



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

APPELLANT: Imperial Realty Company  
DOCKET NO.: 20-26272.001-C-3  
PARCEL NO.: 02-24-106-006-0000

The parties of record before the Property Tax Appeal Board are Imperial Realty Company, the appellant, by attorney Shannon R. Sheehan, of Thompson Coburn LLP in Chicago; the Cook County Board of Review by Cook County Assistant State's Attorney Kelly Coakley; and Palatine C.C.S.D. # 15, and Palatine Twn. H.S.D. # 211, the intervenors, by attorney Michael J. Hernandez 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:

<b>LAND:</b>	\$704,201
<b>IMPR.:</b>	\$645,336
<b>TOTAL:</b>	\$1,349,537

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 2020 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**

The subject property consists of a 48-year-old, ten-story, concrete constructed, multi-tenant office building containing 155,166 square feet of gross building area of which 136,565 square feet is rentable. The property has a 187,787 square foot site and is located in Palatine, Palatine Township, Cook County and is commonly referred to as the Harris Bank Building. The subject is classified as a class 5-91 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant asserts overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal by Alan Geerdes of Real Estate Analysis Corporation (hereinafter, "REAC") that estimated that the subject property had a market value of \$3,300,000

as of January 1, 2019. The appraisal determined the highest and best use as vacant would be to develop the site as commercial, office space or retail. In developing the highest and best use as improved, REAC analyzed three land sales that occurred between October 2017 and June 2019. These comparables ranged: in land size between 63,722 and 475,501 square feet; and in unit sale price between \$7.53 to \$12.07 per square foot. The appraisal determined the subject site indicated a market value of approximately \$11.00 per square foot, for a total land value of \$2,070,000 and opined that its highest and best use as improved is its current use.

REAC undertook the sales comparison and income approaches to value. REAC disclosed that the cost approach was excluded because sufficient and reliable rental and improved sales information was available.

In general, REAC reviewed multiple leases within three comparable office buildings and determined a weighted average rent rate from \$13.69 to \$15.14 per net rentable area. REAC then analyzed lease offerings for four properties in addition to the subject's offerings. The subject's base asking rents range from \$17.00 to \$18.00 per square foot on a gross rent basis while the comparables ranged from \$15.00 to \$22.29 per square foot on a gross rent basis. REAC gave minimal weight to these offerings as concessions remain prevalent in the Northwest office market.

Under the income approach, REAC analyzed historical leases within the subject property, leases of surrounding office buildings, as well as active lease offerings in the area. The appraisal further broke down leases within the subject property by location: lower-level commercial space, first floor commercial space, upper-level office space (floors 2-6, 8-10), separating out the 7<sup>th</sup> floor office space, commonly referred to as the Palatine Executive Suites. The 7<sup>th</sup> Floor was given minimal consideration and characterized as a license or service agreement space. REAC treated this floor as typical office space similar to the rest of the building.

REAC analyzed two of the subject's leases for the lower-level commercial space that ranged: in size between 794 to 1,101 square feet; and in price between \$8.03 to \$11.29 per square foot. REAC estimated a gross rental rate of \$8.00 per square foot for this space. REAC analyzed two leases for the first-level commercial space that ranged: in size between 635 to 970 square feet; and in price between \$15.26 to \$16.44 per square foot. The BMO Harris suites on the first floor and lower level had a weighted average of \$11.29 per square foot. REAC estimated a gross rental rate for the first floor of \$16.00 per square foot. The appraisal analyzed nine leases for the upper-level floors that ranged: in size between 388 to 12,891 square feet; and in price between \$10.38 to \$18.36 per square foot with a weighted average gross rental rate of \$13.69 per square foot. REAC estimated a market rent for these upper-level floors of \$14.50 per square foot on a gross rent basis.

In general, leases from three office buildings located in Palatine, Arlington Heights and Mount Prospect were utilized to determine comparable office rents. The leases ranged: in size between 519 to 9,777 square feet; and in price between \$12.00 to \$16.74 per square foot with weighted averages of \$13.69 to \$15.14.

The potential gross income was determined by multiplying each of the estimated gross rental rates by the corresponding rentable area square footage and adding their results for a total

potential gross income of \$1,961,306. After reviewing surveys and market studies, REAC subtracted 38% of this amount, or \$745,296, for vacancy and collection loss, leaving an effective gross office income of \$1,216,010. REAC then added in \$11,000 to account for other sources of income, for a total effective gross income of \$1,227,010 or \$1,230,000 rounded. REAC reviewed the subject's actual income and expenses as well as BOMA studies to estimate market expenses at \$760,000, leaving a net operating income of \$470,000.

