FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: West Loop Associates, LLC.
DOCKET NO.: 11-29146.001-C-3 through 11-29146.003-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are West Loop Associates, LLC., the appellant(s), by attorneys James P. Regan and Antonio Senagore, of Fisk Kart Katz and Regan, Ltd. in Chicago; the Cook County Board of Review by Cook County Assistant State's Attorney Randolph Kemmer; and the City of Chicago intervenor, by attorneys Richard Danaher and Bernard Murphy of City of Chicago Department of Law in Chicago.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***an increase*** in the assessment of the property as established by the **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
11-29146.001-C-3	17-16-113-002-0000	254,975	2,881,524	$3,136,499
11-29146.002-C-3	17-16-113-003-0000	494,952	5,593,548	$6,088,500
11-29146.003-C-3	17-16-113-009-0000	749,928	8,475,073	$9,225,001

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of three parcels of land totaling approximately 26,167 square feet and improved with a part-38 and part-8-year old, 18-story, multi-tenant, office building containing approximately 405,971 square feet of net rentable area.

The appellant, through counsel, appeared before the Property Tax Appeal Board (Board) arguing that the fair market value of the subject is not accurately reflected in its assessed value. In support of the market value argument, the appellant submitted a summary appraisal report. The appraisal has a valuation date of January 1, 2009 for a value of $58,000,000.

In preliminary matters, the intervenor submitted a Motion in Limine to preclude the appellant from presenting any testimony or evidence to discredit the intervenor’s appraisal’s description of the subject property because they were barred access to the property for inspection purposes. The Board granted this motion.

In addition, in the course of the proceedings, the Board became aware that the appellant submitted differing copies of the appellant’s appraisal for the 2009 appeal. The Board finds that the appraisal submitted in 2010 was the appraisal received by the board of review in 2009 and was submitted to all parties in 2010.

The appellant’s first witness was Timothy Casey. Mr. Casey testified that he is a certified public accountant and general manager of the subject property as of July 2009. He testified the subject has a part-time manager because the building is smaller than other downtown buildings and does not have as many tenants. Mr. Casey testified he would classify the subject as a B to B- building. He stated that the location west of the river would be a factor in classifying the subject as well as the quality of construction.

Mr. Casey described that the subject was built on an existing building in place. He testified that there was a telephone room that was required to stay, therefore, the building was not torn down, but was built around this room. He opined this limited the design of the building. He testified that this telephone room was vacated in 2012. Mr. Casey testified that there is a two-story, below-grade, public, parking garage in the subject.

Mr. Casey testified that the subject has independent electrical feeds coming into the building from separate substations so that there is power redundancy. He testified that this redundancy attracts financial service companies to the building. He testified that the financial services field can be volatile and may vacate the space more. Mr. Casey testified that tenant improvements and lease commissions are paid by the owner and are not recovered from the tenant. He referred to them as below-the-line expenses that are capitalized, but are not operating expenses.

On cross-examination by the board of review, Mr. Casey testified that the subject’s lobby is too small due to the telephone room on the first floor. He acknowledged that the limitations on the building were in place when it sold in 2005 for $135,000,000. He testified that the subject was essentially rebuilt in 2001 and is an eight-year old building.

As to the subject’s classification, Mr. Casey testified that classifications are not usually discussed with potential tenants, but that the rent would indicate what classification the building is.

On cross-examination by the City of Chicago, Mr. Casey testified that he does not know what the subject’s website lists as the subject’s classification. He testified there is a website, but tenants don’t use it. He testified he would not be surprised if the website listed the subject as a class A building.

Mr. Casey testified the subject is located in the west loop office submarket and acknowledged that this is the best market of the various submarkets in the City. He acknowledged the subject is across the street from Union Station, a prime commuter station, and that the Kennedy Expressway is three blocks away. He also acknowledged that there are other commuter rail stations within several blocks of the subject and that parking is available in the building, across the street, and within a block or two of the subject.

Mr. Casey reiterated that tenant improvements and leasing commissions are an owner’s expense that, from an accounting point of view, are amortized and depreciated over time.

The appellant next presented the testimony of the appraisal's author, Arthur J. Murphy of Urban Real Estate Research, Inc., Chicago. Murphy testified he has a bachelor’s degree and two master’s degrees and the MAI designation from the Appraisal Institute. He testified he is a licensed certified general appraiser in the state of Illinois. Murphy testified he has been appraising since 1979 and has been in private practice as an appraiser since 1986. The appellant’s attorney stated the appraisal lists in the addendum the number of office buildings Mr. Murphy has appraised. The board of review objected to Mr. Murphy being an expert witness, but had no further questions for Mr. Murphy to clarify his expertise. No other parties objected, and, therefore, over the objections of the board of review, Mr.

Murphy was accepted as an expert in property valuation of office buildings by the Board.

