



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: West Shoreline Pipeline Co.
DOCKET NO.: 19-25172.001-I-2
PARCEL NO.: 08-23-301-007-0000

The parties of record before the Property Tax Appeal Board are West Shoreline Pipeline Co., the appellant(s), by attorney Kevin P. Burke, of Smith Hemmesch Burke & Kaczynski in Chicago; the Cook County Board of Review; the C.C.S.D. #59 intervenor, by attorney Ares G. Dalianis of Franczek P.C. in Chicago.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **no change** 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:

LAND: \$445,641
IMPR.: \$76,949
TOTAL: \$522,590

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2019 tax year.¹ The Property Tax Appeal Board (hereinafter, "PTAB") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating the subject property had a market value of \$1,200,000 as of January 1, 2019. The appellant requests a total assessment reduction to \$300,000 when applying the 2019 level of assessment of 25.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance.

¹ The appellant filed an appeal for the subject property with the Board in docket #20-22461. The appellant presented the appeals for the 2019 and 2020 lien years in a consolidated hearing.

The subject property, owned by West Shoreline Pipeline Company, is improved with three buildings, each constructed in 1956. These improvements are used for testing petroleum pipelines below and above the subject site. The pipelines feed into nearby petroleum terminals owned by Citgo, Marathon, Equilon and ExxonMobil companies. Improvement #1 is a one-story building of masonry construction containing 3,234 square feet of gross building area. Salient features of Improvement #1 are a slab foundation, flat roof, offices, and a laboratory. Improvement #2 is a one-story building of masonry construction containing 3,500 square feet of gross building area. Salient features of Improvement #2 are a slab foundation, flat roof, offices, area for a drive-in and one exterior dock. Improvement #3 is a one-story building of masonry construction containing 784 square feet of gross building area. Salient features of Improvement #3 are a slab foundation, flat roof, and an industrial control room. There is a total of 7,515 square feet of gross building area for all improvements. The property is situated on a rectangular-shaped, 254,652 square foot corner parcel in Mount Prospect, Elk Grove Township, Cook County. The property is a Class 5-93 property under the Cook County Real Property Assessment Classification Ordinance.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$522,590. The subject's assessment reflects a market value of \$2,090,360 when applying the 2019 level of assessment of 25.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance. In support of its contention of the correct assessment, the board of review submitted information on three unadjusted suggested comparable properties that sold from February 2018 through April 2019. One of these properties was zoned industrial and was in the O'Hare submarket.

Elk Grove Community Consolidated School District #59 intervened through counsel. It submitted a technical appraisal review report of the appellant's appraisal.

The appellant submitted a three-page brief in rebuttal with attachments in critique of the three suggested comparable sale properties submitted by the board of review. The appellant argued the intervenor's review report was flawed because it was not a complete appraisal.

Appellant's appraisal

The appellant's appraisal was prepared by appraiser Joseph Ryan of LaSalle Appraisal Group, Incorporated. Its purpose was to estimate the market value of the subject's fee simple estate in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP). The effective date was January 1, 2019. Ryan considered the subject's highest and best use (HBU) on four criteria: legally permissible, physically possible, financially feasible and maximally productive. He focused on the O'Hare submarket, where the subject was located. He opined the HBU as vacant would be for an owner-user, inhibited by the subject's location in what he characterized as a floodplain. Ryan opined that demolition of the improvements would not be economical due to costs of demolition and new construction. As improved, the HBU would be as continued petroleum pipeline property.

Ryan described the site at the northwest corner of Oakton Street and Badger Road in Mount Prospect. Oakton was on the south edge of the site, Badger on the east and Terminal Drive on the north. It was rectangular in shape, with 410 feet of frontage on Oakton and Terminal, and 620 feet on Badger. Ryan did not observe drainage problems at the time of his inspection. He noted that the western portion of the site was in Flood Zone X, an area determined to be outside the 500-year flood plain. The eastern portion of the site was in Flood Zone A, an area with a 1.00% annual chance of flooding. He was told by West Shoreline personnel that the site floods due to a lack of proper storm sewers along Badger. The site was improved with three buildings: a one-story masonry office building, a one-story masonry industrial warehouse, and a one-story masonry industrial control room building.

Ryan developed only the cost approach to valuation. His first step was to value the land as vacant. He selected five suggested comparable land sales. Land sale #1 was in the Northwest Suburban market and contained 217,255 square feet. It sold in October 2017 for \$915,000, or \$4.21 per square foot, and was raw land at the time of his appraisal report. It was zoned M-1. Land sale #2 was in the O'Hare submarket and contained 199,113 square feet. It sold in January 2018 for \$1,850,000, or \$9.29 per square foot. It was zoned R-5. The buyer of land sale #2 assembled this parcel with 85.60 additional acres. The assembled site was being developed at the time of Ryan's report. Land sale #3 was in the O'Hare submarket and contained 361,152 square feet. It sold in March 2018 for \$1,050,000, or \$2.91 per square foot in an REO transaction². It was raw land at the time of the report. It was zoned M. Land sale #4 was in the Northwest Suburban submarket and contained 370,260 square feet. It sold in May 2018 for \$4,517,500, or \$12.20 per square foot, and was raw land at the time of the report. It was zoned I-1. Land sale #5 was in the O'Hare submarket and contained 303,876 square feet. It sold in February 2019 for \$1,500,000, or \$4.94 per square foot and was raw land at the time of the report. It was zoned O-P.