Using the direct capitalization technique, REAC analyzed six sales with capitalization rates (CAP rates) of 8.2% to 9.4%. REAC also reviewed investor surveys showing an average CAP rate for institutional grade suburban Chicago office space of 8.63% and for non-institutional grade suburban Chicago office space of 10.72%. REAC estimates a CAP rate for the subject of 9%. To account for the subject's property taxes, which were not reflected in the net operating income, REAC added a tax load of 8.1% to come up with a 17.1% loaded CAP rate. REAC then calculated the subject's value under the income approach by dividing the net operating income of \$470,000 by the CAP rate of 17.1% for a total of \$2,748,538, rounded to \$2,750,000.

Under the sales approach, REAC relied on six suggested sales comparables<sup>1</sup> that sold between November 2013 and December 2017, for amounts ranging from \$1,200,000 to \$7,800,000, or between \$25.43 and \$38.01 per square foot of net rentable area. The appraiser adjusted the sales prices to account for differences between the comparables and the subject. After applying the adjustments, the appraiser determined that the subject's value was \$29.00 per square foot of building area, for a total value of \$3,960,385, or \$3,960,000 rounded. In reconciling approaches, REAC gave substantial weight to the income approach. REAC noted that while maximum emphasis is generally placed on the income capitalization approach with moderate consideration given to the sales comparison approach, REAC gave substantial consideration to sales comparable #1 which was the 2013 sale of the subject to estimate a final value for the subject as of January 1, 2019, of \$3,300,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$1,385,087. The subject's assessment reflects a market value of \$5,540,348, or \$40.57 per square foot of building area, land included, when using the Cook County Real Estate Classification Ordinance level of assessment for class 5 property of 25%.

In support of the assessment, the board of review submitted information about sales of four unadjusted suggested comparable properties. The suggested comparables sold between September 2018 and April 2020 for amounts ranging from \$8,500,000 to \$25,050,000, or between \$48.81 and \$145.48 per square foot of building area, land included in the sales prices.

Palatine Consolidated Community School District #15 and Palatine Township High School District #211 (hereinafter, the "Intervenors") submitted a technical appraisal review report prepared by William Enright, MAI, of Appraisal Associates. The Intervenors requested that total assessed value be increased or at least maintained at \$1,385,087.

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<sup>1</sup> Sale comparable #1 was the 2013 sale of the subject property. This Board gives no weight to that sale as it was sold pursuant to a foreclosure action and therefore not indicative of fair market value. Regardless, it is too remote in time to the 2019 valuation date at issue.

### **Hearing**

Three dockets were consolidated for hearing before the Property Tax Appeal Board's Administrative Law Judge on April 11, 2024: 2019-47384, 2020-26272 and 2021-28606. Three separate decisions will be issued.

### **Direct Examination of Mr. Geerdes**

Mr. Geerdes testified as to his background and qualifications stating he is a certified general real estate appraiser employed with Real Estate Analysis Corporation (REAC). He is both vice president and staff appraiser and has been appraising properties for approximately 22 years. He holds an MAI and AI-GRS through the Appraisal Institute. He testified that throughout the course of his career he has prepared hundreds of appraisals. He was admitted as an expert in the appraisal of real estate without objection.

Mr. Geerdes began his testimony describing the subject property as a 136,000 square foot, 10-story, multi-tenant office building located in Palatine, Illinois. He testified that he is familiar with this property not only from doing this appraisal, but because he has prepared appraisals for this property several times, dating back to 2004.

Mr. Geerdes testified as to the history of the building and its renovations including the conditions of the subject's sale to the current owner in 2013. Mr. Geerdes described the sale as a foreclosure proceeding, and stated that prior to foreclosure, it was sold as a deed-in-lieu-of-foreclosure, wherein the current owner submitted an offer that was ultimately approved by the lender. Mr. Geerdes stated the subject property had been on the market for two and one-half years. Mr. Geerdes went on to describe the location of the subject property as a "somewhat commercial area" and stated it was the largest multi-tenant office building in the immediate area, and the subject is located in a "typical neighborhood, multi-tenant office building." Mr. Geerdes testified about the renovations that began after the 2013 sale, stating that the subject property underwent several capital improvement projects which Mr. Geerdes opined gave the subject property an effective age of approximately 40 years old. Mr. Geerdes opined that the highest and best use of the subject property as vacant would be to develop the site with commercial or retail use. He opined that the highest and best use as improved is its existing use.

Mr. Geerdes described his valuation methodology which consisted of the income and sales comparison approaches, with maximum weight on the income approach since the subject property is a multi-tenant, investor-owned property.

