FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Alfred Klairmont
DOCKET NO.: 19-33461.001-C-3 through 19-33461.006-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Alfred Klairmont, the appellant(s), by attorney Shannon R. Sheehan, of Thompson Coburn LLP in Chicago; the Cook County Board of Review; and Maine Twp. H.S.D. #207, 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
19-33461.001-C-3	09-21-206-013-0000	420,154	88,969	$509,123
19-33461.002-C-3	09-21-206-014-0000	149,674	287,236	$436,910
19-33461.003-C-3	09-21-206-016-0000	12,285	7	$12,292
19-33461.004-C-3	09-21-206-017-0000	366,408	280,474	$646,882
19-33461.005-C-3	09-21-206-018-0000	37,639	151	$37,790
19-33461.006-C-3	09-22-110-005-0000	468,993	264,254	$733,247

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. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

Subject Property

The subject property consists of three multi-tenant office buildings. They are located near each other at 1460 Renaissance Drive (hereinafter, the "1460 Building"); 1480 Renaissance Drive (hereinafter, the "1480 Building"); and 1550 Northwest Highway (hereinafter, the "1550

Building") in Park Ridge, Maine Township, Cook County, Illinois. Collectively, they are commonly known as the Park Ridge Office Center, and are a portion of a larger office park.

The entire three-building subject property contains a total of 258,160 square feet of gross building area. The 1460 and 1480 Buildings each contain 67,680 square feet of gross building area. They are each 46 years-old and constructed of steel and reinforced concrete with masonry facing. The 1550 Building contains 122,800 square feet of gross building area, is 48 years-old and is constructed of steel and reinforced concrete with masonry facing. Each building is four stories and serviced by elevators. Other features of each building include air conditioning, and asphalt and concrete paved parking areas covering approximately 300,000 square feet. The 1460 and 1480 Buildings also each have 17 underground parking spaces.

The property is situated on an irregularly shaped site with a total of 415,758 square feet. Of this total amount, the 1460 Building is on 118,952 square feet, the 1480 Building on 133,998, and the 1550 Building on 162,808. The site has approximately 890 feet of frontage on the west side of Northwest Highway and approximately 960 feet of frontage on the east side of Interstate Highway 294 (commonly known as I-294 or the Tri-State Tollway). The entire site has frontage on Renaissance Drive, which serves the entire office park. The property is a Class 5 property under the Cook County Real Property Assessment Classification Ordinance and is assessed at 25.00% of fair market value.

Pleadings

The appellant and owner are listed as Alfred Klairmont on the Petition. Other pleadings and later hearing testimony also referred to the appellant and owner as Klairmont Enterprises, LLC (hereinafter, "Klairmont Enterprises"). Imperial Realty Company (hereinafter, "Imperial") is the management arm of that LLC.[1]

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal report prepared by Alan Geerdes of Real Estate Analysis Corporation (hereinafter, "REAC"), estimating the subject property had a market value of $6,700,000 as of January 1, 2019. The appellant requested a total assessment reduction to $1,675,000 when applying the 2019 level of assessment of 25.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The board of review submitted its Notes on Appeal disclosing a total assessment of $2,376,244. The subject's assessment reflects a market value of $9,504,976 when applying the 2019 level of assessment of 25.00% for Class 5 property. In support of its contention of the correct assessment, the board of review submitted information on four unadjusted suggested comparable properties that sold from 2016 through 2018.

[1] Pleadings, documentary evidence and hearing testimony referred to the subject property's owner by different names. Most often, parties referred to the owner as Imperial. For consistency, the PTAB does the same in this decision.

Maine Township High School District #207 (hereinafter, the "intervenor") submitted an appraisal report prepared by Eric Dost of Dost Valuation Group, Ltd. (hereinafter, "Dost") in intervention, estimating the subject property had a market value of $9,600,000 as of January 1, 2019. The intervenor requested a total assessment increase to $2,400,000 when applying the 2019 level of assessment of 25.00% for Class 5 property.

Appellant Documentary Evidence

The REAC report stated Geerdes appraised the subject's fee simple estate. He opined the highest and best use as vacant was office use. As improved, he opined it was the subject's existing use.

REAC appraised the fee simple value of the land, as if vacant. He conducted a sales comparison analysis of four land-only sales and concluded a unit price of $10.00 per square foot of land.

The REAC appraisal developed the sales comparison approach to valuation. REAC based the sales comparison analysis on six comparable sale properties. Occupancy for the subject property was 65% in 2019. REAC noted this percentage was from its income capitalization analysis.

Sale #1 was of the three-building subject property. TCF National Bank foreclosed on this property in December 2013 and sold it to the appellant in October 2015 for $6,750,000. Occupancy at the time of the 2015 sale was 56%, so REAC adjusted occupancy upward.

Sale #2 was of 1580 Northwest Highway, Park Ridge in March 2016 for $2,330,000. The purchaser was Imperial. This property was one of the buildings in the subject's office park. It contained 54,158 square feet of net rentable area. REAC adjusted the net rentable area downward in comparison to the three-building subject property's 233,941 net rentable area.

Sale #3 was of 800 Northwest LLC, Mount Prospect in December 2016 for $877,000. The purchaser was Chicago Title Land Trust. It contained 25,394 square feet of net rentable area. REAC adjusted net rentable area downward in comparison to the three-building subject. Occupancy at the time of the sale was 79%, so REAC adjusted occupancy downward for the 2019 lien year.

Sale #4 was of 5201 Tollview Drive, Rolling Meadows in March 2016 for $3,397,500. The purchaser was Chicago Title Land Trust. It contained 126,284 square feet of net rentable area. REAC adjusted net rentable area downward in comparison to the three-building subject. Occupancy at the time of the sale was 0%. REAC adjusted occupancy upward for the 2019 lien year. REAC adjusted location upward and the land-to-building ratio downward.