Murphy testified that he included a letter addendum in the front of the appraisal that discloses that prices are hard to quantify currently in the market. He opined that a new market would exist after the United States and Chicago emerge from the economic crisis. He opined that the downturn in the economy must be taken into consideration in valuing the property. He testified that it would be unethical and unprofessional to estimate a value of the property in this market without talking about the market. Murphy opined that the market at the time of valuation was collapsing.

Murphy described the subject property and the first floor of the subject. He opined that the subject was built as back office space. Murphy opined the subject is a class B building based on the lobby and build out. He testified the subject is a good building and that classifying this property as A, B, or C is subjective. Murphy opined that the location affects the classification of the building and that the subject receives less rent per square foot than a class A building.

When defining market value, Murphy testified that there is investment or business value reflected in sales. He defined this value as other motivations than the pure value of the real estate. He testified that many investors build up a portfolio and often buy higher than the market value of the real estate because they're trying to beat out other people to buy the building and build up their portfolio.

Murphy testified that at the time of valuation, vacancy in the west loop was a little higher than 10% which means vacancy was growing.

When asked if the appraisal used the three approaches to value, Murphy testified "yes and no." He testified the cost approach was used, but that it was not important in determining the value of the building because of court decisions and the assessor's office. He testified that the experts in the field and the assessor and board of review's offices say that the cost approach is very suspect in buildings like the subject. He testified he put in the approach to show the cost new and to show land sales because the county likes land sales.

The appraisal analyzed five land sales to estimate a land value for the subject. These five properties sold from May 2006 to December 2007 for prices ranging from $272.38 to $459.96 per square foot. The appraisal estimated the subject's land at $275.00 per square foot or $7,250,000, rounded.

The appraisal used the Marshall Valuation Computerized Cost Service to estimate the subject's replacement cost new at $96,840,326. The appraisers than added indirect costs of 3% and entrepreneurial incentive of 7% to arrive at a total cost new for the subject of $106,727,724. Using the age-life method the appraisal indicates physical depreciation at 20%. The appraisal also includes 32.5% for external obsolescence based on a review of the income approach to value. The appraisal reads "It is an accepted theory that when a property does not generate enough income to provide an acceptable rate of return on the land, and provide an acceptable return on and of the improvements, then some form of economic obsolescence has occurred."

Murphy testified he valued the subject new and then depreciated it through the external obsolescence based on the income approach. He opined this was an accepted way to value a property. He testified he looked at this approach, but used the income approach to estimate the value for the subject.

The appraisal uses total accrued depreciation of 52.5% or $55,984,374 to estimate a depreciated value for the improvement of $50,743,350. Site improvements of $10,000 and the land were then added to estimate a value for the subject under the cost approach of $58,000,000, rounded.

As to the income approach, the appraisal analyzed the subject's rents, data from eight rental comparables, and the subject's historical operating statements to estimate a market rent for the subject. The comparables range in rental rates from $15.48 to $44.00 per square foot of net rentable area. The appraisal estimates a rental rate for the subject of $35.00 per square foot of net rentable area. The appraisal included income from the garage of $210,000 and miscellaneous income of $101,493 for total potential gross income of $14,520,478.

Murphy testified he did not identify the rental comparables by address due to his fiduciary responsibility to these clients, but that the income and expense data used was actual data from these properties. He opined that the readers of his appraisal are experts and know the comparables downtown and know the range he developed is real.

Murphy testified that he reviewed the comparables and then stabilized the subject's income. He testified the comparables are used to show whether the subject is above or below the market. Murphy opined that the appraisal placed the subject at the higher end of many of the comparables. He testified that he stabilized where he did because, while the subject may be a B building, it is a good building. He testified he stabilized the subject rent at $35.00 per square foot of net rentable area. He testified that the first floor rent would be higher than other floors and would then be stabilized higher. He stated the $35.00 per square foot was a blended rate. Murphy testified he determined a vacancy rate of 10% based on the market for a total effective gross income of $13,068,430.

The appraisal analyzed the subject's historical expense as well as data from *Business Owners and Managers Association* (BOMA) which reviewed data on 83 downtown Chicago properties, 18 properties with from 300,000 to 600,000 square feet of net rentable area and six comparable properties from various areas of the city. This data showed expenses ranging from $6.57 to $10.84 per square foot of net rentable area. Non recoverable expenses ranged from $.49 to $12.77 per square foot of net rentable area.

