

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: The Lurie Company  
DOCKET NOS.: 00-24524.001-C-3; 01-25795.001-C-3;  
02-28826.001-C-3, consolidated  
PARCEL NO.: 17-09-419-001-0000

The parties of record before the Property Tax Appeal Board (hereinafter PTAB or the Board) are The Lurie Company, the appellant, by Attorneys Patrick C. Doody and Liat Meisler of the law firm of Golan & Christie, in Chicago; the Cook County Board of Review (hereinafter the board of review or the board) by Assistant State's Attorney Ralph Prioetti of the Cook County State's Attorney's Office; and the intervenors, the Chicago Board of Education (CBOE) by Attorney Ares G. Dalianis of the law firm of Franczek Sullivan, P.C., in Chicago, and the City of Chicago (City), by Attorneys Kory Atkinson and Richard Danaher of the Corporation Counsel's Office.

The subject property consists of a 70-year-old, 41-story, multi-tenant, commercial office building, located in the Chicago Loop Central Business District (CBD) on LaSalle Street. The common address is 221 North LaSalle Street. The improvement contains 520,450 square feet of gross building area of which approximately 395,122 square feet is rentable area. The subject sits on a parcel of land containing approximately 21,000 square feet.

The appellant, through its attorneys, appeared before the PTAB and argued that the market value of the subject was not accurately reflected in its assessed value. The appellant argues that, based upon its correct market value, the subject is over assessed.

The appellant's attorney, in his opening statement, noted that the appellant's evidence contained two appraisals; one has an opinion of market value of \$15,500,000 and one has an opinion of market value of \$16,150,000. The appellant requested reductions in the subject's assessment based upon market value findings

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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:

LAND: see page 23  
IMPR.: see page 23  
TOTAL: see page 23

Subject only to the State multiplier as applicable.

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consistent with their appraisals for all three years. The board's attorney requested that the current assessment figures for each of the three years in question be upheld. The intervenors requested that the subject's assessment be based upon a market value of \$28,000,000, or, in the alternative, that the subject's assessments remain unchanged for each of the three years.

In support of its market value argument, the appellant submitted two appraisals and two appraisal witnesses to testify in support of their appraisals. The appellant's first witness was appraiser Anthony J. Uzemack, owner of Appraisal Systems of Park Ridge, Illinois. Mr. Uzemack is the author of one of the appraisal reports entered into evidence. He is a Member of the Appraisal Institute (MAI) and a Certified General Real Estate Appraiser for the State of Illinois. The PTAB accepted Mr. Uzemack's qualifications as an expert in the field of real estate appraisal.

Uzemack testified that he had prepared a complete appraisal report in summary format on the subject property with an effective date of January 1, 2000. He had estimated the market value of the subject to be \$15,500,000 as of the 2000 assessment date. The appraiser personally inspected the property on August 7, 2001. The appraiser classified the property as a Class C property, which is reflective of its age. The subject contains approximately 140 tenants with an average rental space of 2,800 square feet. Due to the large number of tenants, the appraiser testified, the building is subject to a large percent of tenant turnover. Upkeep is always an issue, Uzemack opined.

Uzemack further testified that the subject underwent some renovation in 1998, but not a major renovation. However, since its age was 70 years, this Class C building suffered from an inefficient design consisting of a small narrow building configuration and stairs, elevators and common areas that occupy large amounts of the floor plate areas. All of this contributes to the building's obsolescence, due to inefficiency and wasted space, the witness testified. The witness testified that the highest and best use of the subject, as if improved, is its current use as an office building. The effective age of the property was given by the age-life method. The actual age is 70 years and the effective age is 40 years. The remaining economic life is 15 years. The witness concluded that the building has an accrued depreciation of 72%.

The appraiser testified that he considered all three approaches to value in his report and decided that the sales comparison approach and the income capitalization approach were the two best indicators of value. Based upon the testimony that the subject

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is a 70-year-old property, the witness did not develop a cost approach.

