PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Draper & Kramer Apartment Complex
DOCKET NO.: 01-26104.001-C-3 and 01-26104.002-C-3
PARCEL NO.: 17-15-309-009-0000 and 17-15-309-029-0000

The parties of record before the Property Tax Appeal Board are Draper & Kramer Apartment Complex, the appellant, by attorney Patrick C. Doody, of Golan & Christie, Chicago; the Cook County Board of Review by Cook County Assistant State's Attorney Ralph Proietti; and the intervenors, Chicago Board of Education by attorney Ares Dalianis of Franczek Sullivan, P.C.; and the City of Chicago by City of Chicago Department of Law's Senior Counsel Richard Danaher.

The subject property consists of a irregularly shaped 60,137 square foot parcel improved with a 43-story of reinforced brick/block constructed apartment building containing 590,754 square feet of building area with four passenger elevators and two freight elevators. The subject parcel is also improved with a three-level parking garage containing 78,000 square feet. The apartment building contains 656 living units and 14,050 square feet of commercial space; the garage contains parking for 330 vehicles. The living units consist of 82 studio apartments containing 430 square feet; 492 one-bedroom apartments containing 741 square feet; and 82 two-bedroom apartments containing 1,150 square feet. Each unit has a smoke detector and each floor has fire extinguishers and stand pipes. The kitchens are equipped with a stainless steel sink, a refrigerator, an electric range with oven, metal cabinets and tiled floors. The units are carpeted as are the hallways and lobby. The apartment building is heated/cooled throughout by a two-pipe hot and cold water system with fans. The site improvements include two sun decks, an outdoor pool and some landscaping. The improvement was constructed in 1967 and is located in South Chicago Township, Cook County.

The appellant, through counsel, appeared before the Property Tax Appeal Board arguing that the fair market value of the subject

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***a reduction*** 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 NO.	LAND	IMPR.	TOTAL
01-26104.001-C-3	17-15-309-009-0000	$ 60,944	$ 548	$ 61,492
01-26104.002-C-3	17-15-309-029-0000	$987,525	$6,540,983	$7,528,508

Subject only to the State multiplier as applicable.

PTAB/lbs/070571

was not accurately reflected in its assessed value. In support of the market value argument, the appellant submitted a summary report of a complete appraisal with a valuation date of January 1, 2001 (Appellant's Exhibit No. 1) and the testimony of one of its authors, Charlie Hynes of Urban Real Estate Research, Inc., Chicago. The witness testified he has been a State of Illinois certified general real estate appraiser for about 16 years and acquired a Member of the Appraisal Institute (MAI) designation in 2003. After an examination of Mr. Hynes's appraisal experience, he was tendered and accepted as an expert witness.

Mr. Hynes testified he completed a full interior and exterior inspection of the subject on March 2, 2002. After correction of several scriber errors, the witness testified the subject was appraised as a fee simple estate; appears to conform to current zoning laws; has an effective age of 35 years; and an economic life of 50 years. The witness described the subject as a class 'C' type apartment building because of age and condition. He explained the subject building was in average condition considering its age; the out-of-date metal cabinetry in the units; the building's single pane windows; and the outmoded heating and cooling system. It was the appraiser's testimony, the subject's highest and best use as vacant would be multi-family residential with retail on the first floor and as improved its current use as multi-family residential with first floor retail.

In estimating a total market value of $23,000,000 for the subject, the appraiser employed the three approaches to value; the cost, the sales comparison, and the income approach.

As the first step in the cost approach Mr. Hynes prepared an estimate of the subject's land value through an examination of the sales of six vacant properties located in the south loop area or the subject's general area. The parcels range in size from 16,824 to 63,374 square feet of land area. The land comparables sold from May 1999 to October 2001 for prices ranging from $740,000 to $2,900,000, or from $26.64 to $73.54 per square foot of land area. After adjustments to the comparables for market conditions, location, size, utility/zoning, time of sale, and other pertinent items, Mr. Hynes estimated $35.00 per square foot as a unit of value for the subject land, resulting in an estimated land value of $2,100,000 rounded.

The witness testified he estimated replacement cost new for the subject. Utilizing *Marshall Valuation Service* and building characteristics reflecting those of an average quality class 'C' apartment building, the appraiser developed a unit cost for the apartment building of $104.15 per square foot of building area and $36.18 per square foot for the parking garage, or $64,330,322. After the addition of soft costs and entrepreneurial profit, the appraiser concluded $69,573,244 as the total cost new. Total depreciation of 70%, or $48,701,271, was deducted along with a deduction for site improvements of $33,000. The appraiser's estimated depreciation was based the age/life method utilizing a total economic age of 50 years, an effective age of 34 years and which resulted in a remaining economic life of 16 years. The land value of $2,100,000 was then added. The appraiser's estimated value through the cost approach was $23,000,000, rounded.