Ryan explained there are two methods of analyzing comparable sales: quantitative and qualitative. Although the quantitative analysis is the most reliable method, he did not use this method due to the "paucity and variability of the comparable sales data." Therefore, he employed a relative comparison and ranking analysis in applying the qualitative method. Ryan's adjustments to the land sales were by negative, positive or no adjustment symbols for various elements of comparison. Each of the five land sales was no adjustment on property rights, financial terms, conditions of sale, and market conditions. He gave a negative adjustment to each of the five for location, utility and zoning. He varied on the size element: land sale #1 was no adjustment; land sale #2 was negative adjustment; land sales #3, #4 and #5 were positive adjustments. Overall, each of these five suggested land sales received a negative adjustment when compared to the subject. Ryan opined this was because the subject property would likely have little market appeal to a buyer not in the same business as West Shoreline. The improvements were used for testing petroleum pipelines, which would require a significant financial commitment to remove. He also opined that the subject's site was in a floodplain due

² REO stands for Real Estate Owned. The term is commonly known to describe property that was acquired by a lender financial institution through a foreclosure proceeding.

to a lack of sanitary sewer lines. Ryan estimated the subject's land market value was \$3.00 per square foot, or \$765,000, rounded.

For the next component of the cost approach, Ryan considered two methods of cost estimates: reproduction and replacement. The decision to use one or the other was dictated by the structure's age, uniqueness, intended use at the time of construction and its current HBU. Ryan selected the replacement cost method. Quality of the structure can be categorized into Classes A, B, C, D and S. Within each class, sub-categories from low to excellent can be made. The subject's replacement cost new was estimated using the Marshall and Swift Cost Manual. Ryan opined the subject's industrial improvements were Class C average quality, with a \$44.00 per square foot base cost. The office improvement was Class C low quality with a \$76.00 per square foot base cost. Ryan added \$12.50 per square foot to the office improvement for sprinklers and HVAC costs. He added 2.50% to the total replacement cost for indirect costs, such as architectural and engineering fees, professional fees, financing, insurance, property taxes, marketing fees and commissions. He opined the subject would have no entrepreneurial profit because petroleum pipelines would be constructed for operators of those items.

Ryan calculated the improvements' accrued depreciation, which was composed of physical deterioration, and functional and external obsolescence. For Improvement #1, the office building, he opined a depreciated cost of a new building at \$224,648, or \$69.46 per square foot. For Improvements #2 and #3, he opined a total depreciated cost of new buildings at \$117,420, or \$27.41 per square foot. Ryan provided a cost summary for depreciated cost new of the three improvements, steel tanks, site improvements, and land value of \$760,000.³ His reconciled and final value estimate was \$1,190,000, rounded to \$1,200,000.

Ryan did not use the sales comparison or income capitalization approaches to estimate market value. In his Valuation Methodology section, Ryan stated the sales approach is reliable when there is an active market that provides enough recent sales, and the income approach is reliable when there are adequate market data. In his Reconciliation and Final Value Estimate section, Ryan stated, without further explanation, neither the sales nor income approaches were used because they were "typically not used by market participants." Ryan relied solely on the replacement cost approach. He explained that this approach is particularly useful when the subject property represents the HBU of the land and the amount of accrued depreciation is measurable.

Intervenor's technical appraisal review report

The intervenor's review report was prepared by appraiser William Enright of Appraisal Associates, with an effective date of December 23, 2020. Its purpose was to review the appraisal report prepared by Ryan of LaSalle Appraisal Group for its technical merit, USPAP compliance and appraisal methodology.

³ Ryan cited \$760,000 as the land value in his cost summary yet cited the value at \$765,000 in his land value analysis and reconciliation sections. The Board treats the \$760,000 amount as a typographical error that does not materially alter the final value estimate.

Enright found many deficiencies in Ryan's report. He opined that Ryan failed to comply with some USPAP rules. He noted that Ryan did not develop a sales comparison or income capitalization approach to the subject's market value. Ryan did not provide information on the size, number and location of pipelines Ryan claimed would require significant financial commitment to remove. Regarding the floodplain issue Ryan reported, there was no information about the size of land affected. Enright also noted Ryan made various inconsistent findings. Ryan stated no drainage problems were known and observed, but stated on-site personnel reported floods. Ryan stated the utility of the site was average but later opined the site would have little market appeal. Ryan found the HBU was its continued use as improved but opined the land value as vacant would be greater than the land as currently improved.