In his estimate of market value using the income approach, the appraiser analyzed rental properties to estimate the subject's market rent. The witness determined the subject's market rental at \$20.00 gross per square foot. The suggested comparables ranged in occupancy rates at the time of sale from 60% to 92%. The subject was 98% occupied as of the appraisal date of January 1, 2000. The witness used a 10% allowance factor for vacancy and collection loss.

Utilizing the appraiser's unit rental of \$20.00 gross per square foot for the subject property, when multiplied by the subject's rentable area of 395,122 square feet, the appraiser arrived at a potential gross income of \$7,902,440. Previously mentioned vacancy and collection losses, at 10%, reduced this figure to an income of \$7,112,196. Additional income resulted in the effective gross income of \$7,913,196.

Uzemack opined operating expenses for the subject of \$5,118,000 based upon an analysis of the Building Owners and Managers Association (BOMA) studies and utilizing the subject's own operating history and other similar buildings' operating histories. Net operating income (NOI) before real estate taxes for the subject was estimated at \$2,795,196, or \$7.07 per square foot. Applying an overall cap rate (OAR) of 18.30%, the witness opined an estimate of value for the subject of \$15,300,000, rounded, via the income approach.

Next, the witness testified as to his estimate of value for the subject using the sales comparison approach. Uzemack testified that he utilized six suggested sales comparables. All sales occurred during the period from January 1996 to December 1998, what the witness termed a "very active market period." Each was a Class C office building and is located within one mile of the subject in the Central Business District. Sizes range from 140,708 to 452,617 square feet and sales prices ranged from \$6,000,000 to \$22,757,000 or from \$29.13 to \$60.00 per square foot of net rentable building area, including land. Seven of the eight sales ranged from \$15.41 to \$29.51 per square foot of net rentable building area, including land. Ages range from 72 to 104 years. Specifically, the witness testified that he did not use the property at 33 North LaSalle Street as a comparable. This property sold in what could not be determined as an arm's-length transaction, the witness testified.

The appraiser testified that he made adjustments to the sales comparable properties based upon various differences from these properties when compared to the subject. Those differences included location, building size and design, age and occupancy

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factors. Uzemack valued the subject between \$35.00 to \$40.00 per square foot of net rentable building area, including land, and reached a value estimate of \$13,830,000 to \$15,800,000. This figure was reconciled to \$15,500,000.

After reconciling the approaches to value, the witness opined a market value for the subject at \$15,500,000 as of January 1, 2000.

Uzemack was then cross-examined by the attorney representing the intervenor, Chicago Board of Education. During this cross-examination, the witness was questioned on several subjects. When questioned about the retail space in the first floor of the subject, which was not mentioned in the appraisal report, the witness responded that all the retailers pay rent and mentioned the rental amounts. The witness was also questioned on his appraisal report's lack of inclusion of additional income from 85 parking spaces; the witness responded that these spaces generated approximately \$140,000 annually. Regarding the use of a 90% occupancy figure for the subject, while the building actually had 98% occupancy, the witness testified that his finding was based upon the market data.

The witness was questioned on the use of his sales comparables, which he obtained from the CoStar Comps (COMPS) service, a national service. The witness was directed, through the use of exhibits, to the various discrepancies that existed between his appraisal report and the data provided by the COMPS service. Discrepancies were noted in sales prices, CAP rates, and vacancy rates.

Turning to the income approach, the witness was questioned on his use of a direct capitalization rate and other various data in his income approach analysis. Expenses were questioned as were vacancy rates used for the subject. The appraiser selected rates of expenses of \$5.04 per square foot for general operating expenses, or \$1,948,000, and an expense of \$2.69 per square foot, or \$1,040,000 for general and administrative expenses for the subject property. Tenant improvements were listed at \$270,000 and owner's expenses at \$723,000. Total expenses for the subject were given at \$13.25 per square foot, or \$5,118,000, for the subject property. The witness was questioned on the relationship of these expenses to the subject when compared to similar properties or to BOMA rates and the variations between his findings and the BOMA rates. The witness' responses were reasonable and supportive of his findings.