In the income approach to value, the witness testified he relied on five rental comparables. Selection of the five comparable buildings was based on several criteria such as location and environs; the ease of access to shopping, restaurants and nightlife. The buildings contain between 345 and 1,765 living units with rentals ranging from $359 to $650 for studio apartments, from $440 to $850 for one-bedroom apartments, from $623 to $1,003 for two-bedroom apartments, and from $731 to $1,503 for three-bedroom apartments. The witness testified adjustments were made to the comparables for age, condition, amenities and other applicable items which resulted in estimated stabilized per month market rents for the subject of $800 per studio unit, $1,000 per one-bedroom unit and $1,900 per two-bedroom unit, or a stabilized total apartment rental income of $8,560,800. Mr. Hynes added that the estimated market rents compared favorably with the subject's actual income from the past three years. When considering vacancy loss, the witness looked at the comparables as well as the Institute of Real Estate Management (IREM) noting that both sources indicated vacancy rates from 4% to 8%, he selected 8% and then added 2% for collection loss. The witness testified as of the date at issue, the management was offering rent concessions because of historically high vacancy rates. In addition, the appraiser testified he estimated $500,000, or $1,515.15 per space, as income for the 330 parking spaces, $60,000, or $4.27 per square foot, for the commercial space and $110,000 for laundry facility income. These computations resulted in a total stabilized effective gross income (EGI) of $8,374,720.

The witness testified when estimating expenses, he examined the subject's historical expenses, data from IREM and from five rent comparables located on the north and near north side of Chicago. Expenses of the comparables ranged from 38.08% to 62.94% of their respective EGIs. From his sources, the appraiser developed stabilized expenses totaling 53.37% of the stabilized EGI, or $4,469,660. Subtraction of the stabilized expenses from the subject's estimated EGI resulted in $3,905,060 as the estimated net operating income for the subject.

Mr. Hynes used both the market extraction and the band of investment techniques to develop a capitalization rate for the subject. He utilized sources such as the American Council of Life Insurance's *Investment Bulletin*, *Korpacz Real Estate*

Investor Study, Real Estate Research and an analysis of market activity from the sales of apartment buildings in Chicago. The *Investment Bulletin* reported average overall rates of 8.9% for the first quarter of 2001; *Korpacz* reported a range from 7.0% to 10.0% with an average of 8.58%; Real Estate Research reported capitalization rates from 8.0% to 10.5%; and the local market sales indicated a range from 8.71% to 11.4%. After analysis and giving weight to the age and condition of the subject, the witness testified he concluded 11.52% as an overall capitalization rate for the subject. Next, Mr. Hynes calculated an effective tax rate of 5.8%, which he added to the overall capitalization rate. The total capitalization rate of 17.0% was then applied to the subject's NOI. The appraiser's estimate of value for the subject using the income approach was $23,000,000, rounded, as of January 1, 2001.

When developing the sales comparison approach, Mr. Hynes testified he used the sales of five apartment buildings located on the near north or north side of Chicago built from 1927 to 1972. The buildings contain from 94 to 1,075 living units and have from 0 to 450 parking spaces available. The improvements range from 12 to 35 years old and are sited on parcels ranging in size from 8,085 to 103,332 square feet of land area. These sales occurred from November 1997 to September 2001 for prices ranging from $3,950,000 to $70,100,000, or from $28,932 to $88,829 per living unit including land and the ancillary improvements. The appraiser adjusted the sales comparables for conditions of sale, market conditions, location, age, condition, occupancy and services offered along with other unique characteristics individual to the comparables.

The appraisal reported that although the appraisers were aware there were other sales in the area above and below the range of sales selected, many of sales of apartment buildings in Chicago were above fee simple market value. The appraisers contend these above market sales do not make sense if a building is kept as rental apartments and the sales are transacted using normal market rate financing. The report indicated the appraisers based their opinion of value not only on the improved sales but more-so on the actual economies of the subject property. The appraiser opined a market value for the subject of $35,000 per unit or $23,000,000 through the sales comparison approach.

In reconciliation, Mr. Hynes testified the most weight was placed on the income approach with support from the sales comparison approach. The cost approach was given the least consideration. His final opinion of value for the subject was $23,000,000, as of January 1, 2001.

