83
Silas Creek Crossing	155,878	\$14,988,700	\$96.15
Hanes Pointe	91,128	\$7,053,400 ³	\$77.40
Hanes Pointe	60,524	\$4,136,900 ³	\$68.35
Extended Stay America	36,300	\$3,251,700	\$89.58
Days Inn - Hanes Mall	59,159	\$5,150,000	\$87.05
Hampton Inn	65,445	\$7,050,000	\$107.72
2045 Griffith Road	136,034	\$11,484,200	\$84.42
2000 Frontis	55,602	\$5,224,800	\$93.97
Silas Creek Manor	25,826 SF	\$2,788,900	\$107.99
AMF	45,855 SF	\$2,849,200	\$62.13

¹ 1998 Value, No 1997 Value

² 1999 Value, Not 100% for 1998

³ 1999 Value Only

* Chili's total value is the combination of 6291 002 (land) and 6291 911 (bldg. on leased land)

Item 15B

**COMPARISON OF ASSESSMENTS
JANUARY 1993 VS. JANUARY 1997**

<u>BUILDING NAME</u>	<u>ADDRESS</u>	<u>BUILDING SIZE</u>	<u>TOTAL ASSESSMENT</u>			<u>ASSESSMENT PER SF</u>		
			<u>1993</u>	<u>1997</u>	<u>% Change</u>	<u>1993</u>	<u>1997</u>	<u>% Change</u>
Thruway Shopping Center	400 Stratford Road	298,786 SF	\$15,960,000	\$18,048,300	13.1%	\$53.42	\$60.41	13.1%
Silas Creek Crossing	3200 Silas Creek Parkway	155,878 SF	\$13,877,400	\$14,988,700	8.0%	\$89.02	\$96.16	8.0%
Pavilions Shopping Center	500 Hanes Mall Blvd.	124,248	\$9,775,700	\$11,657,900	19.1%	\$78.68	\$93.83	19.1%
Sam's Club	930 Hanes Mall Blvd.	113,052	\$7,196,600	\$8,006,600	11.3%	\$63.65	\$70.82	11.3%
J.C. Penney	Hanes Mall, Hanes Mall Blvd.	191,648 SF	\$9,500,000	\$10,095,400	6.3%	\$49.57	\$52.68	6.3%
Sears	Hanes Mall, Hanes Mall Blvd.	218,803 SF	\$10,200,800	\$10,235,700	0.0%	\$46.62	\$46.78	0.0%
Hechts	Hanes Mall, Hanes Mall Blvd.	151,310 SF	\$8,326,200	\$8,340,600	0.1%	\$55.04	\$55.12	0.1%
Ivey	Hanes Mall, Hanes Mall Blvd.	141,148 SF	\$7,427,200	\$7,773,700	4.7%	\$52.62	\$55.07	4.7%
Belk	Hanes Mall, Hanes Mall Blvd.	241,607 SF	\$16,101,900	\$13,001,800	-19.3%	\$66.64	\$53.81	-19.3%
Mall	Hanes Mall, Hanes Mall Blvd.	821,078	\$55,530,000	\$162,725,000	293.0%	\$67.63	\$198.18	293.0%
North Point 5	4660 Brownsboro Road	19,722 SF	\$1,658,000	\$1,691,700	2.0%	\$84.07	\$85.78	2.0%
Silas Creek Manor	3350 Silas Creek Parkway	25,826 SF	\$2,143,000	\$2,788,900	30.1%	\$82.98	\$107.99	30.1%
Meadowbrook Manor	6230 Ramada Drive	35,836 SF	\$2,050,200	\$2,610,400	27.3%	\$57.21	\$72.84	27.3%
Winston-Salem Rehab & Health	1900 W. First Street	73,990 SF	\$4,634,100	\$5,568,600	20.1%	\$62.63	\$75.24	20.1%
AMF	811 Jonestown Road	45,855 SF	* \$2,558,300	\$2,849,200	11.4%	\$55.79	\$62.13	11.4%
Forsyth County: Total taxable real estate			\$11,780,220,210	\$14,313,557,300	21.5%			

* Year 1995, No 94 or 93 Value