Sale #5 was of 2550 West Golf Road, Rolling Meadows in January 2016 for $7,800,000. The purchaser was 2550 West Golf Road, LLC. It contained 280,471 square feet of net rentable area. REAC did not adjust net rentable area. Occupancy at the time of the sale was 38%, so REAC adjusted occupancy upward for the 2019 lien year. Sale #5 contained ten floors, so REAC made a downward adjustment in comparison to the three-building subject's four floors. REAC adjusted location upward.

Sale #6 was of 1051 Perimeter Drive, Schaumburg in December 2017 for $6,050,000. The purchaser was MR 1051 LLC. It contained 201,188 square feet of net rentable area. REAC did not adjust net rentable area. Occupancy at the time of the sale was 58%, so REAC adjusted occupancy upward for the 2019 lien year. Sale #6 contained 11 floors, so REAC made a downward adjustment in comparison to the three-building subject's four floors. REAC adjusted location downward.

The six comparable properties sold in a range from $26.90 to $43.02 per square foot of net rent able area. REAC opined the subject's most reasonable unit value was $30.00 per square foot. REAC subtracted unrentable area from the gross building area to derive 233,941 net rentable square feet for the subject. REAC opined the subject property's sales comparison approach value was rounded to $7,200.000.

REAC also developed an income capitalization approach to valuation. It provided a grid analysis of the subject property's historical income and expense statements for years 2016 through 2018, including real estate taxes. It concluded a rate of $0.06 per square foot of net rentable area.

REAC analyzed rental data from comparable office buildings to derive a market rent. It considered the subject property to be older neighborhood-type buildings primarily occupied by small local tenants with short-term leases to derive at weighted averages. REAC examined office leases in three selected offices buildings as comparable properties: Northwest Highway in Park Ridge; Wall Street in Mount Prospect; and South Wilke Road in Arlington Heights. REAC considered factors such as dates of leases, location, net rentable area and age to conclude a rent range of $13.69 to $14.50 per square foot. It estimated a rate of $14.25 per square foot for the subject properties based on a rent roll. REAC then analyzed market vacancy rates for 12 comparable properties in Park Ridge and nearby Des Plaines. The three-year average was a 53.9% historical vacancy rate. Occupancy for the subject property was 65% in 2019. REAC's summary of estimated stabilized effective gross income of $14.25 per square foot, using the reciprocal of 35% market vacancy, was $2,175,000, rounded. REAC's historical operating expense analysis of the subject property from 2016 through 2018 derived an operating expense stabilized rate of $4.68 per square foot. Total expenses before real estate taxes were $1,095,000. Therefore, stabilized net income was rounded to $1,080,000.

REAC examined capitalization rates for six office building locations in the O'Hare Airport and Northwest Corridor suburban submarkets. These suburban area capitalization rates ranged from 8.60% to 9.40%, with an average of 9.0%. REAC opined the subject property's overall capitalization rate was 9.50% and its effective real estate tax rate was 7.20%. Therefore, the overall capitalization rate was 16.70%. REAC opined the subject property's income capitalization approach value was rounded to $6,470.000.

REAC did not develop a cost approach. REAC's reconciled opinion of market value was $6,700,000 as of January 1, 2019.

Board of Review Documentary Evidence

The board of review submitted five suggested comparable sale properties in support of the assessment. They were in Skokie, Deerfield, Schaumburg and Northbrook. They sold from 2016 through 2018 for prices ranging from $48.99 to $103.72 per square foot of building area, including land. The board of review asserted a total assessed value of $2,376,244 in its Notes on Appeal.

Intervenor Documentary Evidence

Dost explained the difference between fee simple and leased fee interests, citing the Appraisal of Real Estate, 14th Edition. Fee simple is divided by the creation of a lease into a leased fee interest and a leasehold, or tenant's, interest. Leased fee interests are often purchased by investors as income producing properties. The relationship between market rents versus contract rents and their incremental gains or losses can greatly affect the value of the leasehold estate. Where contract rents are equivalent to market rents, the fee simple ownership is equivalent to the leased fee interest. Dost appraised the subject's fee simple interest considering rents at market.

Dost considered the subject property's highest and best use. As vacant, Dost determined it was for office development. He opined the subject parcel to have had excellent visibility and accessibility. Dost opined the existing use was legally permissible, physically possible, financially feasible and at maximum productivity. As improved, he determined the subject's highest and best use was continued use as an office complex.

Dost appraised the fee simple value of the land, assuming the subject to have been vacant. He conducted a sales comparison analysis of five land-only sales and concluded a unit price of $15.00 per square foot of land.

The Dost appraisal developed the sales comparison approach to valuation for the fee simple interest of the subject property. Dost based the sales comparison analysis on six comparable sale properties.

Sale #1 was of an office building in Des Plaines. It sold in September 2018 for $8,500,000 to Imperial. This building contained 173,011 square feet of net rentable area. Dost adjusted location downward and land-to-building ratio upward.

Sale #2 was of an office building in Rosemont. It sold in August 2016 for $8,600,000. It contained 155,000 square feet of net rentable area. Its occupancy was 100%. Dost adjusted size, location and economic characteristics downward in comparison to the three-building subject property's 233,941 net rentable area.

Sale #3 was of O'Hare Corporate Towers in Rosemont. It sold in October 2016 for $10,500,000. It contained 201,830 square feet of net rentable area. Dost adjusted location downward and land-to-building ratio upward in comparison to the three-building subject. Occupancy at the time of the sale was 80%.

Sale #4 was of an office building in Des Plaines. It sold in June 2016 for $5,309,000. It contained 126,088 square feet of net rentable area. Dost adjusted size downward; land-to-building ratio upward; and economic characteristics upward in comparison to the three-building subject. Occupancy at the time of the sale was 76.10%.