Mr. Geerdes described how he subdivided the building by floor to determine potential gross income. He testified the first floor used to be occupied by a bank and office space, the lower level had a deli and an additional tenant, with the remaining floors 2 through 10 being office space. Mr. Geerdes highlighted that the 7<sup>th</sup> floor consists of the Palatine Executive Suites which he described as a co-working suite that contains 13,000 square feet and includes services such as a receptionist, conference facilities, telephones, electric, Internet service, etc.

Mr. Geerdes outlined the steps he undertook in forming an opinion of the subject's value under the income capitalization approach for a fee simple market value by looking at recent leases from the subject property, looking at offerings from the surrounding market and estimating the stabilized gross rent as of the date of value. He then testified he looked at market vacancy rates and made the appropriate deductions with further deductions for market expenses. He stated he relied on both the subject's actual expenses as well as the BOMA expenses indicated in the BOMA survey. His next step was to apply a capitalization rate and an effective tax rate to indicate the value.

In breaking this approach down further, Mr. Geerdes testified that he looked at three comparable leases: Plum Grove Road in Palatine, South Wilke Road in Arlington Heights, and Wall Street in Mount Prospect, which he described as all neighborhood buildings that would have similar rental rates and similar kinds of tenants. He testified he also relied on lease offerings from four comparable properties in the surrounding area, as well as the January 1, 2019, rent roll for the subject building. Based on his analysis of these three sources he estimated the subject's gross market rent to be \$14.50 per square foot.

When asked if he considered the actual income of the subject property Mr. Geerdes testified that he did from a historical standpoint but explained that because this was a fee simple appraisal, primary consideration was placed on the market rents and market vacancy data. He testified that actual income is more consistent with a leased fee appraisal.

Mr. Geerdes was then directed to the 7<sup>th</sup> Floor Palatine Executive Suites and testified that because the rental rates include more than utilization of the physical office space, but also include services, the actual income was excluded from his analysis since it includes "income that's over and above just the real estate." He reiterated that since the purpose of this appraisal is to estimate market value of the real estate alone, a market rental rate was applied for the square footage of the 7<sup>th</sup> Floor's Palatine Executive Suites. Mr. Geerdes determined the weighted average for the recent leases in the subject property are \$13.69 per square foot. He clarified that this amount only accounts for the recent leases on floors 2 through 6 and 8 through 10, excluding the 7<sup>th</sup> Floor. When including the 7<sup>th</sup> Floor Palatine Executive Suites in his analysis, Mr. Geerdes testified the weighted average for the entire property is \$14.50.

Mr. Geerdes was asked specifically about the first-floor commercial space and testified that it contained 11,944 square feet, the majority of which was occupied by BMO Harris Bank whose lease terminates in June 2024. He testified that using the January 1<sup>st</sup>, 2019 rent roll the two other first floor tenants had rental rates of \$15.26 to \$16.44 per square foot with a weighted average of \$15.73 per square foot. He further testified that since this is a local neighborhood office building that is set back off Northwest Highway the rental rates in place at the subject are most representative of the retail space at the subject building. Relying on these actual rental rates, Mr. Geerdes opined that the market rent for the commercial space should be reconciled at \$16.00 per square foot.

Mr. Geerdes went on to describe the lower-level space as being 5,662 square feet and occupied by a deli and bank in addition to two vacant suites. The two occupied spaces had rental rates of \$8.03 to \$11.29 per square foot. Because BMO Harris occupied both the first floor and some of the lower-level space there was not a breakout between the two rental rates. Mr. Geerdes

described the lower-level space as generally less desirable as it lacks windows, he estimated a market rent of \$8.00 per square foot for the lower-level.

Mr. Geerdes was directed to his calculations in determining the potential gross income for the property as the sum of rental rates for the lower-level, first-floor and upper-levels multiplied by their respective square footage before moving into his analysis of market vacancy rates. To determine the market vacancy, Mr. Geerdes looked at market reports for the northwest corridor office market opining that the subject would most likely be considered a B or low B building. Five different market reports indicated market vacancy rates ranging anywhere from 22.7% to 37.2% with a weighted average of 25.6%. However, Mr. Geerdes stated that the northwest corridor is a large corridor that includes superior office locations, citing Schaumburg as an example. He also reviewed CoStar aggregate historical vacancy reports for existing non-owner-occupied buildings that were at least two-stories high and within one-to-three miles of the subject. He also looked at vacancy rates of comparable towers that he considered more competitive with the subject property, meaning they contained 70,000 square feet plus buildings that were at least 30 years old and roughly five-plus stories. These comparables had vacancy rates ranging from 19.1% to 100% with a weighted average of approximately 43.2%. Mr. Geerdes analyzed all these sources, but gave maximum weight to the comparable towers and the historical vacancy rates of the subject; he opined the market vacancy rate should be stabilized at 38%.