The appraisal analyzed each expense and compared the historical expense to BOMA and the subject's size category. Administration expenses from BOMA had an average of $.79 per square foot of net rentable area. The appraisal estimated this expense near the historical expense of $1.50 per square foot of net rentable area. BOMA listed management expenses from $.53 to $.83 per square foot of net rentable area while the subject's historical expenses ranged from $.82 to $1.03 per square foot of net rentable area. The cleaning expenses were stabilized at $1.75 per square foot of net rentable area after a review of BOMA showed this expense ranging from $1.40 to $1.97 per square foot of net rentable area and the subject's historical expense for cleaning at $1.18 to $1.51 per square foot of net rentable area. Repairs & Maintenance was stabilized at $1.50 per square foot of net rentable area after a review of BOMA's range of $1.73 to $2.44 per square foot of net rentable area and the subject's historical expense of $1.16 to $1.25 per square foot of net rentable area. BOMA estimated utilities expenses from $1.41 to $2.28 per square foot of net rentable area while historic expenses ranged from $1.40 to $1.58 per square foot of net rentable area. The appraisal stabilized this expense at $1.80 per square foot of net rentable area. Insurance was stabilized at $.50 per square foot after an analysis of BOMA’s range of $.15 to $.23 per square foot of net rentable area and the historic expenses of $.50 to $.63 per square foot of net rentable area. Finally, security and grounds were stabilized at $.85 per square foot of net rentable area. The appraisal estimated the total operating expenses to be $3,729,908 or $9.19 per square foot of net rentable area.

Murphy reviewed the expense data from BOMA. He testified this document shows the average expenses for 83 downtown buildings and the average expenses for 18 buildings containing between 300,000 and 600,000 square feet of rentable area. Murphy testified that the appraisal discusses each expense line item.

The appraisal then makes deductions for advertising/leasing commissions, tenant improvements, and replacement reserves for a total deduction based on these items of $1,217,913 or $3.00 per square foot of net rentable area.

Murphy testified that non-recoverable expenses are those that the owner normally cannot charge the tenant for. He opined that his term as an accounting terminology. He testified these expenses are amortized over a certain period of time according to the IRS. He opined these values were relevant to the value of a property for real estate tax purposes. Murphy further testified that reserves for replacement is a non-recoverable expense. He testified as to what items he considers replacement reserves. He testified that leasing commissions and tenant improvements are also non-recoverable expenses that are averaged over a period of time. He opined these values are also important for valuing the building. He testified he stabilized leasing commissions at $1.25 per square foot of rentable area.

Murphy testified he stabilized the expenses based on the troubled market. He opined that based on the type of building and tenants, the subject has higher expenses, but he stabilized these expenses based on the market. He acknowledged he stabilized at the higher end of the market. The appraisal estimates the subject’s net operating income at $8,120,609.

As to the capitalization (CAP) rate, Murphy testified he reviewed the market sales and their net operating income to arrive at CAP rates for those sales. He testified that the chart listed in the appraisal in reference to CAP rates from sales 7 and 8 was a mistake and does not address the subject. He testified that the second chart is the correct chart and shows CAP rates from 6% to 7.5% based on a review of five sales from the sales comparison approach to value. Murphy described the Chicago office market as of January 1, 2009 to be stable, but suffering a little from the downturn in the economy. He testified there were not many sales of office buildings during this time.

Murphy testified that there is also investment value to consider and that the market extraction method will indicate market value, but then there needs to be a determination of whether there is also some investment value.

Murphy acknowledged the appraisal also discussed the band of investment which looks at the mortgage constant and equity dividend to establish a CAP rate. He testified he developed a mortgage constant of 9.2% and an equity dividend of 10.5% based on a review of Korpacz. He testified that sales prices need to be adjusted downward for investment value or you'd have a CAP rate of 12% to 13%. He testified that the assessor uses a CAP rate of 8%, 9%, or 10% to account for the investment value. He testified you have to adjust the CAP rate upwards. He acknowledged his CAP rate under the band of investment method was 9.75%.

Murphy then testified that he reviewed published sources to determine a range of CAP rates. He testified the range established by Real Estate Research Report was 6% to 10%. The appraisal indicates this range is for Tier One buildings. He testified Tier Two buildings have a CAP rate range between 7% and 11% while Tier Three buildings have a range between 8% and 12%. He testified that Korpacz had a CAP rate at the high end of the Tier One range of 8%.

Murphy testified he made adjustments to the CAP rates to arrive at an estimate CAP rate for the subject of 9.75%. He testified he accounted for real estate taxes by loading the CAP rate by 4.25% for a total CAP rate of 14%. This determined an estimated value based on the income approach of $58,000,000, rounded. The Board's evidence for the appellant's appraisal does not have 11 pages which include an in-depth analysis of the CAP rate.

As to the sales comparison approach, the appraisal analyzed 15 sales of office properties. These properties range in size from 172,446 to 1,344,017 square feet of net rentable area. They sold from January 2007 to October 2009 for prices ranging from $57,000,000 to $540,000,000 or from $149.99 to $401.78 per square foot of net rentable area. Murphy testified that the sale of buildings slowed down dramatically when the market took a downturn and that is why there is only one 2009 sale.