Next, the witness was cross-examined on his conclusion of a CAP rate and the subject's Net Operating Income (NOI). The witness was questioned if, in the present case, since he subtracted tenant improvements (TI) and leasing commissions (LC) prior to

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capitalization was he aware if TI's and LC's had been included in the various other properties' NOI, prior to capitalization. This questioning centered on the witnesses previous testimony in a matter involving 311 South Wacker Drive, Chicago. In that case, the witness testified that TI's and LC's are not included in the CAP rate. The intervenor's attorney attempted to draw a parallel between this property and the subject property in relation to the various expense deductions and their subsequent calculations.

On redirect, the witness detailed some of the discrepancies found between the exhibits provided by the intervenor, Chicago Board of Education, and the reporting data provided by the witness. Also, the witness gave testimony regarding the property at 311 Wacker as to why TI's and LC's were not deducted prior to capitalizing the NOI. In his previous testimony, in a different case, on the 311 Wacker property, the witness employed different methodology since the property was a Class A, much newer, institutional investor grade property, unlike the subject, a Class C property, a completely different property.

Also, regarding a vacancy rate discrepancy on his comparables, the witness testified that as to the property at 105 W. Adams, Chicago, wherein the two largest tenants were General Services Administration (GSA) and Bank of America, these tenants were anticipating moving out of the property. Therefore the property was not valued as to its income "given the pending high vacancy." The witness also explained other discrepancies such as pro-forma versus actual CAP rates, the intended user of in-house Lurie reporting of income and expense and the use of the Korpacz Investor Survey (Korpacz). The in-house Lurie reporting data has no relation to Korpacz or any other outside reporting system, the witness testified. Rather, the witness testified it was merely reporting data to keep track of tenants and rent rolls.

Finally, the witness was questioned as to why he did not use in his appraisal report the sale relative to the property at 33 North LaSalle Street. The witness testified that sale involved a \$3 million dollar credit to the buyer, and, therefore, could not be considered an arm's length transaction. At the conclusion of the redirect, the witness was excused.

The appellant's next witness was Joseph M. Ryan, president of the LaSalle Appraisal Group. Mr. Ryan, also a MAI and Certified General Real Estate Appraiser was accepted by the PTAB as an expert in his field. The witness also prepared a Summary Report of a Complete Appraisal for 221 North LaSalle Street, the subject property.

The witness inspected the property on several occasions. On June 5, 2001 the subject was inspected by Thomas W. Grogan of the LaSalle Appraisal Group, a State of Illinois Certified General

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Real Estate Appraiser. The effective date of the report was January 1, 2000. The witness testified that his conclusion of the subject's market value would not be significantly different for the subsequent years 2001 and 2002.

The witness testified that he was very familiar with the subject and it was, no doubt, a Class C building. The witness testified that the subject had undergone some deferred maintenance, but did not experience either a major renovation or rehabilitation. The typical tenant in the subject is a small professional firm, which occupies a space of approximately 2,800 square feet. The highest and best use is as a continued office building, the witness opined.

The witness developed three approaches to value for the subject property. Using the cost approach the witness developed a land value. Comparable land sales occurred from January 1997 to September 1999 and ranged in size from 9,400 to 60,000 square feet and had unit prices that ranged from \$100 to \$600 per square foot. The appraiser selected a value of \$300 per square foot for the subject, resulting in a land value of \$6,300,000.

Replacement cost new for the subject improvement was valued at \$71,000,000. The estimates used by the witness were \$113.74 per square foot of gross building area, or \$59,238,863, based upon 520,827 square feet (note: this figure is 377 square feet larger than the previously reported square footage). A 20% profit and indirect costs of \$11,847,773 resulted in a total figure of \$71,086,636 for the subject. Depreciation was estimated at 86% or \$61,134,507, resulting in a depreciated cost new of \$9,952,129. After adding back the land value the estimate of value for the subject via the cost approach was \$16,300,000, rounded.

The witness also developed the sales comparison approach for the subject property. The appraiser cited four sales of comparables properties in the CBD. The suggested comparables ranged in size from 106,741 to 452,617 square feet and in sales prices from \$3,150,000 to \$22,757,000 or from \$29.51 to \$50.28 per square foot. Ages range from 69 to 86 years and sales occurred during the period from December 1997 to July 2000. Numbers of stories of the comparable buildings range from 14 to 41 stories; the subject is a 41-story building. The witness testified that he confirmed the sales information with at least one party to each of the transactions. He did not rely solely on the public records or COMPS because sometimes there were errors in that data versus what the parties to the transaction know to be factual. The comparables were adjusted to utilize them in fee simple. Other adjustments were made for location, market conditions, size, age and other factors.