Mr. Hynes was cross-examined by counsel for Chicago Board of Education, counsel for the City of Chicago, and counsel for the board of review.

During cross-examination, the witness was questioned regarding the views of the city and the lake from the subject and the eventuality of new construction blocking the views. The witness confirmed the subject has unobstructed views of the city and Lake Michigan and will probably have in perpetuity. In addition, he verified the subject's achieved per square foot rental income of $16.51 is above the metropolitan average of $14.22 per square foot of building area. Further, he agreed that his stabilized rental income is less than the subject's historical rental income. Furthermore, Mr. Hynes confirmed the stabilized expenses attributed to the subject are higher than the subject's historical expenses.

The witness was questioned in detail regarding the sales data reflected in the appraisal and indicated the subject's per square foot estimated value of $45.26 is low when compared to the metropolitan average. He confirmed the circumstances of each sale utilized, his sources, and adjustments made to the sales.

In re-direct, Mr. Hynes verified that frequently when confirming or investigating reported sales there are differences from one reporting agency to another. He also testified that even contact and discussion with the parties does not always clarify the cause of the disparities.

At the conclusion of Hynes testimony, counsel for the board of review presented additional exhibits as follows:

> Exhibit No. 2: Copy PTAX-203 4/1998, 61 East Goethe PINs 17-03-110-002 & 17-03-110-009. (Transcript P. 91-92)
> Exhibit No. 3: Transfer Declaration, 10/2000, 61 East Goethe PINs 17-03-110-002, 17-03-110-009, 17-03-110-004 and 17-03-110-010. (Transcript P. 91-92)
> Exhibit No. 4: Special Warranty Deed 10/2000, 61 East Goethe PINs 17-03-110-002, 17-03-110-009, 17-03-110-004 and 17-03-110-010. (Transcript P. 91-92)
> Exhibit No. 5: Copy PTAX 203 and PTAX 203A 12/2000, 1036 N. Dearborn PIN 17-04-423-008. (Transcript P. 92-93)
> Exhibit No. 6: Trustee's Deed Dearborn I, LLC 12/2000, 1036 N. Dearborn PIN 17-04-423-008. (Transcript P. 92-93)
> Exhibit No. 7: Trustee's Deed 4/1998, 61 East Goethe PINs 17-03-110-0002 and 17-03-110-009. (Transcript P. 92-93)

The board of review submitted the "Board of Review Notes on Appeal" wherein the subject's final assessment of $9,113,389 was disclosed. This assessment reflects a fair market value of $27,616,148 when the Cook County Real Property Assessment

Ordinance level of assessments of 33% for Class 3 property, such as the subject, is applied.

In support of its assessment, the board offered an appraisal report prepared by Jeffrey M. Hortsch of the Cook County Assessor's Office (Board of Review Exhibit No 1.) The report indicates Mr. Hortsch is a State of Illinois certified general real estate appraiser. Mr. Hortsch was not present at the hearing to testify or to undergo meaningful cross-examination regarding his credentials, appraisal methodologies, and the validity of the data contained in the appraisal.

To estimate a value for the subject of $53,000,000 as of January 1, 2001, Mr. Hortsch employed the income approach and the sales comparison approach to value. The author did not develop a cost approach or an estimate of value for the subject's land.

After reconciliation Mr. Hortsch's final estimate of value for the subject is $53,000,000 as of January 1, 2001. Based on this evidence counsel for the board of review requested an increase of the subject's assessment reflective of the board of review's appraisal evidence.

Counsel for the appellant objected to the submission of the board of review's Exhibits No. 2, 3 and 4.

> Exhibit No. 2: Copy PTAX-203 4/1998, 61 East Goethe PINs 17-03-110-002 & 17-03-110-009. (Transcript P. 91-92)
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Counsel argued that while the documents reflect the same address the PINs differ and without a witness explain the discrepancy the submission is meaningless. The Property Tax Appeal Board overrules the appellant's objection. Counsel's arguments go to the weight and credibility of the exhibits not their admissibility.

Appearing before the Property Tax Appeal Board on behalf of the intervenors, was counsel for the City of Chicago arguing the fair market value of the subject is not reflected by the current assessment or the appellant's appraisal. It is the intervenors' contention that the subject is under-assessed and the correct market value is $55,500,000. In support the intervenors submitted a summary appraisal report (Intervenors – Exhibit #1) and the testimony of one of its authors, Toby J. Sorensen of Renzi & Associates, Chicago. Mr. Sorensen testified that he has been a State of Illinois certified appraiser since 2002 and is in the process of obtaining a MAI designation. As of the transmittal date of the appraisal, Mr. Sorensen had been a certified appraiser for approximately one year. After a brief discussion of his credentials, Mr. Sorensen was tendered and accepted as an expert witness.