Murphy testified that many of the sales are located in the central business district with one on the north side and that this location has higher rental rates. He testified that some of the sales are different in building class with A or B building classes. He testified he made adjustments for this difference and the difference in location. He testified there is no adjustment chart in the appraisal.

Murphy testified that the sales have investment value and need to be adjusted downward by competent assessing officials. He testified that the sales comparison approach relied on the income approach "to get where we're at." He clarified he made qualitative adjustments to the comparables, but did not put those adjustments or the factors that were adjusted into the appraisal report.

Murphy clarified that the adjustment made to the comparables in the sales comparison approach were based on the appraisal's income approach. He testified that the assessor and the board of review adjusted these sales and he reviewed these adjustments. He clarified that the assessor and the board of review adjusted the sales prices to the market value of the real estate. He testified that based on this, he knows these sales had investment value included. He again testified that he used the income approach to make adjustment to the sales comparables. He testified that a buyer typically will consider the income generated by a property when purchasing that property and also the investment value. Murphy testified that after adjustments based on the income approach he estimated a value for the subject under the sales comparison approach of $57,850,000, rounded.

In reconciling the three approaches, Murphy testified he gave minimal weight to the cost approach, major weight to the income approach to value, and minimal weight to the sales comparison approach to value to arrive at a final conclusion of value for the subject of $58,000,000.

In cross-examination by the board of education, Murphy testified he did not inspect the subject property. He testified that Mr. O'Keefe, his co-worker and co-author on this report, chose the comparables along with himself and others in the office. He indicated he appraised the comparables in this report. He testified O'Keefe wrote the first draft of the report, but that they work as a team. Murphy testified he wrote most of the theory portions of the appraisal and the letter in the front of the appraisal. Murphy testified O'Keefe inspected the subject property.

As to the addendum letter, Murphy agreed it would be unethical and unprofessional to estimate value for the subject in the market climate of the 2006 and 2007 years. He acknowledged the appraisal values the subject in 2009.

Murphy testified that if he signed the appraisal he is responsible for every word within the appraisal. He testified that he made the adjustments in the appraisal along with O'Keefe.

In looking at market trends for the national central business district office market that is discussed in the appraisal, Murphy acknowledged that the CAP rates range from 4.5% to 10.5% with the average at 7.52% for the first quarter of 2009. He also acknowledged that the overall average CAP rate for the third quarter of 2009 was 8.11%.

Murphy acknowledged that portions of the appraisal's boilerplate language concerning leasing commissions refer to different properties that were appraised and were not removed from the appraisal for this subject property. Murphy acknowledged that there were also statements regarding other properties that were erroneously included in this appraisal in error in other portions of the appraisal.

In regards to the summary of the approaches to value, Murphy was questioned about statements that were included in the appraisal that referenced different properties. Murphy testified his copy of the appraisal did not have this language in it. The Board notes that the appraisal in the 2010 appeal does contain the same statements made about other properties that were included in the 2009 appeal's official appraisal.

Murphy testified that he classified the subject as a B class building. He testified that this classification is subjective and that many times an owner wants the property to be classified as an A building in CoStar Comps.

As to the income approach to value, Murphy acknowledged he did not include addresses on his rental comparables and testified this was because they are clients. He acknowledged the appraisal does not include some information on these properties' characteristics. He opined that it would not be difficult for the reader to understand the comparables without this information because they are assessing officials in Cook County.

Murphy acknowledged that rental comparable #8 was a listing of asking rents. He testified that the range of gross rent for the comparables is $23.36 to $42.10 per square foot of rentable area. He agreed that if the class A and class B+ building comparables were removed, the median rent range for Class B buildings is $23.36 to $33.90 per square foot of rentable area.

As to the subject's historical operating statements, Murphy acknowledged that the subject's base rent and gross income increased from 2007 through 2009. He acknowledged that the operating expenses went up slightly from 2007 to 2008 and then slightly decreased from 2008 to 2009.

Murphy again opined that the subject is a class B building. He agreed that in his selection of rental comparables, location and building class were given the most weight. He also acknowledged income from the parking garage.

Murphy testified that he relied on two BOMA categories for expenses in the expense comparable chart. He acknowledged that the data for these two categories is not broken down by building classification or age. He also acknowledged that there are no addresses included for the six comparables listed.

Murphy testified that replacement reserves, leasing commissions, and tenant improvements are using considered below the line expense. He agreed that the subject's actual expenses before these three items range from $7.41 to $8.12 per square foot of rentable area from 2007 to 2009. He also agreed that the BOMA survey ranged from $8.23 to $8.29 per square foot of rentable area. He acknowledged that if these three expenses were not included in the operating expenses, the net income would be higher.

As to the CAP rate, Murphy agreed that the subject falls within the 25 million and over range which reflects an average CAP rate for loans of 25 million and over of 6.8%. He also acknowledged that the Korpacz survey shows an average equity dividend rate for investment grade CBD office property of 8.63%.