Sale #5 was of an office building in Park Ridge in December 2015 for $2,250,000. The purchaser was 2550 West Golf Road, LLC. It contained 54,687 square feet of net rentable area. Occupancy at the time of the sale was 86.90%. Dost adjusted size and land-to-building ratio downward.

Sale #6 was of an office building in Park Ridge in March 2016 for $2,330,000. The buyer was Imperial Realty Corporation. It contained 55,772 square feet of net rentable area. Occupancy at the time of the sale was 74%. Dost made a downward adjustment for size and an upward adjustment for land-to-building ratio and economic characteristics in comparison to the three-building subject.

The six comparable properties sold in a range from $41.14 through $55.48 per square foot of net rent able area. Dost opined the subject's most reasonable unit value was $40.00 per square foot. Based on gross building area of 233,941 net rentable square feet, Dost opined the subject property's sales comparison approach value was rounded to $9,400.000.

The Dost appraisal also developed the income capitalization approach to valuation. He provided a grid analysis of the subject property's historical income and expense statements for years 2016 through 2018, excluding real estate taxes.

Dost analyzed rental data from comparable office buildings to derive a market rent. He considered the subject property to be older neighborhood-type buildings, primarily occupied by small local tenants with short-term leases, to derive weighted averages. Dost examined gross office leases in five selected offices buildings as comparable properties, all of which were in the O'Hare suburban office submarket.

Rentals #1, #2 and #3 were in Des Plaines. Dost made a superior location downward adjustment for each.

Rentals #4 and #5 were in Park Ridge. Dost made a superior location and access downward adjustment for #4 and an inferior age/condition upward adjustment for #5.

Dost considered factors such as dates of leases, location, net rentable area and age to conclude a range of $14.50 to $20.50 unadjusted gross per square foot for these rental comparable leases. The weighted average of these gross rental rates was $14.25; the most recent leases had an average rental rate of $14.83 per gross square foot. Dost also examined recently signed leases at the subject property. Dost concluded the subject's market rent was $15.50 per gross square foot.

Dost examined direct vacancy rates for various submarkets in the Chicago office market. He considered the subject property buildings to be O'Hare submarket Class C due to age, condition and rents. Vacancy rates for this submarket were slightly higher than the total suburban and O'Hare submarkets. These vacancy rates averaged 20.6% over seven years. Dost concluded the subject property's stabilized vacancy rate was 20%.

Dost analyzed various expenses and concluded total stabilized operating expenses excluding taxes and replacement reserves were $5.97 per square foot. The expenses from the comparable properties ranged from $5.31 to $6.98, with an average of $6.16 per square foot. Dost observed the subject's historical amounts were within the range of the expenses from comparable properties, suggesting a market oriented stabilized expense estimate. Stabilized net operating income for the subject, excluding taxes, was $1,539,332, or $6.58 per square foot. Expenses for comparable properties for net operating income ranged from $3.01 to $8.28, with an average of $5.88 that was reasonably within the range.

Dost analyzed comparable properties to develop capitalization rates. He broke his survey into various groups. The average suburban overall capitalization rate was 8.54%. Dost then developed a band of investment analysis and concluded a rate of 8.86%. The same analysis of the comparable sale properties resulted in a 10.89% rate. After loading an effective tax rate of 6.53%, Dost came to a loaded capitalization rate of 15.53%, rounded. His indicated fee simple interest by this method was $9,900,000.

Dost did not develop a cost approach. Dost's reconciled opinion of market value with the sales comparison and income capitalization approaches was $9,600,000 as of January 1, 2019.

Rebuttal Evidence

In rebuttal, the appellant submitted an appraisal review report of the Dost appraisal. It was prepared by John VanSanten of Stout Risius Ross, Ltd. (hereinafter, "Stout"). Stout opined that the Dost appraisal sales comparison approach data were misleading and the value poorly supported. Sales #1, #2, #3 and #4 did not adjust for superior office class compared to the subject's Class C type. All six of the Dost comparable properties were sales of leased fee interests without adjustments to the difference with a fee simple interest.

The Stout review report opined the Dost income capitalization approach analysis was unreliable. Rentals #1, #2, #3, #4 and #5 were superior class office buildings compared to the subject property. Some had been renovated from 1983 through 2015, but these renovations were not noted in the Dost appraisal. Stout also opined the Dost appraisal erred by concluding the subject property's rental rates were higher than gross asking rents. Stout opined that Dost's projected $6.58 per square foot for net operating income was too high compared to sales that were at market rates. Stout opined the Dost appraisal did not adjust for differing occupancy rates of the comparable properties. Stout opined the Dost appraisal included amenity areas of the subject property, such as storage space and a deli, in its office rentable areas, thereby incorrectly counting revenue from the amenities. Stout criticized the Dost appraisal for assuming the same tax rate for all six comparable properties. Stout included a chart that showed four properties had a rate of 9.8340%, whereas two had a rate of 9.8310%. In conclusion, Stout opined the Dost appraisal was unreliable.

Hearing

Alfred Klairmont was the CEO of Klairmont Enterprises, LLC. Imperial Realty was the management arm of the LLC. Klairmont was the president and manager of Imperial Realty. He evaluated the three-building subject property for purchase. There was no asking price for the 1550 Building since the lending bank acquired title through foreclosure. He was aware the bank was not in the business of owning and managing buildings. Klairmont learned from what he characterized as broker talk what to bid for purchase. Klairmont Enterprises purchased the 1550 Building through a 1031 exchange in 2015. Klairmont explained the 1031 exchange was established to shelter capital gains from the prior sale of another building. Klairmont stated he would not have offered as much as he did but for the 1031 exchange. Since the purchase, Klarimont made various maintenance improvements. He later purchased the 1460 and 1480 Buildings. Klairmont also owned buildings at 2454 East Dempster Street and at 701 Lee Street, both in Des Plaines. Those buildings were listed in the REAC appraisal in its market vacancy analysis. Klairmont owned buildings at 1699 Wall Street in Mount Prospect and at 115-125 South Wilke Road in Arlington Heights. Those buildings were listed in the REAC appraisal in its comparable office leases analysis.