Mr. Geerdes testified as to how he reached the subject's estimated gross income by including the rental income of the subject at \$1,961,306, and subtracting a market vacancy of 38% or \$745,296 for an EGI of \$1,216,010. He added other income sources of \$11,000 which he testified included items such as storage income, parking and miscellaneous, for a total EGI of \$1,227,010 which rounded is \$1,230,000. In determining market expenses, Mr. Geerdes explained that he looked to the BOMA survey in addition to the subject's historical expenses, which he stabilized for the subject property at \$760,000 or \$5.57 per square foot. The subject's actual expenses were determined to be \$6.64 to \$8.63 per square foot. However, Mr. Geerdes clarified that some of the expenses under the repairs and maintenance category are more accurately described as capital expenditures which are below-the-line expenses. He testified that those expenses deemed capital expenditures were deducted and he only analyzed actual operating expenses. The BOMA survey indicated a range of \$5.95 to \$9.47 per square foot, but stated these were generally for younger and smaller buildings.

Mr. Geerdes testified about the method he utilized in determining a capitalization rate (CAP rate) for the subject property. He analyzed CAP rates of multi-tenant office buildings in the Chicago Suburban market. He indicated this data is not readily identifiable as it is not public information and therefore relied on properties where he actually had income data. Relying on this information the CAP rate comparables indicated a range of 8.2% to 9.4% with an average of 8.8%. He also relied on market surveys for the total Chicago office market as well as the Central Business District and the suburbs. The suburbs indicated a CAP rate ranging from 7% to 10% with an average of 8.63%, which was further broken down into institutional grade and non-institutional grade properties. Based on the above sources, Mr. Geerdes estimated an overall CAP rate of 9%.

Mr. Geerdes testified his next step was calculating the effective tax rate and applying the effective tax rate to the underlying CAP rate to indicate a total CAP rate of 17.1% which was based on the subject's 2018 local tax rate of 11.159%. After determining the total CAP rate, he testified his next step was applying the stabilized net income to indicate the value determined by the income capitalization approach to be \$2,748,538 or \$2,750,000 rounded. Mr. Geerdes testified his opinion as to the fee simple fair market value of the subject property under the income approach is \$2,750,000.

Mr. Geerdes then moved on to explain his second approach to valuation, the sales comparison approach. He stated he chose his six comparables by analyzing all the sales in the market and then narrowing that search further to sales that were the most comparable to the subject. Mr. Geerdes reiterated that the sales were office buildings with neighborhood locations catering to primarily local neighborhood tenants that are older in age with two-plus stories.

Under the sales comparison approach to value, Mr. Geerdes chose six sales<sup>2</sup>. The sales ranged: in size between 47,195 to 280,471 square feet of net rentable area and in sales price between \$25.43 to \$38.01 per square foot of net rentable area. He adjusted the sales comparables and determined the value of the subject was \$29.00 per square foot of building area, or \$3,960,000. Mr. Geerdes gave maximum weight to sale #1 which was the 2013 sale of the subject property, which he considered an arm's-length purchase.

In reconciling the approaches to value, Mr. Geerdes gave the most weight to the income approach to value and stated the subject's fee simple value as of January 1, 2019, was \$3,300,000.

### **Cross Examination of Mr. Geerdes**

Under cross examination by the Assistant State's Attorney on behalf of the Cook County Board of Review, Mr. Geerdes stated he has done numerous appraisals for Mr. Klairmont and his properties and specifically has appraised the subject property for Mr. Klairmont multiple times. Mr. Geerdes was questioned about the extensive renovations to the project and his characterization as "below-the-line" expenses or capital expenses. He was unable to provide actual dollar amounts and indicated he relied instead on RSMeans as a market source. He factored these expenses into reducing the subject's effective age rather than utilizing them for calculating value.

Mr. Geerdes testified that he would have relied on the rent roll at the time of valuation and vacancy affidavits. He was uncertain as to how many leases he reviewed for his report. He was unsure whether the anchor tenant, BMO Harris was counted as vacant in the vacancy calculations.

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<sup>2</sup> Sale comparable #1 was the 2013 sale of the subject property. This Board gives no weight to that sale as it was sold pursuant to a foreclosure action and therefore not indicative of fair market value. Regardless, it is too remote in time to the 2019 valuation date at issue.

Mr. Geerdes was cross examined about the sales comparables he utilized. He testified that comparable #1 was the subject property and comparable #2 was another property owned by the same taxpayer.