Murphy testified that there are different CAP rates for Tier 1, Tier II, and Tier III properties. The appraisal discloses Tier I having a range from 6% to 10%, Tier II from 7% to 11%, and Tier III's ranging being 8% to 12%. Murphy testified he believed the subject to be a Tier III property. He acknowledged that the appraisal does not discuss the differences in the three tiers or how he arrived at the Tier III designation. He acknowledged he concluded to a 9.75% CAP rate for the subject.

As to the sales comparison approach, Murphy acknowledged the appraisal states that "None of the sales from 2004 to 2008 are reliable for the current market' and "[t]he primary question before us is whether these sales reflect market value as defined by the courts or whether the sales have stimuli beyond the intrinsic value." Murphy testified that the courts, the assessor's office, and many appraising classes disclose that many of the sales in Cook County include business value and investment value and that many have been adjusted downward by the assessor.

Murphy again testified that the sales comparison approach is driven by the income approach to value.

In cross-examination by the board of review, Murphy testified he is responsible for what is written in the appraisal, wrote the appraisal with O'Keefe, and reviewed the appraisal. Murphy acknowledged several more errors written in the "boilerplate" of the appraisal that pertain to other properties.

Murphy testified that there were fewer buildings selling and fewer buildings being rented and that many of those sales and rents were not truly "arm's length." He opined that the information in the appraisal allows for a good valuation of the subject. He testified that when he wrote in the appraisal it was unethical and unprofessional to value the subject in the 2006 and 2007 climate what he meant was that the experts were telling appraisers to be careful using 2006 and 2007 sales to stabilize for January 2009. He clarified that an appraiser cannot use 2007 sales to show the value in 2009, but need to show the sale and then show the market in 2009 and make adjustments. He acknowledged that 14 of the sales comparables sold between 2004 and 2008.

Murphy testified that he appraised a number of the sales comparables used and adjusted them downward. He opined that the market value of those sales includes more than real estate value. He again testified that these sales were adjusted downward by the assessor and the board of review to a real estate value only. He testified all the sales were reliable in giving market value that would include business value as well as real estate value. Murphy testified he adjusted these sales through the income approach. He testified that his sales comparison approach is dependent on his income approach. He opined that the assessor knows these properties have investment value so he used the accepted procedure of an income approach to get the value.

Murphy testified that the three approaches to value are not always done to make sure one is a check on the other. He then testified that the cost approach is dependent on the income approach.

In looking at sale comparable #15, Murphy testified that this sale shows the downturn in the market. Murphy acknowledged that the 2004 sale for this property was for $202.00 per square foot of while the 2009 sale price was at $194.00 per square foot. He agreed this was a slight difference of 4%. He testified that the assessor adjusted this comparable and opined that adjusting comparables for investment value was key. He again reiterated that the 2004 to 2008 was still good value, but that it need to be adjusted. Murphy again testified that these sales were adjusted downward by experts in the field because the sales included investment value and real estate value.

Murphy acknowledged that his land sales comparables and rental comparables are from between 2004 and 2008.

As to the CAP rate, Murphy agreed that the appraisal has an assumption that a certain amount of money should be made on the property. He testified that the CAP rates before reserves from the five sales comparables ranged from 6% to 7.75%. Murphy acknowledged he concluded 9.75% for the subject property. He agreed that the net operating income that he was provided for these sales was the income after taxes. He also agreed that he was taking the CAP rate and applying a tax load to it.

Murphy testified that sale comparable #15 sold for $60,300,000 and that this is the market value of the property. He testified when he appraised this property he made adjustments downward to this property from the sale price to what was the real estate value only. Murphy reiterated the sale price includes a combination of real estate value and investment value.

Murphy again testified that he used a longstanding procedure to use an income approach to value to make adjustment in the sales comparison approach.

On further questions by the Board, Murphy agreed that he adjusts the sale comparables’ sale price to pull out the investment value and that he used the income approach to do this. He opined that there is no investment value in every property that sells. Murphy testified that the sales were included in the appraisal to show that they are higher than the subject’s income approach to value and they should be adjusted downward to account for that lower amount.

On redirect, Murphy testified that the replacement reserves, tenant improvement, and leasing commission expenses are below-the-line expenses which were not used as expenses to develop the net operating income. He opined that when these expenses are below-the-line an adjustment needs to be made to the CAP rate. He opined that it will cause the CAP rate to go down when making these adjustments if the CAP rate was derived from an income stream that didn’t reflect these expenses. Murphy testified these expenses were non-operating expenses that usually are not billed back to the client.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $17,604,320 was disclosed. This assessment reflects a fair market value of $70,417,280 or $173.45 per square foot of building area land included, when the Cook County Real Property Assessment Classification Ordinance level of assessments of 25% for Class 5 property is applied. In support of this market value, the notes included raw sales information on five properties suggested as comparable to the subject. At the hearing, the board of review did not call any witnesses and rested its case upon its written evidence submissions. As a result of its analysis, the board requested confirmation of the subject's assessments.