Enright critiqued Ryan's comparable land sales analysis. He noted Ryan's opinion of \$3.00 per square foot was at the lower end of the range of his five suggested comparable land sales, and that one of them was an REO sale. Overall, Enright opined Ryan's report did not properly report the physical characteristics of those five comparable properties. He found land sale #1 contained wetlands requiring significant detention. It was acquired for development as a self-storage facility, a fact Ryan did not report. It was eight miles from the subject. Land sale #2 was part of an assemblage with adjacent parcels. It was originally zoned R-5 but was rezoned for industrial use. Land sale #2 was sold in January 2020 for \$31.58 per square feet but Ryan reported it was valued at \$9.29 per square foot. Ryan did not adjust for rezoning or infrastructure improvements. It was one mile from the subject. Land sale #3 was an REO transaction but Ryan did not adjust for this factor. It was five miles from the subject. Land sale #4, one-half mile from the subject, contained wetlands and required significant detention. Ryan did not disclose those facts. Land sale #5 contained a large pond and significant open space. Net usable land appeared to be less than 50% of the total site. It was zoned OP, or for office park. Enright opined this zoning may have adversely affected the sale price due to limited demand. Ryan did not adjust for zoning. It was one and one-half miles from the subject.

Enright found land sales #1 through #4 were transacted from October 2017 through May 2018, when market conditions were very strong. Ryan did not adjust for that factor. Each land sale was adjusted downward for superior utility due to the subject's existing pipelines. However, the size, number and location of these pipelines were not disclosed and there was no information about removal costs. Each land sale was reported to have zoning similar with the subject, but land sale #2 was zoned residential and land sale #5 was zoned for office use. Enright opined Ryan's statement of land value did not reflect its value as if vacant and available for development to its highest and best use. Enright found five other recent sales of industrial-zoned properties in the subject's area that were not, but could have been, included in Ryan's report. They sold from April 2017 through March 2019 for prices ranging from \$16.58 to \$23.77 per square foot. Enright noted the parcel adjacent to the subject was listed for sale. It was entirely within a flood hazard area. He also noted an industrial property farther from the subject that sold in December 2018 for \$7.95 per square foot of land. That entire parcel was in a flood hazard area, or zone AE. On-site detention was required.

Appellant's rebuttal

The appellant asserted in its rebuttal brief that the subject was in a special flood hazard area. It suggested the intervenor's review report conclusion that the current assessment was appropriate was not supported. In rebuttal to Enright's contention that Ryan's appraisal was flawed, the appellant suggested the review report offered support. The appellant distinguished the board of review's suggested comparable sales as unsubstantiated sales information without adjustments that would be found in an appraisal. The appellant gave details of how the board of review's suggested sales differed on relevant points from the subject. Those details were supported by pages of property characteristics and photographs of the board of review's suggested sales.

Hearing

Daniel Krushinski testified for the appellant. He worked for West Shoreline for 36 years as an electrical and instrumentation technician. Referring to an aerial photograph of the site, which was later entered into evidence as Appellant's Exhibit #1, Krushinski identified the three buildings of the subject. The site was bordered by Oakton Street to the south, Badger Road to the east and Terminal Drive to the north. There were above-ground pipes to the west of the building containing computer equipment. Those pipes eventually went underground at the northeast corner near the intersection of Badger and Terminal. To the south of that building were storage tanks. The photograph showed red lines that marked where pipes entered and exited the tanks. Entry to the site was from Badger Road and into a parking lot. The purpose of the three buildings was to distribute refined products from refineries to nearby storage tank farms on Terminal. The building on the eastern edge of the site on Badger Road was used for storage. The building on the southern part of the site and nearest Oakton Street contained offices. There was no access to the site directly from Oakton. Badger and Terminal are private roads maintained by West Shoreline. This maintenance consists of repairing asphalt, snow plowing and salting at the discretion of West Shoreline. There are no curbs on either side of Badger or Terminal. During heavy rain, the eastern half of the site floods, enough that at times employees could not use the parking lot. Krushinski identified other photographs, taken in about 2015 and showing the area of the site where Badger and Oakton intersect. The photos depicted the flooded site during a heavy rain and were entered into evidence as Appellant's Exhibit #2. That flooding would occur if the site received a couple days of straight rain and would eventually run-off into a ditch next to Badger. West Shoreline representatives met with officials from the town of Mount Prospect to discuss the flooding problem. Those officials told West Shoreline representatives that they did not have jurisdiction, but opined West Shoreline could not raise the elevation of Badger to alleviate it because it was in a floodplain.