Under cross examination by Mr. Hernandez on behalf of Dist. 211 and Dist. 15, Mr. Geerdes agreed the building had some positive attributes and minimal tenant amenities that include parking and ease of access located on a major artery in Palatine. Mr. Geerdes agreed the building has income sources outside of rental income and indicated he did not list approximately \$90,000 in income from the antenna rental, instead attributing that to personal property. On further cross examination, Mr. Geerdes testified that the rental income from the 7<sup>th</sup> Floor accounts for approximately 12% of total rental income of the building. Mr. Geerdes was then cross examined about the sales comparables he chose and stated comparable #2 was an investment sale and consisted of three separate buildings but were treated as one economic unit. Mr. Geerdes testified about the vacancy rates and the sale price per square foot versus when viewed as one economic unit or as three separate buildings. After being shown Intervenor Exhibit #5, Mr. Geerdes testified that his building sold in April 2022 for \$48.60 per square foot. Mr. Geerdes admitted to using multiple leased fee sales as part of his reports as well as relying on other properties that are also owned by the same taxpayer. Mr. Geerdes stated specifically that in his income approach he relied on two “Imperial buildings” in his analysis of comparable office leases: South Wilke Road and Wall Street in Mount Prospect. (See page 66 of 2019-2020 appraisal)

### **Redirect Examination of Mr. Geerdes**

On redirect, Mr. Geerdes testified that capital improvements do not increase the fee simple market value of a property on a dollar-for-dollar basis. In relation to the current leases in place at the subject property, Mr. Geerdes testified that his analysis centered on the leases closest to the dates of valuation, rather than looking at older leases. (See page 71 of 2019 appraisal)

When shown Intervenor’s Trial Exhibit #2 under the heading “Market Conditions”, Mr. Geerdes testified that current vacancy rates meant the vacancy rate at the time the document was printed, not the vacancy rates at the time the property was sold.

Mr. Geerdes reiterated that he did consider a property rights adjustment for all comparable sales; it was his ultimate opinion that the leased fee market conditions were consistent with fee simple market conditions and required no adjustments. However, because the occupancy levels varied, he did make adjustments in his appraisal to reflect that factor.

### **Board of Review’s Case**

The board of review rested on its previously submitted unadjusted comparable sales evidence.

### **Direct Examination of Mr. Enright**

Mr. Enright testified as to his background and qualifications stating he is a certified general real estate appraiser employed with Appraisal Associates. He has been appraising properties for approximately 35 years. He holds an MAI and is licensed by the State of Illinois as a certified

general real estate appraiser. He was admitted as an expert in the appraisal of real estate without objection.

Mr. Enright began his testimony stating he reviewed the appraisal report prepared by REAC with the valuation date of January 1, 2019, and created a report to detail his findings. He found there were five additional comparable sales in the subject area that were not included in the REAC report. He also noted the lack of photographs of the subject property as well as failure to include the rent roll. He testified that he disagreed with the 2013 sale of the subject property being considered an arm's length transaction based on three factors: the property was transferred in a foreclosure proceeding, the transaction was not for market value, and the buyer of the property had been the mortgagee. Based on those facts, Mr. Enright considered this a distressed sale. He highlighted deficiencies in the REAC report such as failure to provide any meaningful description of the subject's interior layout as well as lack of information regarding parking spaces.

He testified about his observations of REAC's land sales comparisons, describing sales comparable #1 as a multi-family residential development which is different than the subject's commercial use. Sales comparison #2 was located in Barrington and was improved with an older obsolete restaurant, which was ultimately demolished, and the site prepped for ultimate use. He described sales comparable #3 as a distressed sale or real estate owned.

Mr. Enright testified as to REAC's failures concerning the income approach. He highlighted REAC's failure to include the rent roll as part of the appraisal and found it significant that the actual rental income of the subject's 7<sup>th</sup> floor was not disclosed. In looking at the lease comparables, Mr. Enright noted REAC's use of asking rental rates which don't necessarily correspond with actual rents. He highlighted the lack of information that would be pertinent in determining market rent by looking at such factors as marketing efforts to obtain tenants for vacant space or letters of intent. He questioned the failure to use comparables of similar banks with drive-up facilities in valuing the first-floor commercial space. He found it a significant omission to exclude the income generated from the rooftop antenna which was approximately \$90,000/year. Mr. Enright testified that REAC overstated the vacancy rate at 38% whereas the market vacancy rate of all office space located within a three-mile radius of the subject is only 16%.

Mr. Enright testified that he observed REAC only compared the subject's expenses to BOMA rather than utilizing expense comparables. He found REAC's ultimate valuation faulty based on the following factors: failure to include the rent roll, failure to report any pending leases, failure to report the actual income generated from the 7<sup>th</sup> floor, failure to include income generated from the cellular tower, the reliance on an above-market vacancy rate and lastly, failure to compare the subject's expenses to those of similar buildings in the area.