In support of the intervenor City of Chicago’s position, the intervenor submitted a summary appraisal of the subject prepared by Kathleen Dart with MKD Valuation Group, LLC. Dart testified that she has been an appraiser for 23 years and worked for the Cook County Assessor’s Office for nine years. She testified she owns KMD Valuation Group. She testified she is a certified general real estate appraiser in Illinois and received her MAI designation 13 years ago. Dart testified she has prepared over 800 commercial appraisals. She testified her clients have been both taxpayers and taxing districts. Dart testified she has appeared as an expert before courts and tribunals including the Property Tax Appeal Board. She was accepted by the Board as an expert in appraisal practice without objection from the remaining parties.

The appraisal utilized the sales comparison approach, the income approach and prepared an estimate of land value to estimate the value of the subject property at $73,800,000 as of January 1, 2009.

Dart testified she inspected the exterior and a small portion of the interior of the subject in May and June, 2012. Dart testified that the subject's highest and best use as vacant would be for office or mixed use and that continuation of its current use is its highest and best use as improved. Dart testified she developed an opinion of the value of the land to aid in the analysis of the highest and best use of the subject.

Dart described the subject and its environs. She opined that the west loop submarket has become the premier office location in the loop by 2009 with the highest rents on average. Dart stated one of the market's greatest assets is its location to transportation centers. She testified that three train stations are located within four blocks of the subject and that the expressway system is within a quarter-mile. Darted noted that along with the subject's parking, there is parking directly across the street from the subject as well as within a block of the subject.

Dart testified she did not perform a cost approach because it is difficult to estimate depreciation, especially without full access to the building. She also opined that market participants do not typically look toward the cost approach as a value indicator.

Dart described why she chose the land sales used to estimate a land value for the subject. These five sales sold from October 2005 to February 2007 for prices ranging from $273.81 to $502.94 per square foot. She testified she made adjustments to estimate a value for the land at $330.00 per square foot or $8,700,000, rounded.

To estimate a value for the subject through the sales comparison approach, Dart testified she searched for sales of properties similar to the subject and selected the most comparable sales. These eight properties are described as multi-tenant office buildings ranging in age from 49 to 51 years. The properties range in size from 243,616 to 1,373,751 square feet of net rentable area and sold from January 2007 to October 2009 for prices ranging from $56,500,000 to $540,000,000 or from $152.48 to $393.08 per square foot of net rentable area. Dart testified she looked at the characteristics of date of sale, location, size, age, and other similar factors. She testified she made adjustments to the sales for differences between the properties and the subject. She stated she described these adjustments in the appraisal.

Dart testified that an adjustment for property rights conveyed relates to the leases in place at the time of sale. She testified these sales are leased fee sales and not fee simple sales. She opined that the type of investment-grade property such as the comparables make it difficult to get specific lease data, occupancy data, and historic income data that would make quantitative adjustments possible. Dart opined that the other factors such as location and physical characteristics will provide an understanding of the income generating potential of the property.

Dart testified she considered the sale of the subject in October 2005. She testified the subject sold for approximately $308.00 per square foot of net rentable area and reflected the leased fee as of the sale date. She opined that this could be considered a sale comparable and adjustments made to it. Dart testified she concluded a value for the subject under the sales comparison approach of $185.00 per square foot of net rentable area or $75,100,000, rounded. She testified this estimate of value is approximately 40% below the sale fo the subject in October 2005.

Dart testified she did not consider the income approach analysis in developing the sales comparison approach because there are three separate approaches when valuing a property. She opined that the only thing similar between the income and the sales comparison approach is the way data still must be collected for each approach and then applied. Dart testified that the conclusion of the analysis, an appraiser reconciles the two approaches weighting the most reliable approaches.

Under the income approach, Dart testified she analyzed the subject’s rent roll and operating statement and researched recent leases in the market. She testified she recreated the subject’s historic operating and expense statements from 2006 through 2009. She stated the subject’s revenue ranged from $23.51 to $34.30 per square foot of net rentable area with three of the four years above $30.00 per square foot of net rentable area. Dart testified the expenses, including real estate taxes, ranged from $12.46 to $15.45 per square foot of net rentable area. She stated when taxes were removed the expenses ranged from $6.66 to $7.36 per square foot of net rentable area. Dart then discussed the subject’s 2009 rent roll, vacancy and current leases.

Dart analyzed 11 comparables that are similar to the subject physically and locationally. These properties range in rental dates from 2007 to 2009 with rents from $28.50 to $38.28 per square foot of rentable area. Dart testified she also looked at industry data for the west loop and then at the subject’s leases and the factors with the property such as physical features and location to transportation. Dart concluded a rent for the subject at $33.50 per square foot of net rentable area. She testified this rental rate was at the lower end of the actual rents for the subject.