Joseph Ryan testified in support of the LaSalle appraisal. The parties stipulated that Ryan was an expert in the field and practice of real estate appraisal, and the Board found him qualified as such. Ryan appraised the subject property with the valuation date of January 1, 2019. He inspected the property in May 2020. The site contained about 255,000 square feet of land. He noted three buildings he characterized as the office building on the south, the industrial building in the middle used for parts storage, and the control building to the north. Those buildings had a total of just over 7,500 square feet. In addition to the subject, Ryan identified bulk oil storage

terminals across Terminal from the subject site. To the west of the subject site was a mobile home park; to the east was a vacant site; to the south across Oakton were industrial buildings. To gain access to the site, a driver would turn from Oakton onto Badger. Ryan corrected his appraisal report during testimony by clarifying there were curb cuts on Oakton but none on Badger and Terminal. Terminal was a private road maintained by the storage terminal owners. The subject had a 34:1 land-to-building ratio. Industrial or office sites usually would have a 2:1 or 3:1 ratio. Ryan reviewed flood zone maps and noted the subject's east portion was in Flood Zone A, which is defined as a floodplain area that would flood, not frequently, but during periods of heavy rain. He estimated this area to be about 50% of the subject site from looking at the flood zone map in his appraisal report. Ryan opined that the flooding and the presence of pipelines would make the subject site not optimal to a third-party user. Based on those factors, Ryan testified the HBU as vacant would be for industrial use, and the HBU as improved would be the continued use.

Ryan did not use the sales comparison or income capitalization approaches because he decided they were not applicable to the subject. He used only the cost approach. Ryan rejected the sales approach for improved properties because the subject contained both small industrial and small office improvements, and he did not find comparable sales with both types of those improvements. He explored the idea of including office and industrial sales in his report and adjusting them for location and use, but did not think the results would have been reliable. In referring to his report, Ryan opined that a buyer would look to buy the land since the improvements would not be relevant. He also conceded that he could have used the subject's 34:1 ratio for a sales approach but did not find comparable properties with that feature. He also did not find improved sales next to the five large oil tank sites of the subject's size.

The cost approach required valuing the land only and valuing the improvements based on their depreciated replacement cost new value. The buildings were 60 years-old and Ryan assumed a 20-year economic life to determine the cost new value. Ryan used a sales comparison approach for land only. He found five vacant site sales within eight miles of the subject. Location was the most important factor for selecting comparable land sites. Ryan described land sale #1 as having a very similar size as the subject and had some wetlands. It was sold in October 2017 but was subsequently developed with a self-storage facility. Land sale #2 was sold in January 2018 but was recently resold in a transaction that assembled it with an adjacent residential site and another nearby site. The entire assemblage was redeveloped into a data center. Ryan believed the developer paid a premium price. Land sale #3 was an REO transaction advertised and sold in March 2018. Ryan opined there was no reason for him to believe the lender bank did not accept market value for that sale. Land sale #4 did not have flooding issues and was zoned X. Land sale #5 sold in February 2019 and was a little bigger than the subject at 300,000 square feet. Land sales #4 and #5 were vacant land. The other three land sales were for improved properties.

Ryan opined the subject's land value was \$765,000 because the improvements would have no value to a buyer. He used the cost approach to conclude a \$435,000 contributory value of the buildings. The total cost approach value was \$1,200,000. Although nearby Centex Industrial Park, also known as Elk Grove Business Park, was in Elk Grove Township, it was fully improved, mature and did not have many vacant land sales. He expanded his geographical range

to eight miles. Ryan explained that he looked for recent sales information from talking to brokers and researching CoStar data. His report included addresses, property index numbers, grantor and grantee names, recorded document numbers, and property descriptions for the five land sales. Ryan referred to his appraisal report as he testified about what adjustments he made to each, and the history and nature of the recent sales. Ryan concluded the subject's land value was \$3.00 per square foot. That was lower than four of the land sales because they were improved, but it was higher than the remaining land sale that was vacant. He thought this conclusion was fair since the subject site was mostly vacant.

Ryan was cross-examined by counsel for the intervenor. He identified the subject on an aerial photo as less than one mile from Elmhurst Road and two miles from O'Hare Airport. He agreed that the subject was in the O'Hare submarket. Ryan repeated his prior testimony that he did not use the sales approach since it was not typically used by market participants. Ryan added that he gathered rental information for an income approach but concluded it was not typically used by market participants. Ryan did not include that rental income in his report but had it in his database. Ryan described his land sale #1 as containing about 60,050 square feet of wetlands out of a total site of 271,000. That property was developed after the sale as a self-storage facility. Counsel for the appellant objected to testimony of what was done with land sale #1 after the sale. His objection was overruled as prior testimony on direct-examination of Ryan established that in evidence. Land sale #2 was zoned R-5, for residential use. It was not consistent with Ryan's opinion of its HBU but later was rezoned as industrial. Appellant's counsel objected to testimony of what was done with land sale #2 after the date of Ryan's appraisal. His objection was overruled as prior testimony on direct-examination of Ryan established it was assembled with a residential site and another nearby site for development into a data center. Land sale #3 was REO property in DuPage County. DuPage had a lower tax burden than Cook County, the location of the subject. Hence, a buyer may have paid more for a DuPage property. Land sale #4 was zoned industrial and was similar to the subject. Land sale #5 was zoned OT, which allowed for flex industrial buildings. A retention pond appeared on an aerial photo to cover a third of the site. According to Ryan the owner constructed a flex building on it, so the entire site was usable. The flex building was part industrial, part showroom. In summary, three of Ryan's land sales were zoned industrial, one zoned residential and one zoned partially office.