Alan Geerdes was vice-president and a staff appraiser for REAC. The parties stipulated, and the presiding Administrative Law Judge recognized, that Geerdes was an expert in appraisal valuation. Appellant’s Exhibit A was the REAC appraisal report, which was previously submitted as documentary evidence. Geerdes acknowledged he made some errors in his appraisal report: The subject property’s October 2015 vacancy should have been 44% rather than 56%; total income listed in the income estimate section was for the rental income, not total income.

The subject property’s vacancy rate was higher than the O’Hare submarket since the time of its purchase. The 1550 Building was larger than the other two buildings, which were set back from the 1550 Building. All were Class C buildings in average condition for their age but had inferior locations within the O’Hare submarket. They were in a large complex of about six office buildings adjacent to I-294. Outside the office park was a primarily residential area. Consequently, the subject would likely cater to small local tenants with short-term leases. Its highest and best use was its current office building use.

Geerdes explained his process to develop the income capitalization approach was to analyze comparable leases on the subject property and from the surrounding market. He examined the historical vacancy rates of the subject and three comparable leased office buildings owned by Imperial. These buildings were the Northwest Highway building in Park Ridge, the Wall Street building in Mount Prospect and the South Wilke Road building in Arlington Heights. Geerdes used these data to stabilize and estimate a market vacancy rate. He deducted operating expenses from each and capitalized the net income to arrive at an estimate of value. His consideration of office leases included actual leases and offerings. Geerdes concluded net income for the subject property declined over a three-year period prior to the lien year. Appellant’s Exhibit B was an income and expense statement showing that data from 2014 through 2019. Geerdes estimated stabilized market rental at $14.25 per square foot. For vacancy, Geerdes analyzed historical rates in the O'Hare submarket. He considered this submarket to generally have superior locations compared to the subject property and have higher class buildings. Geerdes did not consider these buildings to be representative of the market vacancy for the subject property. Hence, Geerdes looked to buildings within one to three miles. He concluded the market vacancy rate was 35%. He compared this to the subject's 50% vacancy rate and its increasing vacancy rate over three prior years. Geerdes opined the subject's vacancy rate was about 20% higher than buildings in the O'Hare submarket. Geerdes added other income from items such as storage and parking for stabilized other income of $50,000. He concluded an effective gross income of $2,175,000 from which he subtracted operating expenses of $1,095,000, or $4.68 per square foot, to get a net operating income of $1,080,000. He cited six properties for an overall capitalization rate. One of these was in the O'Hare submarket; two in the North Corridor submarket; and three in the Northwest Corridor submarket. These were stabilized at a 9.50% capitalization rate. Geerdes determined a weighted average tax rate for various properties at 7.20%. His overall loaded capitalization rate was 16.70%, indicating an income capitalization approach value of $6,470,000.

Geerdes also developed a sales comparison approach of value. He analyzed six properties based on CoStar data, deeds, transfer declarations and his personal knowledge of properties he appraised, but he placed maximum weight on his selected comparable properties for vacancy. His comparable property #1 was the subject as sold in 2015. He opined the value then was still representative of the subject in January 2019. He learned much of the information on this sale #1 from Klairmont, who purchased it in 2015. Geerdes put substantial emphasis on this 2015 sale since it was for the subject property, and he considered it to be recent. Geerdes performed the same analysis for his other comparable sale properties and opined a final value of $7,020,000, or $30.00 per square foot, including land, for the sale comparison approach.

Geerdes placed maximum emphasis on his income capitalization approach. His reconciled opinion of value was $6,700,000.

The intervenor cross-examined Geerdes. He agreed the subject property had good visibility from I-294, with an exit ramp nearby. The 1550 Building's covered entrance was a nice amenity. He considered this building to be low Class B or Class C. Geerdes believed all three of the subject buildings were consistent.

Geerdes stated he considered contract rent but placed maximum emphasis on market rent. The sale properties at 1580 Northwest Highway in Park Ridge, 1699 Wall Street in Mount Prospect and 115-125 South Wilke Road in Arlington Heights, each found on page 63 of the REAC appraisal, were owned by Imperial or an affiliate. These were the only comparable office lease buildings disclosed on that page. Geerdes obtained rental income information about these three buildings only from Klairmont.

Geerdes cited properties in his market vacancy analysis on page 70 of the appraisal. Some were in the Northwest submarket rather than the O'Hare submarket. Three of these were in the O'Hare submarket and were at or below the vacancy rate of the subject property. They were at

444 Northwest Highway, 2454 East Dempster and 1580 Northwest Highway. Geerdes conceded vacancy in the O'Hare submarket was about 13 to 14% and that the subject property was in that submarket. His data disclosed Class C buildings in that submarket were under 7% vacant, but since the subject consisted of older buildings in its neighborhood, he placed more weight on vacancy rates of his comparable office buildings and the subject's reported vacancy. He opined the vacancies for the smaller comparable properties appeared to have lower rates. Geerdes did not disclose in the REAC appraisal that the subject property was conveyed through a 1031 exchange and whether the purchaser would have adjusted his offering price considering the transaction was in a 1031. The subject sold in 2015 for $6,750,000 but Geerdes valued the subject property for $6,700,000 for the 2019 lien year.

Eric Dost was president of Dost Valuation Group. He was called to testify on behalf of the intervenor. The parties stipulated, and the presiding Administrative Law Judge recognized, that Dost was an expert in appraisal valuation. Intervenor's Exhibit #1, Dost's appraisal report, was offered into evidence. Dost's purpose was to value the fee simple interest of the subject property as of January 1, 2019. He prepared it within the standards set forth by the Uniform Standards of Professional Appraisal Practice (hereinafter, "USPAP").