When questioned about REAC's sales comparison approach, Mr. Enright testified about the failure to make any adjustments to the comparables for leased fee property rights. REAC didn't provide any information whether the leases that were encumbering the properties at the time of sale were at, above, or below the market rate. Also, there was no information or adjustment provided to account for conditions of sale. Mr. Enright highlighted sales comparable #2 was a distressed or REO transaction which was 67% occupied, a level below market; sale comparable

#3 was 100% vacant and didn't sell at a stabilized market rent with no adjustment for lease-up costs; sales #4 and #5 sold with occupancy rates of 30% and 54% respectively; and sale #6 was also sold below occupancy at 56% with notice that a major tenant would be vacating shortly after the sale.

Mr. Enright testified about five comparable sales in the subject area he found utilizing CoStar and other sources. Each of the five comparables sold at significantly higher unit prices than the value REAC attributed to subject. He testified that adjustments could have been made to account for any differences between the comparables and the subject. He found REAC's ultimate valuation of \$3,960,000 not credible, citing failure to adjust comparables for the rights conveyed, failure to adjust for financing terms and conditions of sale, failure to account for building condition and parking ratios and failure to consider the additional comparables located in the subject area as contributing factors.

### **Cross Examination of Mr. Enright**

During cross examination by Mr. Cullerton, Mr. Enright was questioned about the distinction between selling the note to the property versus the property itself. Mr. Enright confirmed that Allstate Insurance Corporation sold the note, and that the property was marketed, but clarified that typically notes are not offered to conventional buyers. Mr. Enright testified that it is a different market, not a typical market. He stated when a note is sold it implies a level of distress. Mr. Cullerton further cross-examined Mr. Enright regarding the income generated from the 7<sup>th</sup> floor executive suites. Mr. Enright read from page 63 of the 2019 appraisal where REAC reports the actual income generated from the 7th floor in years 2016, 2017 and 2018 but then opined that Mr. Geerdes failed to consider it by giving it only minimal consideration, and instead treated it as more typical office space. Mr. Enright stated it is not normal for a suburban office building to provide services such as those that were provided to the service agreement licensees.

When questioned about vacancy rates, Mr. Enright was unsure if CoStar was able to filter vacancy results to distinguish between owner-occupied buildings versus buildings advertising rental rates. Mr. Enright admitted he did not isolate his findings based on two-or-more story office buildings or owner-occupied buildings. He noted the subject's historical vacancy but testified that market vacancy is what he looked at. Mr. Enright noted he did not analyze any of the comparable office tower vacancy rates on page 78 of the REAC appraisal because it was only a snapshot out of the several hundred office buildings in the area, saying these may have been selectively chosen.

Under further cross examination, Mr. Enright testified about his criticisms of REAC's sales approach. He listed five additional sales but did not include an analysis of those transactions, stating that was outside the scope of his review. Mr. Cullerton questioned Mr. Enright about his suggested sales comparable, Continental Towers located at 1701 Golf Road in Rolling Meadows. (Taxpayer Exhibit #1) Mr. Enright identified it as a three-building complex. Mr. Enright was questioned regarding the 2013 and subsequent 2018 buyer and seller of the property as Glenstar Properties. Mr. Enright testified he didn't know if the property was sold by related parties. But he did state that CoStar showed the property was in fact marketed for sale but had no further details regarding the sale. Mr. Enright was shown a press release from Glenstar (Taxpayer Exhibit #1) with information regarding Glenstar acquiring the property in 2013, and engaging in

a joint venture with Rubenstein to pour millions of dollars into the property to “solidify Continental Towers as a Class A office complex.” He testified that if he had known this prior to writing his report, Mr. Enright would have still included it as a sales comparable because it had been marketed by a national brokerage company, exposed to the market and resulted in a sale.

Regarding suggested sales comparable #2, 50 N. Brockway in Palatine, Mr. Enright stated it was a partial-sale leaseback as the seller was a partial tenant and likely may have leased back part of it. (Taxpayer Exhibit #2) After being shown a marketing flier released by Colliers for this property listing it as a long-term partial leaseback, it was Mr. Enright’s opinion that an appraiser would normally include a leaseback sale as a comparable in a fee simple analysis.

Mr. Enright testified that he listed REAC’s sales comparable #3 as a likely REO sale based on the fact the property was owned by Bank of Hope and was vacant. He stated he conducted his research using CoStar and the Cook County Recorder of Deeds but was unable to confirm if it was in fact a REO.

### **Conclusion of Law**

In determining the fair market value of the subject property for tax year 2019, the Board considered both the documentary evidence and testimonial evidence elicited during the hearing. 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 taxpayer must prove the value of the property by a preponderance of the evidence. 86 Ill. Admin. Code §1910.63(e); Winnebago County Bd. of Review v. Property Tax Appeal Bd., 313 Ill. App. 3d 1038, 1043 (2d Dist. 2000). 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 Intervenors 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. Overall, this Board finds the REAC appraisal lacked sufficient reliability and supporting evidence to establish the assessment warrants a reduction.