The witness testified that he performed a limited physical inspection of the subject property on April 2, 2003. At that time, he observed the subject's exterior, interior, common areas, several apartment units, commercial space and garage. The appraiser's description of the subject, which he considered in good condition, generally agreed with the appellant's appraiser. An exception being Mr. Sorensen described subject's windows as double pane glass. The appraiser also noticed the views of the lakefront and the city while inspecting the building. The appraiser's opinion of highest and best use for the subject concurs with the other appraisals in the record. Mr. Sorensen testified his opinion of value for the subject as fee simple estate was $55,500,000 as of January 1, 2001.

To estimate a fair market value for the subject the appraiser testified he used the cost, the sales comparison and the income approaches to value.

The first approach addressed in testimony by Mr. Sorensen was the income approach. Five rental comparables located in the same general area as the subject were analyzed. The comparables are masonry construction and were built from 1915 to 1985. The appraisal report indicates the apartment sizes of the comparables are studio units from 500 to 650 square feet, one-bedroom units ranging from 653 to 850 square feet and two-bedroom units from 990 to 1,422 square feet. The appraiser indicated the studio units rented in a range from $759 to $1,020 per month; one-bedroom units from $859 to $1,175; and two-bedroom units from $1,231 to $1,815. The intervenors' comparable number five was also utilized by the appellant. At the time of the appraisal, the witness testified, the only rent information for the subject available was as of July 2003. The survey dates of the comparables ranged from January 1, 2000 to June 2003. So, when considering the subject's contract rent the witness indicated slightly less emphasis was placed on the contract rent than that of the comparables. The appraiser testified his analysis available information led to estimated potential gross monthly rents for the subject's studio units of $950 per month; one-bedroom units of $1,300 per month; and two-bedroom units of $1,850 per month. Carried out to a yearly figure, the appraiser estimated the subject's potential gross income to be $10,430,400 (PGI) from the living units.

The first adjustment to PGI was vacancy and collection loss (V&C) of 5.0%, or $521,520, which resulted in an EGI of $9,908,880.

The V&C was based on a review of competing properties and discussions with area property owners/mangers.

Parking revenue was stabilized at $693,000. Income from the subject's commercial space was stabilized at $281,000, less 42,150 (15%) V&C or a stabilized EGI of $240,000. Miscellaneous income was stabilized at $229,600. The appraiser reported that these figures were based on a survey of competitors and discussions with area property owners/managers. The total EGI was estimated to be $11,071,480.

Both the subject's historical expense record and the expense levels reported by the IREM were employed to estimate expenses. Estimated stabilized expenses were as follows:

> Management expense, $440,000, based on 4.0% of EGI;
> Administration expense, $289,000 based on historical data;
> Operations, $656,000, based on historical data;
> Utilities, $492,000, based on IREM data and historical data;
> Insurance, $115,000, based on IREM data and historical data;
> Wages, $1,050,000, based on historical data;
> Reserves for Replacement, $230,000, consistent with standards for similar for apartment structures;
> Return on and of personalty, $262,400, based on $1,312,000 depreciated value of personalty.

The deduction of these items resulted in a stabilized NOI of $7,537,080.

The next step in the process was the development of a capitalization rate. Utilizing the comparables from the appraiser's sales comparison approach revealed a range of reported over-all capitalization rates from 6.13% to 11.06%. The *Korpacz Real Estate Investor Survey – First Quarter 2001* indicated rates ranging from 7.25% to 10.10%, with an average for the reported period of 8.57%. The band of investment technique suggested 8.0% after consideration of the subject's condition and location. The appraiser indicated that the final selected capitalization rate of 8.0% from the band of investment technique was supported by the market extraction method and *Korpacz*. An effective tax rate of 5.86% was developed and added to the indicated capitalization rate resulting in a total rate of 13.86%. The final step in the process, applying the total capitalization rate to the stabilized NOI, resulted in an estimated market value of $54,400,000, rounded, through the income approach to value.

When the sales comparison approach to value was addressed, Mr. Sorensen testified he relied on seven comparable properties.