Dart estimated 10% vacancy based on historic occupancy rates as well as industry data. This yielded an effective gross income of $12,242,136. Dart testified she included income from the subject's parking and miscellaneous income. This income was estimated at $335,000 which resulted in an effective gross income (EGI) of $12,580,000, rounded.

Dart testified she considered the subject’s historic information, looked at similar office building data, and industry standards in estimating the subject’s expenses. Dart testified as to what expense categories were used. She opined that these categories are common in Central business district office buildings and Building Owners and Managers Association (BOMA) standards. Dart testified she estimated expenses at $7.80 per square foot of net rentable area or $3,167,000. She testified that this yields an expense ratio that is higher than the subject’s actual expense ratio for 2006, 2008, and 2009. The estimated expenses were deducted from the EGI resulting in a net operating income (NOI) of $9,415,000 for the subject.

Dart testified she did not include tenant improvements as an expense because she included these costs within the estimated market rent; she stated it brought her rental rate down. Dart also testified she did not include reserves as an expense. She opined that reserves can be expensed two ways: as a line item or considering it within the CAP rate. Dart stated that she has never seen an operating statement for an office building in the downtown Chicago market that includes a reserve line item; she opined that brokers and owners include this expense within their CAP rate.

To estimate the capitalization rate, Dart testified he analyzed comparables sales, looked at industry data and applied the band of investment technique. As to the comparables sales, Dart testified three of the sales had sufficient information to calculate a capitalization rate. These sales derived capitalization rates from 4.4% to 8.3%. She opined that consistency in reviewing the data is important and because she deducted an expense for leasing for the subject she made a similar adjustment to the three sales in developing the CAP rate.

As to the subject’s 2005 sale, Dart testified that the subject’s CAP rate at the time of its sale was 5.75%. Dart then applied the band of investment method to estimate a CAP rate. She testified this method looks to the two components of investment, the mortgage and the equity end to determine a weighted average with those two factors. She testified she used a weighted average of 60% and 40% which resulted in an estimated CAP rate under this method of 9.3%.

Dart testified she also reviewed three main sources of industry data that are nationally recognized data sources for CAP rates. She testified she reviewed Tier I and Tier II investment properties. Dart testified the national rate was between 7% and 9% and the Chicago market averaged 7.2% to 7.7%. Based on all three methods, Dart testified she concluded a CAP rate of 9%. She further explained that this rate is at the high end of the range because of adjustments made for the leasing expense that brought the rate up a bit. Dart then applied a rate for the real estate taxes commonly known as a load factor for a loaded CAP rate of 12.9%. Dividing the NOI by the total CAP rate resulted in an indicated value for the subject at $73,000,000, rounded.

In reconciling the two approaches to value, Dart testified she gave the sales comparison approach secondary analysis overall because of the lack of income information for the sales comparables to make quantitative adjustments. She testified she put primary weight on the income capitalization approach because that is the approach that investors would look at when pricing this type of property. Dart concluded a final estimate of value for the subject of $73,800,000 as of January 1, 2009.

On cross-examination, Dart reiterated that the subject is approximately seven-years old, but that it was built on a fourstory, preexisting structure. She testified she did not see any retail space on the ground floor of the subject. Dart acknowledged that many financial institutions filed bankruptcy in late 2008. She also acknowledged that one of the subject's tenants vacated the building, but testified that this space was leased again by the time of the appraisal.

Dart testified that there are A, B, and C categories for class designations for properties. She acknowledged that there are no specific categories for B+ or B- office buildings. There was credible testimony from Dart as to building classification and how she developed her conclusion for the subject as a class B+ office building. She acknowledged that she identified the subject as a class B office building in creating an income and expense statement from the subject's historic financial data.

Dart testified that the subject's tenant improvement costs and leasing commissions are not listed in the subject's income and expense statements, but are located on the subject's general ledger. She acknowledged that the company leasing space on the 14^{th} floor vacated that space in May 2009 and that it was released for a slightly lower rent by 2010.

As to the location of the rental comparables, Dart acknowledged the properties located on Wacker Drive are considered superior in location and were adjusted downward. She also acknowledged that the industry data report the CBRE west loop, class B asking rate is $33.85 per square foot of rentable area and does include properties on Wacker Drive. She testified Wacker Drive is east of the river. She testified the appraisal indicates that the estimate of market rent includes rental concessions, but acknowledged those calculations are not listed within the report.

Dart acknowledged that the BOMA data does not breakdown properties location relative to the river nor does it breakdown building classification. She again testified that she did not include replacement reserves in the expense statement because properties of this type as well as the subject's operating statements do not record reserves as an operating expense. She testified she consider reserves in developing her CAP rate.