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The witness testified that fee simple takes into account the market rent as of January 1, 2000, the effective date of the report. The witness opined how an adjustment was made for TI's and LC's. The appraisal states that the leases signed at market rents dictates that the LC's and the TI's are to be paid for by the owners in order to "accommodate" a new tenant. The facts are that fee simple assumes that the space is leased to new, as opposed to existing, tenants. Therefore, the owner must expend dollars to pay for both LC's and TI's. (See appraisal of Joseph M. Ryan, at page 69).

Also, properties sold subject to leases utilize "leased fee" interests that are not the same as "fee simple" interests. Thus, for ad valorem tax purposes, the fee simple value and the fee simple overall capitalization rate (OAR) and the leased fee value and the leased fee OAR could be quite different. Thus, all the leases at the time of sale must be valued at market rents. Accordingly, the appraiser must approach the market value for the subject at market rents for new tenants, the witness testified. Therefore, the figure utilized for TI's and LC's must utilize the fee simple valuation. The method to approach valuation in an ad valorem appraisal considers all rents at market rent. This will result in a higher amount for TI's and LC's when valuing fee simple. (See appraisal of Joseph M. Ryan at page 65-69). The witness explained his use of fee simple as it differentiated from a leased fee and why a fee simple approach is appropriate. The witness testified:

"Leased fee takes into account old leases, new lease and, you know, oftentimes buildings are purchased on anticipated rent increases, that kind of thing." "Fee simple takes into consideration what the market rent was as of January 1, 2000. In our report, we adjusted for tenant improvements and leasing commissions. But markets change. As markets go down, sometimes you can have high face rents that would have to be adjusted downward to get the fee simple value because market conditions have changed. Vacancies increased, new construction, things of that nature." "Transversely, if the rents were lagging and the market was increasing and you had rents that were lower than market for the actual rent, they should be adjusted to January 1, 2000." "So that's the scope of the work. That's what the law requires is the fee simple value as of January 1, 2000, in this instance, but as of the lien date for the appraisal." (From Transcript of Proceedings before the Property Tax Appeal Board taken on June 12, 2006, The Lurie Company v. Cook County Board of Review, PTAB Docket Nos. 00-24524.001-C-3, et.al. at pages 151-152).

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Based upon this information, the witness opined a value of \$16,150,000 for the subject property.

Next, the witness was directed to his income approach. In his appraisal, he included the subject's rent roll for areas of 1,000 square feet or more. These leases were adjusted to account for a market rental estimate. All leases were on a gross basis, with the landlord paying all expenses. Leases ranged from \$9.71 to \$37.88 per square foot on sizes that ranged from 1,053 to 12,750 square feet, with an average of \$22.59 per square foot. This figure included the first floor retail tenants. The appraiser searched the market to find appropriate rentals to compare to the subject.

Six rental comparables were provided in the CBD. Adjustments were made to determine market rents. The witness testified that market rents for office space were at \$22.00 per square foot and \$35.00 per square foot for retail space. Applying this to the subject at 380,969 square feet of office space gave a potential income of \$8,381,318, which when added to the retail space of 13,490 square feet, which potentially would generate income of \$472,150, and resulted in a total potential rental income of \$8,853,468. TI's and LC's of \$4.00 and \$0.75 per square foot, respectively, totaling \$1,873,680, were subtracted. The resulting potential gross rental income is \$6,979,788. When the appraiser added the figures for storage space income (\$38,480) and parking garage rental income (\$120,000) and rooftop income (\$44,238), the resulting potential gross income arrived at is \$7,182,506.

The appraiser explained his use of deductions for TI's and LC's. In order to arrive at a fee simple market value these values must be deducted, he testified. The witness further explained that the owner, who must expend capital to attract tenants, must make these TI's in order to make the available space suitable for the incoming tenant. Since the money to fund these improvements must come from somewhere, it is appropriate to take these as necessary deductions. The witness testified that the Institute of Real Estate is very specific that this is the correct method to use TI's and LC's when using direct capitalization, which the witness testified he used.