These properties were selected based on similarities to the subject in location, physical attributes and market conditions. These were all apartment properties built from 1962 to 1988 containing from 94 to 1,075 living units. The properties sold from July 1999 to October 2001 for prices ranging from $8,350,000 to $70,100,000 or from $63,667 to $117,800 per living unit. The comparables are elevator serviced buildings; have on-site parking; and are masonry and/or steel and glass construction; additionally two have retail space. Five are located near-north of the city center while the sixth is located near south-west of the city center. Two of the comparables were purchased for condominium conversion. After adjustments to the comparables for varying degrees of similarity and difference when compared to the subject, the appraiser opined the subject's per unit falls within the range of the comparables at $85,000 per apartment. The appraiser testified that his opinion of value for the subject, through the sales comparison approach, was $55,750,000 as of January 1, 2001.

The final approach to value discussed by Mr. Sorenson was the cost approach to value. The witness testified six land comparables located south of the city center were utilized to develop an estimate of the subject's land value. The comparables ranged in size from 11,675 to 74,052 square feet of land area. One is zoned for business; three have commercial zoning; and two have residential/business planned development type zoning. Three of the properties were subsequently developed in to retail/condominium properties. The sales occurred from January 1999 to August 2001 for prices from $1,250,000 to $10,135,000 or from $75.62 to $155.11 per square foot of land area. After adjustments for size, location, sale date, zoning and other unique characteristics, the witness testified the estimated value for the subject would be on the high end of the range, or $150.00 per square foot of land area. The appraiser total estimated market value for the subject's land is $8,980,000, rounded.

An estimated replacement cost new for the subject improvement of was generated relying *Marshall & Swift's Valuation Cost Manual*. The appraiser testified *Marshall & Swift's* class 'A' high-rise apartment classification was used as a basis for the subject's estimated cost. The base cost of $98.15 per square foot of floor area was adjusted for story height, perimeters, current costs and local costs to determine an indicated unit cost new of $134.00 per square foot of floor area, or $79,136,916. Using the same methods and sources, the appraiser estimated the subject's garage's cost new at $38.47 per square foot, or $3,000,000. Physical depreciation for the subject of 42% was estimated using the age/life method; 60 years as the estimated life and 25 years effective age. The next modification was a deduction of 5% for functional obsolescence to account a lack of a sprinkler system. No external obsolescence was considered present. Including depreciated site improvements, the appraiser estimated a depreciated cost new of $48,186,207. To the depreciated cost new the appraiser added the land value which resulted in an estimated market value for the subject of $57,150,000, rounded, through the cost approach.

In his reconciliation, Mr. Sorensen placed primary weight on the sales comparison approach with support from the income approach. The cost approach to value was considered general support for the other two approaches to value. The witness' final opinion of fair market value of the subject as of January 1, 2001 was $55,500,000.

During cross-examination, Mr. Sorensen testified that, although Neil Renzi functioned as supervising appraiser for the project, he accepted full responsibility for the appraisal as presented. Cross-examination revealed that including the subject the witness' experience appraising high-rise apartment buildings was limited to three. Further, as of the date of the appraisal, the witness testified three of the six appraisal courses he had taken involved appraising income-producing properties. Those courses were *Appraisal Principles*, *Appraisal Procedures*, and *Basic Income Capitalization*. Moreover, the witness divulged he has no experience or education specifically relating to appraising property for *ad valorem* assessment purposes and his primary instruction in this area has been from two associates.

During questioning the witness testified net operating incomes for the sales comparables were confirmed with a principal of the transaction. Moreover, he testified, he was unable to compare the sales comparables operating expenses to the subject's stabilized operating expenses and deductions for operating expenses are property-specific. He indicated an 85% occupancy rate is typical for commercial properties in the subject's area. Sorenson again described the subject's windows as double-pane metal casement. The witness agreed that single-pane windows would be less efficient than double pane and would typically increase heating and cooling costs.

As cross-examination continued, Sorensen testified he was unaware specifically of what surveys classify apartment buildings into classes A, B and C. The witness was cross-examined thoroughly regarding the sales comparables and the conditions of the sales conceding that sale number one was a leased fee transaction; that at least two of the sales were involved in tax-deferred property exchanges; and at least one of the sales was not on the open market. Generally, he agreed that six of sales comparables which are located on the north side of the city center usually command higher rents than near south side rents.

On re-direct, Mr. Sorenson testified that two of the seven sales comparables were purchased for ultimate conversion to condominiums.