Dost was familiar with the subject property because he previously appraised it in June 2013. He explained that fair cash value and market value are synonymous. Dost's conclusion of value was $9,600,000 as of January 1, 2019. He appraised the value of the fee simple interest, which he considered to be the correct measure of value. Dost explained there was a common misconception that a leased fee value is always higher than fee simple value. In fact, it could be lower if rents were below market value or equal if those rents are at market value. Fee simple is an ownership interest, not a measure of occupancy condition. In preparing an appraisal, Dost adhered to USPAP guidelines of reporting and analyzing sales within three years of the lien date. The subject property was sold in 2015, which he observed was outside that timeframe. The 2015 sale was due to an REO (Real Estate Owned) transaction where title had been acquired by TCF National Bank from a foreclosure and sold for $6,750,000. The subject property then had a 56% vacancy. Dost determined market rents improved since 2015, leading him to conclude the fee simple value in 2019 was above the 2015 REO sale price. He arrived at this conclusion from analyzing stabilized market occupancy rates, and market rents and expenses. If Dost were to correct anything in his 2019 appraisal, it would be to adjust some of the older sales he reported upward.

Dost determined the subject property was a Class C property in the O'Hare submarket. This overall submarket had a 13.7% vacancy rate in late 2018. This vacancy rate was lower than the 22.4% vacancy rate for the Northwest submarket, but for buildings like the subject the vacancy rate was 16.1% for Class C and 21.4% for Class B. The O'Hare submarket had higher average gross asking rents. Dost opined the 1550 Building was more like Class B, whereas the other two were Class C. Asking rents for Class C buildings in the submarket were $17.27 per square foot; Class B were $23.15.

The subject property had excellent visibility and transportation access from I-294. The 1550 Building had a large amount of desirable medical tenants. Each of the subject buildings was in average condition for their age. Dost did not develop a cost approach to value due to the age and amount of depreciated replacement costs. However, he considered including land value important because it was a large part of the assessed value and necessary to determine highest and best use.

Dost developed a sales comparison approach for land values of five properties, four of which had I-294 visibility. After adjusting for differences, Dost opined the subject's land value was $15.00 per square foot. Based on 415,758 square feet of land, the subject's land value was $6,200.000.

Dost also developed a sales comparison approach for six improved properties, cited on page 31 of his appraisal report. Each was in the O'Hare submarket. Sale #1 was in Des Plaines and owned by Imperial. Dost did not believe adjustments were necessary. Sale #2 was in Rosemont. Dost corrected his reported 100% occupancy rate to state it should be 55%, but he opined this change would have no effect on unit price of value since it was only one of six comparable properties. Although the purchaser WinTrust was also a tenant, it was not the only one. This would have no effect on unit price of value. Dost did not make any adjustments for Sale #2. Sale #3 was in Rosemont. It was similar to the subject property, so Dost did not make adjustments. Sale #4, in Des Plaines, was sold by a tenant of less than 5% of the total area. He did not consider this to be a sale-leaseback transaction since that is usually for 100% owner-occupied transactions. Dost did not make any adjustments. Sale #5 was an REO transaction of a property in Park Ridge. Dost made an upward adjustment for this factor. Sale #6 was in Park Ridge directly north of the subject property. It was purchased by Imperial. Dost did not make any adjustments. Dost reported net operating income (NOI) for Sales #3 and #6 but did not use it for his sales comparison analysis. However, he reported occupancy rates for each of the six and used that data, age, and other factors. These sales ranged from $41.14 to $55.48 per square foot, with an average of $46.94. He concluded the subject property had a unit price of $40.00 per square foot, including land, which was below the average due to its age, location, size, and other adjustments. Dost's opinion of sales comparison value was $9,400,000.

Dost also developed an income capitalization approach of value. He started by analyzing the historical income and expenses of the subject. He selected five comparable rental properties. Rental #2 was owned by Imperial. Rental #5 was adjacent to the subject. Each of these five was in the O'Hare submarket. Dost analyzed these properties on a gross lease basis. He then adjusted for factors such as age, location, and condition. For Sale #5, Dost made an upward adjustment for rental conditions, but stated he should have made this for market conditions instead. Dost opined the subject's market rent was $15.50 per square foot, gross. He then applied the market rent to the subject's reported total net rental area. He included storage areas and restaurant space because they were rentable. For vacancy, Dost used a table of seven years of vacancy history for the O'Hare submarket. He concluded a 20% vacancy rate. Dost analyzed expenses of the subject and his comparable properties. He concluded expenses to be $5.97 per square foot. Stabilized NOI excluding property taxes for the fee simple interest at market rents was $1,539,332, or $6.58 per square foot. This was higher than reported for the subject property, which was below market occupancy levels. He determined the overall capitalization rate by considering comparable sales, investor surveys and the band of investment technique. The buildings in the subject's office center had slightly different tax rates, so Dost reported the higher rate of 8.951%. The differences in rates were slight and did not have any effect. Dost reported his capitalization rate analysis on pages 55-59 of his report. He opined thealso fee simple interest value by the income capitalization approach was $9,900.000 as of January 1, 2019.

Dost reconciled his opinions of value by the sales comparison and income capitalization approaches, emphasizing both approaches. His opinion of fee simple value was $9,600,000.