As to the band of investment method for developing a CAP rate, Dart testified as to industry data for pre-tax yields in regards to Tier I and Tier II properties. She reiterated that she places most weight in developing the yield rate on the Chicago data.

As to the sales comparison approach, Dart testified that the comparables were leased fee sales and that the subject was appraised as fee simple. Dart was shown *Appellant's Exhibits #1 through #4*, March 19, 2015 CoStar report printouts of comparables #3, #4, #5, and #7. Dart testified she concluded different office classifications for these properties then those listed in the CoStar reports.

In the comparative market method for developing a CAP rate, Dart testified she reviewed three sales from the sales comparison approach. She acknowledged these properties are listed as class A office buildings in the CoStar reports and are located east of the river.

Dart testified she described the subject's income as stable with the exception of 2007. She again testified that the income approach should receive primary consideration in this case because most real estate investors give reliance to this approach.

On redirect, Dart testified that in reviewing the three sales used in the comparative market method for developing a CAP rate, she made adjustments to these sales to account for their location. She testified that these properties had CAP rates from 4.4% to 8.3% while she concluded a rate for the subject of 9%.

Dart testified she uses CoStar reports as a source of market activity and then confirms the data through other sources. She opined that the conclusions in CoStar are not absolute.

Dart testified she compiled the income and expense chart in her appraisal from the actual history data she reviewed in the appellant's appraiser's report.

As to the rental rate, Dart testified the report is a summary report and does not include all the calculations done to account for rental concessions.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. (*86 Ill.Admin.Code §1910.63(a)*). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (*86 Ill.Admin.Code §1910.65(c))*. Having considered the evidence presented, the Board concludes that the appellant has not satisfied this burden, that the intervenor has met their burden and that an increase is warranted.

In determining the fair market value of the subject property for tax year 2009, the Board examined the parties' two appraisal reports and testimony, the board of review's submission, and the rebuttal documentation and testimony.

The Board finds the board of review's witness was not present or called to testify about their qualifications, identify their work, testify about the contents of the evidence or report on their conclusions or be cross-examined by the appellant and the Property Tax Appeal Board. Without the ability to observe the demeanor of this individual during the course of testimony, the Property Tax Appeal Board gives the evidence from the board of review no weight.

In addition, the Board finds the appellant's appraisal flawed in that both the sales comparison approach and the cost approach to value rely on the income approach to value in developing an estimate of value under those approaches. The Board finds that proper appraisal methodology requires that each approach to value be independent of each other and then reconciled among the approaches to estimate a final conclusion of value for a property.

In the instant appeal, the appellant's appraiser readily admitted he based his adjustments in the sales comparison approach on the income approach to value and made an adjustment in the cost approach for external obsolescence based on the value determined in the income approach. The Board finds this methodology is self validating and contradictory to accepted appraisal practice and, therefore, gives this no weight. In addition, the appellant's witness made many illogical and unsupported statements throughout the hearing about adjustments made by the assessor's office and the board of review as reasoning for why he used the income approach to make adjustments to the sales comparables.

In the income approach to value, the Board finds the appellant's appraiser utilized the subject's actual rental average of $35.00 per square foot of net rentable area, but utilized stabilized expenses that were at the high end or above the range of the subject's actual expenses, the most similar comparables, or the most comparable market surveys. The Board finds this deflated the subject's income while inflating the subject expenses which results in a lower net operating income. In addition, the appellant's appraiser added tenant improvements and leasing commissions as above-the-line expenses when market surveys indicate these items are not typically taken as above-the-line expenses in the Chicago market. The appraiser then used this as an excuse for the flaws in the market extraction method for developing the CAP rate. The appraiser also incorrectly used Tier III properties to justify a higher CAP rate when the subject is a Tier II, or Class B building.

Conversely, the Board finds the intervenor's appraiser credibly preformed each approach to value independently and then reconciled these approaches to estimate a final conclusion of value for the subject. Each approach was reliable and appropriately supported with market data.

In the cost approach to value, the intervenor's appraisal and the appraiser clearly explain the unreliability of developing a depreciation rate with the limited data provided.

In the income approach to value, the intervenor's appraiser credibly testified as to adjusting for tenant improvements within the estimate of market rent developed for the subject. The appraiser used a proper method in including reserves for replacements within the CAP rate. The CAP rate developed by the appraiser is supported by credible market data from all three methods: market extraction, band of investment, and market surveys.

In the sales comparison approach to value, the appraiser reviewed eight properties that were similar to the subject and made adjustments to those sales based on several pertinent factors. Both the appraisal and the testimony clearly and credibly explain these adjustments.

Therefore, the Board gives most weight to the intervenor's appraisal and finds that the subject has a market value of $73,800,000. The subject's current assessment reflects a market value below this value and the Board finds an increase is justified.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman

Member

Member

Member

Acting Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: June 26, 2015

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.