Further, Mr. Sorenson was cross-examined about the income approach in the appraisal. He was questioned in detail on the subject of the rental comparables and their similarities and dissimilarities to the subject. In the course of cross-examination each facet of the witness' income approach to value was addressed. In particular the witness was questioned concerning his conclusion of a capitalization rate for the subject. The witness testified the band of investment and the market extraction methods were given the most emphasis with the published sources given less emphasis.

Anthony Uzemack was called as a rebuttal witness by the appellant. Mr. Uzemack testified he has a Member of the Appraisal Institute (MAI) designation and has been employed as an appraiser for almost 30 years, primarily working in the commercial, industrial and retail fields. Mr. Uzemack was and accepted as an expert witness in appraisal theory and practice. The witness testified he prepared a technical review of the appraisal submitted by Toby J. Sorensen of Renzi & Associates for the appellant. As the board of review did not bring forth a witness, Mr. Uzemack was not questioned regarding this report.

With regard to the appraisal, Mr. Uzemack testified his assignment was to check accuracy, cohesiveness, relevancy of the comparable data, completeness and consistency of report from beginning to end. When completing the review, the witness testified he familiarized himself with the subject property and its market area. He checked accuracy and appropriateness of both the sales and the rental comparables through the brokers and/or other involved parties.

In Uzemack's opinion, the report was well-written, articulate but had inconsistencies detracting from the final opinion of value. Areas of concern cited by the witness were the report's inaccurate description of the subject; and the classification as a Class A property. As directly observed, the witness testified the subject is a Class B property constructed of brick with concrete block back, concrete floors and single pane metal frame windows.

When reviewing the cost approach, Mr. Uzemack's testimony suggested that utilizing reproduction cost rather than replacement cost new would have been more accurate. Further the witness indicated depreciation allowances were inadequate particularly the 5% allocated for functional obsolescence noting that the building is 34 years old, still with original equipment.

Mr. Uzemack opined that the income approach to value contained the most inconsistencies. First, after examining the comparables' range of rents, the appraiser concluded the subject's stabilized rents were above the 2001 contemporaneous market. As to the expenses, the witness indicated the expenses appeared to be stabilized at the 1998/1999 level rather than the 2001 level. The result of these inconsistencies, in Mr. Uzemack's opinion, is an overstatement of the subject's net income. It was also Mr. Uzemack's opinion sufficient information was available from the market analysis to determine a market based capitalization rate rather than building a rate through the band of investment technique. The witness suggested that the intervenors' appraiser reported that the most desirable apartment facilities, those of larger unit size, superior construction quality and with ample and superior amenities, are the facilities typically transacting in the 7% to 8% overall rate range. This, the witness believes, does not describe the subject. Therefore, in Uzemack's opinion, the resulting income approach estimate of value lacks validity and credibility.

Finally, in the sales comparison approach, Mr. Uzemack testified that of the sales mentioned in the appellant's report; two were property exchanges not open market sales; one was on the south-west side of the city, which enjoys its own competitive market; another was an intricate leasehold purchase with a partial interest in the underlying land; and finally, one apparently did not involve a broker or exposure to the open market. Overall the witness' testimony indicated the market areas for the sales in the Sorensen report were very different than the subject's market area.

In rebuttal, the intervenors, introduced Michael MaRous as its witness. Mr. MaRous is a State of Illinois certified general appraiser, holds a MAI designation and has been appraising real estate for approximately 27 years. Mr. MaRous testified he is familiar with the appellant's appraisal and the scope of his assignment in the current matter was to provide an appraisal review of the appellant's appraisal report. The witness testified he read the appellant's report, checked certain backup information, reviewed the sales, examined the *Korpacz* studies, and looked over the subject's website. Some of the witness' concerns were that in the report there was no mention of views from the subject and there was minimal information regarding trends of development in the subject's area. In addition, the witness was questioned extensively regarding the views from the subject, concurring the views are atypical of the usual apartment views in Chicago.

Mr. MaRous also expressed the opinion that the land value estimated in the Urban report was exceptionally low indicating the sales used were not similar in location or zoning. The witness testified that under existing zoning all of the appellant's land comparables have inferior floor area ratios when compared to the subject and in his opinion were not comparable to the subject.

In the appellant's income approach MaRous' testimony suggested the income estimate was less than the subject's performance the prior year and the projected expenses were higher. In the witness' view comparables north of the city center would have been more appropriate. He also opined the appellant's selection of an 11% capitalization rate was high. In general, Mr. MaRous believed the appellant's income approach unreliable.