The board of review cross-examined Ryan. Land sale #4 was the only one of his five land sales that was zoned I-1. It was valued at \$12.20 per square foot. The other four land sales were zoned differently and valued less per square foot than land sale #4. Land sale #3 in DuPage County was REO property and sold at \$2.91 per square foot, lower than the other land sales and lower than Ryan's estimate of the subject's \$3.00 per square foot value of land.

On re-direct examination, Ryan stated land sales #1, #3 and #4 had similar industrial zoning with the subject. Land sale #2 was R-5 when sold. The buyer had already discussed with the municipality about rezoning the assemblage of parcels as industrial before the sale reported by Ryan. Although land sale #5 was zoned for flex industrial, it was similar to the subject's zoning in Ryan's opinion. Land sale #3 was in DuPage County but also in the O'Hare submarket. DuPage typically had lower property taxes than Cook County. Ryan determined that land was 65% of the total appraised value of the subject.

Appellant's Exhibit #1, a one-page aerial photo of the subject was entered into evidence. The intervenor objected to entering Appellant's Exhibit #2, a group exhibit of six photos of the subject depicting the aftermath of a heavy rain, into evidence because the photos had been taken in 2015. The presiding Administrative Law Judge (ALJ) overruled the objection and entered the exhibit into evidence. The appellant rested its case-in-chief.

The board of review rested its case on the evidence already submitted, including its three suggested comparable sale properties.

William Enright testified in support of his technical appraisal review report. After *voir dire*, the intervenor tendered Enright as an expert in the field of real estate appraisal. Appellant's counsel sought to impeach Enright's expert qualifications with prior Board decisions where he testified about tank farm properties. Counsel for the intervenor argued the subject in the instant appeal is industrial, not a tank farm. The ALJ denied appellant counsel's impeachment examination by observing prior Board decisions are not precedential, that precise fact-based similarity between the subject property and properties of prior appeals before the Board is not required for a witness to be qualified as an expert, and that the impeachment inquiry lacked probative value to the question of whether Enright was an expert in the instant case. Over appellant counsel's continuing objection, the ALJ found Enright to be an expert in the theory and practice of real estate appraisal. Enright's report was admitted into evidence as Intervenor's Exhibit #1.

Enright reviewed Ryan's appraisal report and prepared his technical appraisal review report. His assignment was to determine the credibility of the appraisal and its compliance with USPAP rules and generally accepted appraisal methodology. Enright was shown Appellant's Exhibit #1. He observed that the tanks on the subject site were small and that 95% of the site did not have pipelines. He stated the subject was not a tank farm since it contained only two tanks on the five-acre parcel. Tank farms typically have significantly more tanks. The eastern 50% of the site was in Zone A, or a flood hazard area. Enright defined Zone A as an area subject to 100-year flooding. The intervenor introduced a map from the Federal Emergency Management Agency (FEMA) as Intervenor's email document #4. It highlighted the subject's Zone A in light blue. Interstate Highway 90 was one block to the south and O'Hare Airport nearby to the subject site. There were various nearby points of access to the site, including Elmhurst Road, Lee Street and Arlington Heights Road.

Enright stated comparable sale property selections should be consistent with the subject's HBU. He noted Ryan did not develop a sales comparison or income capitalization approach. The appellant's land sale #1 was in the Northwest submarket rather than the O'Hare submarket. It contained wetlands but was improved with a self-storage facility. Land sale #2 was zoned R-5, which was not consistent with the HBU reported in Ryan's appraisal. It was sold in January 2020, and assembled with adjoining parcels and redeveloped into an industrial distribution and data center. Land sale #3 was REO property. It was in DuPage County and in the O'Hare submarket. Land sale #4 was an irregular-shaped parcel with some wetlands that required on-site storm water retention. It was subsequently improved with two industrial buildings. Enright considered this land sale to be a good comparable property for the subject. Land sale #5 was an

irregular-shaped parcel with a pond. It was zoned for office use and later acquired for office development with a modified retention pond. About half of the site was useable. Those properties sold in 2017 and 2018. Enright opined that the market was very strong then, but Ryan did not adjust for market conditions. He should have made upward adjustments for that factor. Enright opined Ryan erred in adjusting utility downward. Given the purpose of his report to value the land as if vacant, Ryan should have ignored existing improvements. Land sale #4 was zoned residential and land sale #5 was zone office use, which was contrary to its HBU.

Enright summarized five additional sales in his review report. Those had similar sizes with the subject, were within two miles and, like it, were in Elk Grove Village. All but one of those additional sale properties were improved with older industrial buildings that were demolished and their land redeveloped with new distribution warehouse facilities. That activity reflected very strong demand in an area built up and with very few vacant parcels. Parties found it economical to buy older facilities and redevelop them. Buyers would have effectively paid for the land. However, sale prices may not have reflected the cost of demolition, remediation, and site preparation. Enright's prices per square foot of his additional sales did not reflect those other costs.