The attorney for the appellant/property owner cross-examined Dost. He appraised the subject as vacant land and as developed to its highest and best use. The attorney acknowledged that the 14th Edition of the Appraisal of Real Estate section on contract and market rent was the same as the 15th Edition. Dost conservatively did not include an upward adjustment for market rents in the submarket, though he could have because market rents increased. Five of his six comparable properties sold within one year of the subject's most recent sale in December 2015. Dost stated it would be incorrect to compare that 2015 sale price to his 2019 opinion of value even though it sold at almost the same time as his five comparable properties. He explained that those comparable properties sold in their time frame from $41.14 to $55.48 per square foot, and that he concluded a value of $40.00 for the subject. He believed occupancy of the subject was below market when sold in 2015 and still was in 2019. Dost was asked to read from his historical income and expense grid on page 43 of his report. The effective gross revenue and net operating income were successively lower from 2016 through 2018. Dost verified transaction information for his five comparable properties from CoStar and public records. Dost confirmed that among key components of a sale are a willing buyer and willing seller under no duress but acting in his or her own best interests. Dost explained that improved sales #3 and #6 on page 37 of his report listed NOI per square foot that included property taxes. He used these data only for his capitalization rate calculation, not for comparisons with the subject. This chart disclosed stabilized amounts for valuation purposes. Dost explained that the proper comparison would be with the stabilized amounts going forward, not historic amounts.

On re-direct examination, Dost reiterated the subject's 2015 REO sale was below the O'Hare submarket vacancy rates. It has been operating at below market levels since then. Hence, he would have adjusted the subject's sale price upward. He also would have adjusted upward the sale prices of the improved comparable properties, depending on the occupancy rate. He did not apply upward adjustments for market conditions to be conservative, despite increasing rents and stable vacancy rates. However, these adjustments would not have affected his value conclusion. Excluding storage and deli rents would have resulted in higher other rents. Consequently, excluding these rents would not have affected his value opinion.

John VanSanten was managing director of Stout. He was employed by Imperial through the appellant's counsel to prepare a review of the Dost appraisal. All parties stipulated that VanSanten was an expert in commercial real estate valuation and appraisal.

VanSanten acknowledged that Dost disclosed the prior REO sale of the subject but stated he did not disclose that in his operating history report. He opined Dost should have adjusted his comparable sale and rental properties for market conditions, including classification of quality and whether the properties had been advertised for sale. Dost should have valued the fee simple interest of his comparable properties rather than just the leased fee interest and made appropriate adjustments. Dost showed NOI after taxes for some of his comparable properties rather than

NOI before taxes. VanSanten opined this resulted in understating NOI per square foot. VanSanten testified Dost did not disclose that the Sale #6 purchase price may have been influenced by the fact the purchaser also owned an adjacent property. Due to these errors, VanSanten opined the Dost sales comparison approach opinion was not credible.

VanSanten opined each of Dost's rental comparable properties was superior to the subject, but that Dost did not adjust for this. Dost overstated other income of $.50 per square foot because the historical range was only $.12 to $.24 per square foot. Dost erred by including deli space and storage in the total square footage of rental area, since these spaces were only amenities with no rent associated with them. VanSanten opined that the subject's actual operating history was the best evidence of market vacancy since vacancy historically was about 45%. Hence, he opined Dost erred by applying a 20% vacancy rate. VanSanten opined Dost should have looked beyond the O'Hare submarket since it is a broad area and should have concentrated on the subject's operating history. VanSanten opined Dost's income capitalization approach opinion was not credible.

On cross-examination by the intervenor, VanSanten conceded he erred by not listing the Property Tax Appeal Board as an intended user of his report. He testified the NOI of Dost's Sale #3 was $5.59 per square foot, but VanSanten conceded he did not mention that in his report. VanSanten did not prepare a review report of the REAC appraisal. Instead, he relied on Dost's references to the REAC appraisal in his own appraisal. The subject property was sold as REO by TCF Bank. VanSanten agreed that banks typically want to unload REO property because they are not in the business of holding real estate. Regarding Dost's Sale #1, VanSanten opined he should have reported its renovation from 19 years earlier. He considered this to be a contemporary renovation. VanSanten agreed that Sale #1 of the Dost report, located at 701 Lee Street in Des Plaines, was a Class A building and in the O'Hare submarket. He opined that Sale #2 had deferred maintenance although it had been renovated 14 years prior to its 2016 sale. He agreed this would likely depress the sale price. He conceded that the renovation of Sale #3 in Dost's report from 24 years earlier would be a relevant factor to report. VanSanten opined that Sale #4 by J. Emil Anderson was a financing transaction. He believed it was a sale-leaseback even though the seller kept less than 5% of the space. VanSanten opined Dost should have considered whether Sale #6 had unique motivations because it was next door to the subject and was purchased by Imperial. However, Dost disclosed Imperial was the purchaser. VanSanten agreed that an appraiser should consider market data from various sources and the actual performance of the subject property.

On cross-examination by the board of review, VanSanten disclosed he had been employed in the past by Dost and by REAC. He acknowledged that both Dost and REAC used CoStar data although some of that data may be incorrect.

On re-direct examination, VanSanten testified he read the transfer tax declarations for the sales of Dost's Sales #1 and #2. They disclosed those properties had not been marketed for sale. He agreed that regarding Sale #6, it would have been plausible that Imperial, the owner of the adjacent building, would buy it to assemble buildings together.

The appellant's Exhibits A, B and D, and the intervenor's Exhibit 1 were entered into evidence.

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 Board also finds the increase in assessment requested by the board of review and intervenor is not warranted.

The PTAB's Rule 1910.63 (86 Ill.Admin.Code §1910.63) sets forth the scheme for a property owner to contest the correctness of the assessment.

> a) Under the principles of a de novo proceeding, the Property Tax Appeal Board shall not presume the action of the board of review or the assessment of any local assessing officer to be correct. However, any contesting party shall have the burden of going forward.
>
> b) Under the burden of going forward, the contesting party must provide substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property. Failure to do so will result in the dismissal of the appeal.