The appellant's appraiser's sales comparison approach was the next concern of the witness. While recognizing there are questions about the subject's windows as well as the age of the kitchens and baths, overall he opined the appellant's per unit estimate was low. Mr. MaRous was questioned about the sales in the Urban report. In the witness' opinion on the whole the properties were dissimilar due to size, age, time of sale and/or location.

During cross-examination, Mr. MaRous testified he would rather own an apartment building north of the city center than south; a building with double pane windows is more efficient to heat and cool; and that a quality management company such as the appellant offers rent concessions to be competitive in a competitive market.

Appellant's counsel concluded by arguing that the appellant has borne its burden of proof showing that the subject is over-valued. Additionally, he argued that based on the Urban appraisal and Mr. Hynes testimony the subject's value should not exceed $23,000,000 as of January 1, 2001.

In summation, the attorney for the Chicago Board of Education argued the appellant's appraisal is not a reliable indicator of the subject's fair market value. The board of review's counsel argued the appellant did not meet its burden of the preponderance of evidence and the Renzi/Sorensen appraisal and testimony concluded a more credible market value for the subject than the Urban/Hynes report. The City of Chicago's attorney argued the only reliable indicator of the subject's fair market value is the Renzi/Sorensen appraisal.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is the determination of the subject’s market value as of January 1, 2001 for *ad valorem* tax purposes.

When market value is the basis of the appeal, the value of the subject property must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *(86 Ill.Adm.Code §1910.65(c)).* Having considered the evidence and testimony presented, the Board finds that a reduction in the assessment of the subject property is warranted.

The Board finds the board of review's appraisal evidence unpersuasive. The board of review did not present its appraisal witness to testify regarding credentials, appraisal methodologies, and the validity of the data contained in the report. Further, the appraiser was not present at the hearing to undergo meaningful cross-examination. Rather, the board of review simply presented an appraisal report to stand as its evidence. The Board, therefore, places no weight on the board of review's appraisal evidence and exhibits.

The Property Tax Appeal Board finds that the appellant's appraiser, Mr. Hynes, has much more appraisal experience than Mr. Sorensen. Hynes has been a state certified appraiser for 16 years, has a MAI designation and has appraised in excess of 100 apartment buildings. On the other hand, Sorensen's experience is limited to approximately one year as a certified appraiser and has only prepared appraisals for three apartment buildings, including the subject. These facts tend to demonstrate that the appellant's appraiser has significantly more experience and thus the Board gives the ultimate conclusion of value in his report more weight.

The Property Tax Appeal Board finds that the parties submitted 12 land sales as comparables ranging in size from 11,675 to 74,052 square feet of land area. These properties were sold from January 1999 to October 2001 for prices ranging from $740,000 to $10,135,000, or from $26.64 to $155.11 per square foot of land area. The Board finds that seven of the comparables are substantially smaller in size when compared to the subject and are zoned for dissimilar development. Further, the Board finds that five of the comparables contain land square footages within a reasonable range of the subject's size. These five properties range in size from 41,060 to 74,052 square feet of land area. In its comparative analysis of these five comparables and the subject; the Board finds that one is located a dissimilar manufacturing zone and two are located in dissimilar residential/business planned development zones. Regarding the two remaining comparables, the Board finds that they are located in areas with zoning somewhat similar to the subject. In addition, the Board finds that the locations of these two properties appear to be a reasonable distance from the subject. The two remaining properties contain 63,274 and 41,060 square feet of land area; were sold in March 2000 and October 2001 for prices of $46.34 and $63.57 per square foot of land area. When the when the Cook County Real Property Assessment Ordinance level of assessments of 33% for Class 3 property is applied, the subject's current land assessment of $1,048,469 reflects a fair market value of $3,177,179, or $52.83 per square foot of land area which is within the range established by these two properties. Therefore, the Board finds that the subject's land fair market value as reflected in its assessment is reflective of its market value and no change in the subject's land assessment is appropriate.

Both appraisers prepared a cost approach to value based on *Marshall & Swift* cost estimators. One of the chief differences between the two estimates is the selection of the building's classification; the appellant utilized costs of an average quality Class 'C' apartment building, while the intervenors utilized costs of a good quality Class 'A' apartment building. After an examination of the subject's description by both appraisers, the Property Tax Appeal Board finds that the subject's descriptions present a picture of a more average type Class 'B' or 'C' building rather than a luxury type Class 'A' apartment building.

Taken as a whole, without the land value added, the Board finds the Urban/Hynes cost approach more credible than the Renzi/Sorensen cost approach to value and the subject improvements had an indicated value under the cost approach of $20,904,973. Adding the value of the land herein and the value of the improvements as determined by Hynes, the Property Tax Appeal Board finds that the subject had a total indicated value by means of the cost approach to value of $24,000,000, rounded.