The intervenor emailed various documents to the parties prior to hearing. Enright was familiar with the property adjacent to and east of the subject, at 2400 Oakton Street, because he appraised it 20 or 25 years earlier and in a 2021 sale. Enright referenced that property in his review report as listed for sale at that time. It sold in December 2020 for \$3,200,000, or about \$14.00 per square foot of land. It was entirely in the flood hazard area that included part of the subject. The intervenor introduced that document as email document #5. Enright also referenced a property in Broadview that he cited in his review report, identified as intervenor's email document #3. It sold in December 2018 for \$7.95 per square foot of land. It was entirely in a flood hazard area. The ALJ reserved ruling on the appellant's objection to testimony about those two other suggested comparable properties. The intervenor's attorney stated he did not seek to introduce his email documents #3 and #5 into evidence.

Enright was cross-examined by appellant's counsel. He conceded his criticism of Ryan's compliance with USPAP rules was "nit-picking." He reviewed information about Ryan's land sales from CoStar, the Cook County Recorder, and the Assessor. Enright reported Ryan's land sale #1 had not been actively marketed. He acknowledged it was marketed after seeing a listing sheet introduced by the appellant. Enright did not review the property transfer tax Form 203 for Ryan's land sale #3. Although it was REO, Enright acknowledged it had been advertised for sale after seeing Form 203 introduced by the appellant. Enright confirmed he never suggested an REO sale is bad. Enright corrected appellant's counsel that he testified the subject was 50% in wetlands. Enright testified it was in a flood zone. Enright stated the difference is important. Although Enright reviewed CoStar and other data about his additional sale properties, he did not include that information in his report. None of those properties was in a flood zone. One of them had no frontage road and required access via an easement on an adjoining property. Each was in Elk Grove Village within two miles of the subject. Four of those five properties contained buildings, but Enright would have considered them land sales if the buyers intended to demolish the buildings. Enright acknowledged that he did not include details of Ryan's land

sales, but that a search for properties filtered for vacant land sales only or improved properties would provide specific information. Enright opined Ryan could have used his land sales in his appraisal report.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant's case presents two issues. As a matter of law, the appellant argues Ryan's appraisal's sole reliance on the replacement cost approach, to the exclusion of the sales comparison and income capitalization approaches, was justified. This argument raises whether the holding in *Cook County Board of Review v. Illinois Property Tax Appeal Board*, 384 Ill.App.3d 472, 894 N.E.2d 400 (1st Dist. 2008), commonly known as the *Omni* case, leads the Board to conclude this sole reliance was improper as a matter of law. The appellant also argues that Ryan's selection of comparable land sales in support of his cost approach was reliable as a matter of fact.

The Appellate Court in *Omni* was presented with a similar set of facts. The appellant's expert witness, appraiser Arthur Murphy, wrote an appraisal of the Omni Chicago, a mixed-use property that included hotel, retail and office space. His opinion of HBU as improved was its current use. Murphy considered all three standard approaches to appraisal: sales comparison, income capitalization and cost. He applied only the income approach to conclude a reduction to market value should be made. In rejecting the sales comparison approach, Murphy testified there had been no sales of similar properties within the Chicago area with which to make meaningful comparisons. He rejected the cost approach because the subject was a unique property and adjustments would have been too subjective. The board of review presented testimony from appraiser James Frommeyer in support of his summary appraisal review report. He applied all three valuation approaches. He gave equal weight to the sales comparison and income approaches, slightly tipping to the income approach to conclude an increased market value was appropriate. In rebuttal, the appellant presented testimony from appraiser Anthony Uzemack in support of his technical appraisal review report of the Frommeyer report. Uzemack opined that Frommeyer's work was not an appraisal under USPAP standards, but a review report. Although Uzemack testified in support of the appellant's case, he opined that it would be a "critical problem" for an appraisal, such as Murphy's, to omit the sales comparison approach. *Omni*, 384 Ill.App.3d at 478. PTAB considered all three approaches but accepted Murphy's conclusion relying on the income approach exclusively. PTAB found the subject property was unique, and concluded a reduction of assessment was warranted.

The *Omni* court addressed whether the appellant there used a proper valuation method to appraise the property, citing the Supreme Court in *Kankakee County Board of Review v.*

Property Tax Appeal Board, 226 Ill.2d 36, 50 (2007). Appraisers typically use more than one method to determine valuation. The use of more than one “serves as a check on the value reached by the other method or methods.” *Willow Hill Grain, Incorporated v. Property Tax Appeal Board*, 187 Ill.App.3d 9, 12-13 (5th Dist. 1989). It was not necessarily unwarranted for Ryan to develop the cost approach in the instant appeal. However, the *Omni* court looked to the decision in *United Airlines Inc. v. Pappas*, 348 Ill.App.3d 563 (1st Dist. 2004) to observe, “The sales comparison approach...is the preferred method and should be used when market data [are] available.” *Id.* at 569. The existence of market data is, therefore, crucial to whether the sales comparison approach is available to an appraiser. Among the circumstances where it may not be or can be excluded are if the subject property “is of such nature and applied to such special use that it cannot have a market value...” *Id.* at 572; *City of Chicago v. Farwell*, 286 Ill.2d 415, 420 (1918). In *United Airlines*, the appellant sought to compare its terminal baggage space to an outdated telecommunications facility, which was built under a special permit, arguing market data did not exist. The court rejected that comparison, finding the appraiser erred by failing to consider market data. “The key criterion in determining whether property is special purpose property is ‘whether the property is in fact so unique as to not be salable, not what factors might or might not make it so unique.’” *United Airlines*, 348 Ill.App.3d at 572, quoting *Chrysler Corporation v. Property Tax Appeal Board*, 69 Ill.App.3d 207, 213 (1st Dist. 1979). None of the parties in *Omni* contended that property was special purpose such that no reliable market data were available for comparisons. The court’s holding in *Omni* encapsulated the main issue: “Where the correctness of the assessment turns on market value and there is evidence of a market for the subject property, a taxpayer’s submission that excludes the sales comparison approach in assessing market value is insufficient as a matter of law.” *Omni*, 384 Ill.App.3d at 484.