This Board gives some weight to the REAC appraisal but finds it flawed in several respects. Throughout both approaches, REAC vacillated between its reliance on actual rents, income, expenses and vacancy rates and its reliance on market rents, income, expenses and vacancy rates. REAC failed to make adjustments to account for the differences between the subject and the suggested comparables in factors such as property rights conveyed, conditions of sale or financing terms in addition to failing to take into consideration the class of building (i.e. its condition) or land-to-building ratio. This Board will not make the assumption that no adjustments were necessary for these factors. This failure was evident across both approaches to valuation and in the determination of the highest and best use of the property. In opining the subject’s highest and best use, REAC relies on three improved land sales that have drastically different zoning and locations from the subject property. This Board also notes the REAC appraisal relied on comparables owned by the same taxpayer/appellant in obtaining supportive evidence. Much of the data relied upon in the REAC appraisal is unreliable, or self-validating, thus creating significant doubt as to the appraisal’s credibility.

The Board finds that there were flaws in the appraisal’s income approach. REAC inconsistently utilized actual income and/or actual expenses in its analysis in determining market rents and failed to provide a single actual expense comparable. REAC utilized actual income as it related to all parts of the subject property with the exception of the 7<sup>th</sup> Floor. REAC relied on actual expenses for the subject property but did not provide any expense comparables for comparison. A rent roll was referenced as the basis for calculations; however, the actual rent roll was not included in the appraisal. REAC analyzed nine leases<sup>3</sup> within the subject property that were executed between March 2017 and October 2018 with rental rates ranging from \$10.38 to \$18.06 per square foot with a weighted average of \$13.69; this was exclusive of the rent generated from the 7<sup>th</sup> Floor Palatine Executive Suites which accounts for 10% of the subject’s net rental area and 12% of the subject’s rental income. This is not an insignificant amount; 12% of \$1,230,000 (EGI) is \$147,600. To dismiss the income generated, whether it be labeled rental income or income generated from service or license agreements and give it minimal consideration provides an inaccurate approach to valuation. Additionally, the appraisal noted income generated from an antenna on the subject property but failed to include the approximately \$90,000 per year it generated in revenue in its effective gross income calculations. The market vacancy rate was likely overstated as well. By REAC’s own research, Northwest Corridor, Class B buildings, had vacancy rates that ranged from 22.3% to 37.2% with a weighted average of 25.6%. The rate for Non-Owner-Occupied Office properties with two-or-more stories, regardless of class, within a three-mile radius of the subject, that rate is 20.5%. These numbers are closer to the 16% vacancy rate opined by Mr. Enright than the rate used by REAC. Mr. Enright relied upon CoStar information which compiled data from 312 office properties within a three-mile radius of the

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<sup>3</sup> This Board notes that while REAC relied on January 1, 2019, rent roll information in its appraisal the rent roll itself was not made part of the appraisal nor entered into evidence.

subject and found an overall vacancy rate of 16% for the 4<sup>th</sup> Quarter of 2018. This Board finds it unreliable to utilize a 38% market vacancy rate for the subject property based on a selection of office buildings with many unknown characteristics without regard for their classification and no indication of their distance from the subject, thereby resulting in overstating the market vacancy rate.

In choosing comparable leases to determine market rent, the appraisal utilized three different locations: properties located on Plum Grove Road in Palatine, South Wilke Road in Arlington Heights, and Wall Street in Mount Prospect. The comparables in Palatine and Arlington Heights are properties owned by the same taxpayer as the subject property. These comparables offer a self-validating valuation of the subject property and call into question whether these are indicative of market rents. The comparable in Palatine had a weighted gross rent of \$15.14 per square foot for offices on the second floor. The comparable in Arlington Heights had a weighted gross rent of \$13.69; two offices for rent were located on the first floor, three offices for rent were located on the second floor, and one office for rent was located on the fourth floor of the building. The last comparable in Mount Prospect had a weighted gross rent of \$14.06 per square foot; three offices for rent were located on the first floor, three offices for rent were located on the second floor, and one office each was for rent on the fifth through seventh floors. The level of similarity or dissimilarity is lacking because many factors for comparison are omitted.

As further support, REAC itself references the direct relationship of floor number to rental rate. On page 65 it is stated: "Higher tier office leases with unrestricted views will typically lease at higher rates than low tier leases with obstructed views." The information provided about the three comparable offices leases was extremely limited and therefore prohibited any meaningful attempt at comparison. Notably information such as: gross building area, rentable building area, land-to-building ratio, location, class of building, number of stories, was not presented. Fourteen out of seventeen comparable leases are for office space located between the first and fourth floors which by REAC's own submission generate lower rents. This effectively underestimates the market rent of the subject property.