The board of review and any intervening party shall submit substantive, documentary evidence in support of the assessment. *Id.* All parties complied with the requirements of Rule 1910.63, but the appellant's evidence, both documentary and testimonial, failed to sustain its burden by a preponderance of the evidence. Witness credibility and evidence reliability are major considerations in determining whether a change of assessment is warranted. Weighing evidence "requires the trier of fact to find whether the greater amount of credible evidence presented sustains the issue that is to be established." Kraft Foods, Inc. v. Illinois Property Tax Appeal Board, 2013 Il App. (2d) 121031, ¶48. The Board, on balance, finds the REAC appraisal lacked sufficient reliability and predicate evidence to establish the assessment warrants a reduction.

Both the REAC and Dost reports stated the purpose of their respective appraisals was to appraise the subject property's fee simple estate, defined as "[A]bsolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the government powers of taxation, eminent domain, police power, and escheat." The Dictionary of Real Estate Appraisal, 6^{th} Ed. Each appraiser cited the Appraisal of Real Estate, 14^{th} Edition distinction between a fee simple estate and a leased fee interest, yet only Dost explained that the leased fee interest may be more or less than the unencumbered fee simple interest. Dost further explained that fee simple is not synonymous with market value since the former is an estate and property rights concept, not a value concept. Market value and fair cash value are synonymous. *See* Walsh v. Property Tax

Appeal Board, 181 Ill.2d 228, 230 (1998). Simply put, Dost explained an appraiser's scope of work would be to determine the market value of the fee simple estate assuming the subject property is vacant and available. (Dost appraisal, p. 5).

An axiom of property valuation is defined in Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 544 N.E. 762 (1989). Although the specific context of that decision pertained to government subsidized housing, the Supreme Court held the basic principle of property valuation is fair market value, determined from the price at which a ready, willing and able buyer and seller would agree. Kankakee County, at 16, citing Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428, 256 N.E. 334 (1970). In Springfield Marine, the Supreme Court was presented with the issue of how relevant rental income was in assessing the market value of the subject property. The property owner there was exempt from taxation. However, where the owner is not exempt, the tax is on the value of the property, not the value of the owner's leasehold interest. *Id.* at 430. Rental income may be a relevant factor, but the Court held, "it is the capacity for earning income, rather than the income actually derived, which reflects 'fair cash value' for taxation purposes." Springfield Marine, at 431; *also see* Illinois Property Tax Code, 35 ILCS 200/1-50 & 200/9-145; 86 Ill.Admin.Code §1910.5(b)(5). In further explanation of Springfield Marine, the Appellate Court in Town of Cunningham v. Property Tax Appeal Board, 225 Ill.App.3d 760 (4th Dist. 1992) observed "[w]hen actual rental income does not reflect the income-earning capacity of property, it may be disregarded, and the taxing authority may look to rents obtainable for comparable property in the open market." Cunningham, at 764.

"There are three basic methods of evaluating real property: (1) the sales comparison approach; (2) the income approach; and (3) the reproduction cost approach. In the absence of market value established by a contemporaneous arm's-length sale, the sales comparison approach is the preferred method and should be used when market data are available." Gateway-Walden, LLC v. Pappas, 2018 IL App (1st) 162714, ¶60, *citing* Kraft Foods, *supra*, ¶43.

The appraisals differed on the emphasis placed on various factors, such as the submarket, properties owned by Imperial as opposed to unrelated parties, whether to include storage and the deli area, or class type of the subject buildings, to cite a few. The factors and data used by Geerdes in the REAC appraisal were unreliable and created doubt of their credibility.

The REAC appraisal by Geerdes placed maximum emphasis on the income capitalization approach, despite the availability of sale properties similar to the subject property, as evinced by those cited by the BOR and Dost appraisal. This omission poses a stark contrast to the holdings in Gateway-Walden and Kraft. Geerdes selected comparable leased buildings from a wide geographical area that went beyond the O'Hare submarket to include buildings in the North and Northwest Corridors. Geerdes' explanation for enlarging the geographical area was not convincing. From this enlarged area, Geerdes selected three signed office leases. Great weight is not required for properties at a significant distance from the subject. *See* In re Application of County Collector of Pike County, 133 Ill.App.3d 142 (4th Dist. 1985). Creating further doubt of reliable information, each of these three were owned by Imperial or one of its affiliates. Geerdes testified he obtained the information about the revenues and expenses of these three Imperial buildings from Klairmont, and did not cite market rent data from other buildings. This undermines the credibility and reliability of revenue and expense data since Geerdes did not rely primarily on independent sources. Geerdes concluded the market vacancy for his enlarged area was 35% and compared this to the subject's 50% vacancy. In contrast, Dost found ample comparable properties within the target O'Hare submarket. Dost focused on many properties not owned or managed by Imperial. He analyzed seven years of vacancy history for the O'Hare submarket and concluded it had a 20% vacancy rate.

Geerdes testified he placed substantial emphasis on the 2015 sale of the subject to Imperial in his sales comparison approach analysis. Although the sale was four years prior to the lien year, Geerdes considered this sale to be recent. Klairmont testified that the bank did not publish an asking price for sale and that he calculated a purchase offer solely based on "broker talk." Klairmont offered the self-serving testimony that he would not have offered as much as he did but for the time constraints of completing a 1031 exchange. Geerdes testified that he obtained information for some of his sale comparable properties from various independent sources, such as CoStar, deeds and transfer declarations, but he learned his information about the 2015 sale of the subject from Klairmont. Although Klairmont made many improvements to the subject since his purchase, Geerdes placed "substantial weight" on the 2015 sale in developing his sales comparison approach analysis. He also testified that though he "put some weight on CoStar" regarding vacancy rates, he placed maximum weight on the vacancy rates he learned about for his selected comparable properties and of the subject itself. This lack of reliance mainly on independent, unbiased data undermines the credibility of Geerdes' appraisal.