The appraiser used a figure of 11.5% for vacancy and collection, or \$825,988. The effective gross income is \$6,356,518. The operating expenses of utilities, janitorial, repairs, maintenance, insurance, and real estate taxes were deducted from the effective gross income, since the market rent was estimated for the subject utilizing a gross basis with the owner paying all expenses. Total expenses of approximately \$3,565,000 yielded a NOI of \$2,790,000, rounded.

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In order to determine a direct CAP rate to apply to the NOI, the witness used two approaches. Using two sources of information Real Estate Research Corporation (RERC) and Korpacz Real Estate Survey (Korpacz) disclosed CAP rates from 8% to 10% for the first quarter of 2000. The witness chose a rate of 10%, at the high end, because he testified that *RERC* and *Korpacz* usually deal with Class A or B properties, while the subject is "definitely a C building", he testified. The band of investment technique yielded a CAP rate of 10.5%. The witness testified he used a CAP rate for the subject of 10% and a tax load of 7.3%. The final value for the subject using the income approach is \$16,130,000, rounded. The reconciled value for the subject, the witness testified, is \$16,150,000.

On cross-examination, the witness was questioned regarding his use of *Korpacz*. The witness was also questioned as to which of the three methods he used to determine NOI, whether or not it was before or after deductions for TI's and LC's, since there are three different methods, according to *Korpacz*, to calculate NOI. The witness testified that he did not use the *Korpacz* method to calculate NOI, but rather only as one source for a CAP rate. The witness opined that this survey (*Korpacz*) is more attuned to the institutional-grade property investor. The witness did testify that his calculations most closely resembled *Korpacz* model 3, if he had used such a method, which he testified he did not.

Nevertheless, the witness was asked to perform sample calculations to realize the various changes in the subject's market value using the various *Korpacz* methods. Each calculation yielded a higher market value for the subject than the appraiser indicated in his report; however, the witness testified that these hypothetical would indicate a leased fee value, not a fee simple value.

When asked about his use of deducting TI's and LC's in order to arrive at NOI, the witness was questioned as to why in the *Korpacz* market survey various institutional investors did not analyze their subject properties in a manner similar to the subject property in this case. The witness testified that none of the investors were purchasing Class C properties, such as the subject.

Other questions on cross-examination centered on the various properties the witness utilized in his three approaches to value, or why he did not use various other properties as cited by the examiner. The witness answered all of the questions with concise and logical answers. The witness also answered questions on depreciation and expense factors that were in keeping with his appraisal report in a clear manner.

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On re-direct, the witness explained that he did not use any of the three *Korpacz* models in his analysis. Since he was estimating the subject's fee simple value as of January 1, 2000 and not a leased fee value, he relied upon methodology used in The Appraisal of Real Estate. The witness opined that *Korpacz* is intended for institutional investors for mostly Class A buildings, and that investors would not look to the subject, a Class C property, as such an investment. At this point, the witness was excused. At this time, the appellant rested its case-in-chief.

The board of review presented its "Board of Review Notes on Appeal." The board of review's assessed value for the subject is \$10,369,923, which translates into a market value of \$27,289,271 using the Cook County Real Property Classification Ordinance level of 38% for class 5a property for the year 2000; an assessed value of \$9,880,002, or \$26,000,005 market value for the year 2001; and an assessed value of \$9,880,001, or \$26,000,003 market value for the year 2002. Also, the board submitted an appraisal review report disclosing a final market value for the subject of \$24,200,000 for each of the three years.

The board submitted the Cook County Real Property Assessment Classification Ordinance. Said ordinance provides an assessment level of 38% for Class 5a property. The board also submitted case law, In re: Application of Rosewell v. U.S. Steel Corp., 106 Ill. 2d 311, 478 N.E.2d 343 (1985) and In re: Application of County Treasurer v. Twin Manors West of Morton Grove Condominium Association, 175 Ill. App. 3d 564, 529 N.E.2d 1104 (1st Dist. 1988). No brief or any explanation as to each case's relevance to the present appeal was submitted.