In the sales comparison approach ten sales were presented by the appraisal witnesses. The Board finds that testimony revealed two properties were exchanges of property and not exposed to the open market. In addition, one of these two sales is in a market area substantially dissimilar to the subject's area. The Board finds that one of the comparables was a leased fee purchase with other considerations and one was not exposed to the open market. Therefore, the Board accords the sales of these six properties minimal weight. The remaining four properties containing from 98 to 401 living units sold from April 1998 to July 2001 for prices ranging from $28,832 to $117,800 per unit. Regarding these four remaining properties, the Board finds all four are located north of the city center. The Board also finds the testimony from the four appraisers suggested that a north side location, particularly in the areas these properties are located, is considerably more desirable than the subject's location. The Board also finds that the appraisers' testimony indicated that these four sales were of buildings with superior amenities when compared to the subject. The Board finds that three of the four remaining sales were included in the appellant's appraisal and one was included in the intervenors' appraisal. Therefore, the Board places more weight on the appellant's sales comparison approach to value and finds the value conclusion more reasonable than the intervenors' sales comparison approach. The Property Tax Appeal Board finds that the subject had an indicated value through the sales comparison approach of $23,000,000, rounded.

Turning to the income approach to value, Sorenson employed five rental comparables while Hynes utilized four, one of which was also utilized by Sorenson. Mr. Hynes' description of the comparables contained their ages, number of units in the buildings, type of units and monthly rents. On the other hand, Mr. Sorenson analysis did not include the number of units contained in his comparables. For their comparables, the intervenors' appraiser provided average rental and sizes of units while Hynes presented actual rental and sizes of the units. Mr. Hynes' rental survey data is as of the assessment date, while four of Mr. Sorenson's comparables were surveyed as of January 1, 2000 and one was surveyed as of January 1, 2003. Both appraisers utilized one comparable located in the subject's immediate market area. The Urban/Hynes report indicated that this comparable was most like the subject and placed substantial emphasis on it. Along with this comparable, the Renzi/Sorensen report indicated substantial emphasis was placed on a comparable slightly north and west of the subject. From the descriptions of these two comparables and the testimony of the appraisers, the Board finds it clear that these two comparables while similar in some aspects and fairly close in proximity to the subject, command higher rents than the subject due to superior amenities. After his analysis, Mr. Sorenson stabilized the subject's rental income for studio units at $950; the one-bedrooms at $1,300; and the two-bedrooms at $1,850 per month. After his analysis, Mr. Hynes stabilized the subject's rental income for studio units at $800; the one-bedroom units at $1,000; and the two-bedrooms at $1,900 per month. The Board finds that overall the intervenors' total stabilized rent income from apartment rental is higher than the market data provided as of the assessment date. In contrast, the Board finds that the income derived from rent in the appellant's stabilized rent analysis is more reflective of the market as of the assessment date and the subject's history. In addition, overall the Urban/Hynes report developed stabilized other income and expenses better founded in the market and the subject's history than the intervenors' report.

As to the capitalization rates estimated by the two appraisers, Mr. Sorenson selection of an overall rate is more representative of a lower-risk, higher-end property than the subject. This is demonstrated by the wide ranges developed in the market extraction method, from 6.13% to 11.06% utilized by the appraiser. The appraiser's selected overall rate of 8.0% is on the low end of both the market extraction method and the published reports. On the other hand, Mr. Hynes' selection of 11.52% as an overall capitalization rate is better supported by documentation of the yield rates and mortgage returns from the published sources. Both appraisers developed similar effective tax rates to add to the overall tax rate. After an analysis of the development of the capitalization rate by both appraisers, the Board finds that the total capitalization rate developed by Hynes more reliable and better supported in the testimony and documentation. Thus, the Property Tax Appeal Board finds that the subject had an indicated value under the income approach of $23,000,000, rounded.

In conclusion, after considering the three approaches to value as discussed herein, the Property Tax Appeal Board finds that subject had a market value of $23,000,000 as of January 1, 2001. Further, the Property Tax Appeal Board finds that the Cook County Real Property Classification Ordinance level of assessments of 33% for Class 3 property such as the subject shall apply to the fair market value as found within and a reduction is warranted.

Docket No. 01-26104.001-C-3 and 01-26104.002-C-3

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

Chairman

Member

Member

Member

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: December 7, 2007

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

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

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

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

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