The same reasoning applies to REAC's analysis of asking rents. Lease offerings from four office buildings located in both Palatine and Arlington Heights were analyzed to determine comparable asking rents. These office buildings have rental rates that range from \$15.00 to \$22.29 per square foot. While all four comparables are similar in age there are notable dissimilarities: two of the comparables have significantly larger rentable building area and one has significantly less rentable building area. Additional characteristics that would allow a meaningful comparison are not provided. Also, the floor location on the asking rents is for lower-level floors. Three of the suggested comparables are for units located between the first and fourth floors which generate lower rents.

Under the sales comparison approach REAC relied on the November 2013 sale of the subject property which was "transferred through a deed-in-lieu of foreclosure transaction and quit claim deed in January of 2014. The agreed order/judgement of consent foreclosure was then filed in February of 2014." (2019 Appraisal page 106) The Board finds that the sale of the subject in November 2013, for a price of \$4,000,000 was a "compulsory sale." A "compulsory sale" is defined as:

(i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

35 ILCS 200/1-23. The Board finds that the sale of the subject in November 2013, for a price of \$4,000,000 is a compulsory sale, resulting from a foreclosure action, based on appellant's own appraisal as well as information provided by the Intervenor's review appraisal and testimony.

Real property in Illinois must be assessed at its fair cash value.

Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so.

A compulsory sale, while not an arm's length sale, may still be reflective of a fair market value. The Board may look to the market value evidence submitted by the parties to determine whether the purchase price was at the subject's fair market value. 86 Ill.Admin.Code §1910.65(c). Such evidence may consist of an appraisal or the sales of comparable properties. 86 Ill.Admin.Code §1910.65(c); see, Calumet Transfer, LLC v. Ill. Prop. Tax Appeal Bd., 401 Ill.App.3d 652, 655-56 (1st Dist. 2010) ("[The Board] allowed the [intervenor] to challenge the arm's-length nature of the transaction by offering evidence of comparable property sales. This was permissible under paragraph (4) of section 1910.65(c)).

Bd. of Educ. of Meridian Cmty. Unit Sch. Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 2012 IL App (2d) 100068, ¶ 36 (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill.App.3d 207, 211 (2d Dist. 1979)). A compulsory sale is not an arm's length sale. Therefore, the Board finds that the compulsory sale of the subject was below the subject's fair market value, and it was not an arm's-length transaction. Furthermore, this Board finds the sale of the subject property too remote in time to the valuation date at issue to be an accurate indicator of its market value as of January 1, 2019. However, it is this very sale in which REAC places "substantial consideration" (2019 Appraisal p. 130). This sale has been given no weight in the Board's analysis.

REAC relied on multiple properties that were REO sales or distressed sales and failed to make adequate adjustments, finding "minimal adjustment" was needed. These types of sales generally mean the property was sold "as is," and often means it was bought at a significant discount, so they were not reliable indicators of the subject's market value. Comparable #2 was purchased by this appellant and was a distressed sale, comparables # 3 and #4 were sales of completely vacant buildings, with comparable #4 being sold at auction, while comparables #5 and #6 each have a higher vacancy rate than the average for Non-Owner-Occupied Office space of 2+ stories in the 4<sup>th</sup> Quarter of 2018 at 62% and 42% respectively. (see 2019 Appraisal p. 77) These factors support a finding that these particular comparable sales should have been considered distressed transactions. The courts have stated that compulsory sales can be used as comparables.

However, and perhaps most importantly, there was no adjustment made to reflect the conditions of sale for any of the transactions. On redirect examination Mr. Geerdes stated it was his opinion that the leased fee market conditions were consistent with fee simple market conditions. However, there was no information provided about rental rates of the comparables at the time of their sale; whether they were at, above, or below market rate. A leased fee sale is not a reliable indication of market value for a fee simple interest without the appropriate adjustments.

The board of review submitted four properties that sold within one year of the 2020 valuation date. This evidence, however, consisted of unadjusted data. Therefore, this Board affords them little weight.

Regardless, it is the appellant's burden to prove overvaluation by a preponderance of the evidence. For all the reasons stated above, the appellant failed to meet that burden due to deficiencies, unreliability, and lack of credibility of the appraisal submitted, as highlighted during the testimony. The Board therefore finds a reduction in the subject's assessment is not justified. This Board also finds there is no basis for an assessment increase in accordance with the Intervenors' 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: \_\_\_\_\_

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:

October 15, 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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