Ryan opined the HBU as vacant would be for an owner-user, inhibited by the subject’s location in what he characterized as a floodplain. Ryan opined that demolition of the improvements would not be economical due to costs of demolition and new construction. He wrote in his appraisal report that the sale approach is reliable when there is an active market of enough recent sales, and the income approach is reliable when there are adequate market data. Without explanation, Ryan wrote that neither the sales nor income approaches were used because they were “typically not used by market participants.” In testimony, Ryan concluded he did not use the sales comparison or income capitalization approaches simply because they were not applicable to the subject. He conceded he could have included office and industrial sales in his report and then adjusted them for location and use, but did not think the results would have been reliable. Mere difficulty in identifying or applying adjustments on a variety of property characteristics does not establish there is no evidence of a sales market. It was Ryan’s duty to reconcile his results with other methods. *Omni* at 485. Ryan opined the HBU as improved would be as continued petroleum pipeline property. Ryan opined that a buyer would look to buy the land since the improvements would not be relevant, and that the HBU as vacant would be for an owner-user, inhibited by the subject’s location in what he characterized as a floodplain. Hence, Ryan developed only the cost approach. In support, he selected five land sales within an eight mile range from the subject. Three of those were in the subject’s O’Hare submarket; two were in the Northwest Suburban submarket. All but one was vacant land. The zoning varied among residential, office and industrial. Testimony established that some of those properties were successfully developed despite having been partially in flood zones.

The concurring opinion in *Omni* highlighted the court's opinion that a single approach to valuation is inadequate as a matter of law except where there is "no evidence of an actual or a potential market for the subject property." *Omni* at 487, citing *Kendall County Board of Review v. Property Tax Appeal Board*, 337 Ill.App.3d 735, 741 (2nd Dist. 2003).

The court in *Omni* makes clear that Ryan had the duty to reconcile disparate results with other valuation methods, not just the cost approach. He should have shown with details and data the excluded approaches would not have produced meaningful results. Instead, Ryan offered only vague, general conclusions lacking supporting facts and details. See *Board of Education of Ridgeland School District No. 122 v. Property Tax Appeal Board*, 2012 IL App (1st) 110461; *Omni*, supra. In the words of the *Omni* concurring opinion, "An appraiser must justify an appraisal that excludes the sales comparison approach with more than unsupported conclusions..." *Omni* at 488. Ryan failed to do this.

In *Board of Education of Meridian Community Unit School District No. 223, et al. v. The Property Tax Appeal Board and Onyx Orchard Hills Landfill, Inc.*, 2011 IL App (2d) 100068 (2011), commonly known as the *Onyx* case, the Appellate Court examined application of the *Omni* case to an appraisal for a sanitary landfill property. The case presented competing opinions from five appraisers. The petitioner, Onyx Orchard Landfill, Incorporated, acquired the landfill property subject to a federal government divestiture order and restrictions. Its first appraiser, Michael Kelly, applied only the cost approach of value. Its second appraiser, Douglas Main, rejected the sales and cost approaches, relying solely on the income approach. Both appraisers concluded the approaches they rejected would have been unreliable. Petitioner Meridian hired appraiser Michael McCann, who developed the sales and income approaches, but rejected the cost approach. A fourth appraiser, Mark Pomykacz, reviewed the Kelly and Main appraisals and concluded they were flawed. Appraiser Jerry Jones for Onyx concluded the McCann sale approach was flawed because it relied on sales that had been under duress and, therefore, not at fair market value. PTAB found Main's income approach more credible but supported by Kelly's cost approach, and concluded an assessment reduction was warranted.

The *Onyx* court observed that neither of the respondents contended that single-approach appraisals were insufficient to meet the *Omni* standard as a matter of law. *Onyx* at ¶37. The court focused more on whether the sales approach would have been reliable, rather than solely on whether it would have difficult to do. It found the sales considered but rejected by Main were compulsory and, therefore, not at arm's-length for fair cash value due to the government divestiture order and restrictions. In language applicable to the instant appeal, the court in *Onyx* found that the landfill was a unique property. *Onyx* at ¶47. It relied on PTAB's finding that there were specific, detailed explanations by the appraisers why they rejected the sales approach. Hence, PTAB accepted the income approach. *Onyx* at ¶46. The court agreed with PTAB's finding that landfill's sale was compulsory.