In contrast, Dost testified he limited his range of sales to three years in accord with USPAP practice guidelines. Dost was personally familiar with the subject since he appraised it in June 2013. He also knew the subject was sold as REO property in 2015 through a 1031 exchange and had not been exposed to the open sale market. He did not consider this sale to be recent. Geerdes did not disclose the 1031 exchange in the REAC appraisal and what significance it may have had on the sale price. Nevertheless, Geerdes placed significant emphasis on this sale in concluding a market value opinion for 2019.

The Dost appraisal is not without faults, some of which were highlighted in the Stout appraisal review report. Van Santen, the appraiser who prepared the Stout report, opined Dost failed to make correct adjustments to his comparable properties. These missing adjustments were for differing classes of buildings, whether properties had been purchased out of foreclosure or as REO property, whether a property had been purchased as a sale-leaseback by a tenant, whether a property had been renovated, or whether the purchase price of one of the buildings was influenced by the purchase of surrounding buildings.

However, many other differences were only of expert opinions made in good faith. Dost testified he could have made upward adjustments for market rents for many of the comparable properties but did not to be conservative in his opinion. This opinion was especially significant for his analysis of the subject property REO sale in 2015. Van Santen conceded this REO sale may not have been reliable evidence of market value since banks are typically motivated to unload such property rather than hold and manage them. Dost stated this property had been below O'Hare submarket vacancy rents since the 2015 sale and was not on the open market then. Hence, he would have made upward adjustments to the improved comparable sale properties, depending on occupancy rates. Although Dost did not make these adjustments to be conservative, they would not have affected his valuation opinion. Van Santen opined a renovation to one of Dost's comparable properties from 19 years prior was contemporary; Dost's opinion differed. Van Santen also conceded that a lease-back of one of Dost's selected comparable properties was for less than 5% of the space. Dost's opinion was that this did not qualify as a lease-back. Van Santen also criticized Dost for not giving more weight to the subject's historical occupancy rates. Yet, Dost reiterated in his testimony what he cited in his appraisal—that proper comparisons for factors such as vacancy, revenues or expenses should be for stabilized amounts going forward, not historical amounts. According to Van Santen, Dost should not have included amenities, such as storage space and a deli. Dost opined these items should be included as rentable areas. In fact, the REAC appraisal included revenue from storage space and parking in the income capitalization analysis. Van Santen opined Dost erred by not citing correct tax rates for all six of his comparable properties in calculating a tax load. Dost testified these small differences would not have changed his opinion of value.

REAC and Dost appraisals reflected differing professional opinions. Some of the salient factors were the weight to be accorded to data; whether properties are basically more or less similar with the subject; the extent of adjustments, if any, necessary for comparable properties; the significance of historical financials as opposed to stabilized market data; or which standard approach to appraisal valuation is stressed more than other. These factors underscore that appraisers are market valuation experts whose opinions may vary in good faith. "[A]ppraisers have wide discretion with respect to the methods and procedures they follow in determining value." Board of Education of the City of Chicago v. Gorenstein, 179 Ill.App.3d 388, 394 (1st Dist. 1989).

The board of review submitted an interesting set of data. It submitted five suggested sale comparable properties that sold within three years of the 2019 lien date. Although these properties were not analyzed by an appraisal report, they are salient data in support of a sales comparison approach, such as sale price and date, land and building square footage, and location. These data are not reliable enough for the Board to base a decision on, but they were offered in support of a straight-forward argument of recently sold comparable properties.

Both the REAC and Dost appraisals raised the overarching question of whether the subject property was analyzed for its fee simple rights or its leased fee. It is well-established that an appraisal should value the fee simple rights. As the Stout report observed on page 5, "[w]ithout property adjustments, leased fee sales are not a reliable indication of market value for a fee simple interest." Stout criticized Dost for not appraising the subject's fee simple interest due to a lack of proper adjustments. The Board finds some of the REAC appraisal's adjustments were also unreliable. It is clear from his appraisal that Dost gathered and analyzed O'Hare submarket data for vacancy, revenue, and expenses. The REAC appraisal used an overly broad geographic area that included the Northwest and North Corridors to select advantageous comparisons. The REAC appraisal gave great weight to the subject's historical financials with some data from other Imperial properties used as comparable properties. In contrast, the Dost appraisal used many unrelated properties in the tighter O'Hare submarket. Geerdes testified and based his appraisal report in great part on historical data from the subject's REO sale that was not open to the sales market, and from other Imperial owned properties. His reasoning for enlarging the submarket to include areas outside O'Hare raises doubt about the reliability of his selections. Without ample market data and looking almost exclusively to the subject's historical data rather than reliable market data, the REAC appraisal leaves doubt about whether the fee simple and leased fee interests are the same or significantly different.

If it could be said Dost wrote a leased fee appraisal of the subject, at the very least the same can be said of REAC. As the Appellate Court in Cunningham, *supra*, observed, "[w]hen actual rental income does not reflect the income-earning capacity of property, it may be disregarded, and the taxing authority may look to rents obtainable for comparable property in the open market." Cunningham, 225 Ill.App.3d at 764. The Appellate Court also held in Ellsworth Grain Company v. Illinois Property Tax Appeal Board, 172 Ill.App.3d 552, 558 (4th Dist. 1988), "it is not how much income the property actually produced which is necessarily determinative, particularly where the property could have produced a greater income." These basic statements of law apply whether the core data were of revenues, expenses or, as presented in the instant appeal, vacancy.

The Board considers the weight and credibility of the documentary and testimonial evidence, and of the arguments made. Although the Board cannot say the Dost appraisal is most reliable and its opinions most worthy of adoption, the REAC appraisal on behalf of the appellant/property owner clearly failed to establish by a preponderance of the evidence that an assessment reduction is warranted. Consequently, the Board finds no basis for an assessment reduction, nor for an assessment increase in accord with the intervenor's request.

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:

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: November 21, 2023

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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