Ryan's appraisal fails the test in *Omni* and as further explained in *Onyx*. Ryan observed in his appraisal report that the sale approach is reliable when there is an active market of enough recent sales, and the income approach is reliable when there are adequate market data. But he wrote

that neither the sales nor income approaches were used because they were “typically not used by market participants.” In testimony, Ryan stated he did not use the sales comparison or income capitalization approaches simply because they were not applicable to the subject. Those explanations are conclusions lacking the specific, detailed supporting data, as found to exist in the *Onyx* landfill property appraisal. There was no evidence in the instant appeal that the West Shoreline property included a great deal of intangible assets as a going concern. Ryan’s report lacked data that the subject was hampered by governmental regulations or that sales that may have been considered did not meet the definition of arm’s-length transactions for fair cash value. As a factual matter, there was a lack of sufficient evidence that the West Shoreline subject property was unique and that there were no sale properties available for reliable comparisons.

Enright appraised several thousand industrial and commercial properties, 300 to 400 of which were in the subject’s O’Hare submarket. Appellant’s counsel assailed the reliability of Enright’s comparable sales evidence because his report not an appraisal under USPAP standards, but only a technical appraisal review report. The appellant failed to recognize that Enright cited improved recent sales as well as found fault with Ryan’s land sales. Indeed, the *Omni* court recognized Frommeyer’s report was not an appraisal under USPAP, yet contained reliable data of recent sales not considered by the appellant’s appraisal.

Enright found five recent sales of industrial-zoned properties in the subject’s area. All but one of those additional sale properties were improved with industrial buildings and were within two miles of the subject property. Some had water retention or flooding issues but had been redeveloped with new facilities, as had some of Ryan’s land sales. That activity reflected very strong demand in an area built up and with very few vacant parcels. Those additional five properties sold for much more than Ryan’s estimate of \$3.00 per square foot for the subject. Those properties were not but, in Enright’s opinion, could have been included in Ryan’s report. The Board gives Enright’s sales considerable weight. The board of review also submitted information on three comparable properties that sold in 2018 and 2019. One of these properties was, like the subject property, zoned industrial and in the O’Hare submarket.

Ryan’s appraisal fails to persuade on its own without regard to its critique in Enright’s report. Two of the land sales he selected were not in the O’Hare submarket; they were as much as eight miles away from the subject. Only one was zoned industrial. Some of those were eventually redeveloped, raising a question of fact as to whether the presence of flood zones impaired their sales marketability. These findings raise doubt as a matter of fact as to the reliability and probative value of Ryan’s land sales. Krushinski, the West Shoreline technician, testified that company representatives were told by Mount Prospect officials that the company could not raise the site elevation to alleviate flooding, yet these officials had no jurisdiction over flooding matters. At best that testimony was hearsay, and the appellant did not offer reliable evidence to support it. The appellant failed to provide admissible documentary evidence or testimony regarding what, if any, measures may or may not have been available to mitigate flooding.

Enright also cited two other properties near the subject. Appellant’s counsel objected to testimony about those properties; the ALJ reserved ruling. PTAB sustains the appellant’s objection to testimony about those two properties. Information about them in Enright’s report is

of limited probative value. One of those was only listed for sale at the time of his report. The other was at a significant distance from the subject and, presumably, outside the subject's geographical area.

Appellant's counsel argued that Ryan did supply sales comparison data on his land sales such as to satisfy the holding in *Omni*. Those were cited by Ryan only in support of the cost approach and were limited to land sales. The record established that there were recent sales of improved properties in the O'Hare submarket. Developing a cost approach with land sales only does not suffice as a sales comparison approach of improved as well as vacant properties. In effect, Ryan sought to assess the subject's land only without regard to its improvements. Assessment of real property requires consideration of all factors. *Ridgeland*, at ¶28, citing *Showplace Theatre Company v. Property Tax Appeal Board*, 145 Ill.App.3d 774 (2nd Dist. 1986).

No single valuation method is inadequate as a matter of law. The record does not support exclusion of the sales approach with citation to the evidence by the appraiser as found in various cited cases. All Ryan offered was his unsupported opinion that market participants would not have relied on the sales comparison or income capitalization approaches. This fails to establish the subject was unique or of special purpose in accord with *Omni*; it lacks the specificity of detailed reasons as found in *Onyx* and other cases to reject the sales approach as unreliable.

The appellant had the burden of going forward with substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property. 86 Ill.Admin.Code §1910.63(b). When market value is the basis of the appeal, the value of the subject property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). The Board finds the appellant failed to meet the burden to prove the subject was overvalued by a preponderance of the evidence. The Board finds a reduction in the assessment is not warranted.

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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.

Chairman



Member



Member



Member



Member

DISSENTING: _____

CERTIFICATION

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 18, 2024



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS.** A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

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