Also, the board submitted two reports. The first report is entitled The Illinois Ratio Study for Commercial and Industrial Properties: Review and Recommendations, by Robert J. Gloudemans and Alan S. Dornfest [hereinafter, the "Dornfest report"]. The "Dornfest report" reviewed and evaluated the procedures and methodology used by the Illinois Department of Revenue in its annual sales ratio studies. The second report is entitled IAAO Technical Assistance Project-Review of the Assessment/Sales Ratio Study Program for the Illinois Department of Revenue, by Roland Ehm [hereinafter, the "IAAO report"]. The purpose of the "IAAO report" was to ascertain compliance with IAAO standards and offer recommendations for improvement.

Eric C. Donnelly, an Illinois State Certified General Real Estate Appraiser, authored the appraisal review report of the Uzemack (Appraisal Systems) appellant appraisal. The Donnelly report was dated January 22, 2002. The author of the board's appraisal review report was not tendered as a witness to provide testimony and be cross-examined about his report. Nevertheless, to fully

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understand the board of review's argument, the PTAB finds it necessary to summarize the board's review appraisal.

The appraisal report describes the subject property as a 41-story, masonry, commercial office building, situated on a land parcel located at the intersection of LaSalle Street and Wacker Drive. The report states that the improvement contains approximately 395,122 square feet of net rentable area. The building has not undergone a major renovation, but rather, periodic maintenance. The report listed the subject as in good condition. The author of the board's report stated that the Uzemack appraisal required value modifications.

The review report examines the Uzemack appraisal's approaches to value for the subject. While the reviewer considers most of the Uzemack appraisal "acceptable" and "good", the review appraiser felt it necessary to re-develop the income approach and the sales comparison approach. The review report uses sales of six properties suggested as comparable with dates of sales that range from April 1998 to July 2001. Net rentable areas range in size from 231,825 to 827,500 square feet and the sales prices range from \$56.21 to \$83.53 per square foot of net rentable area. The review report opined a figure of \$63.00 per square foot and a fee simple market value, via the sales comparable approach, of \$24,200,000.

Turning to the income approach, the board's report uses leases from seven properties suggested as comparable to the subject. Rents ranged from \$15.75 to \$30.76 per square foot of net rentable area on lease sizes that ranged from 289,000 to 600,000 square feet. A market rent of \$21.00 per square foot was opined for the subject, or \$8,297,562 in projected net income. Other income was estimated at \$801,000 and total potential income was \$9,098,562. A figure of 10% was given for vacancy and collection losses, yielding an effective gross income of \$8,268,806. Operating expenses (general operating, management, utilities, administrative, non-operating, reserves for replacement) of \$4,025,074 and insurance of \$57,000 were then subtracted leaving a NOI of \$4,186,732. When applied to the CAP rate chosen of 17.30% for the subject the reviewer opined a value of \$24,200,000, rounded, via the income approach. A final estimate of value was given as \$24,200,000 for each of the three years. The board did not call any witnesses.

At the next stage of the proceedings, intervenor, the Chicago Board of Education (CBOE), called its witness, Kevin A. Byrnes. Mr. Byrnes is an Illinois Certified General Real Estate Appraiser with the firm of Byrnes, Houlihan & Walsh, LLC. The PTAB accepted Mr. Byrnes as an expert in the field of real estate appraisal.

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The witness prepared a self-contained report of a complete appraisal for the CBOE. The scope of the assignment was to appraise the subject in fee simple as of January 1, 2000. Mr. Byrnes conducted a limited personal inspection of the subject property. The witness opined an estimate of market value for the subject of \$28,000,000, as of the date in question.

The witness classified the building as a Class B property. The witness made this determination based upon the rental range of the property, the amenities, and that the building is a fully renovated property, in his opinion. The witness utilized the sales comparison approach and the income approaches to value in his appraisal report. Also, the appraiser included a land value in his report.

In his land value analysis, the witness testified that he used six land comparable sales. Four of the six sales were on Wacker Drive. Sizes of the land comparables ranged from 21,000 to 64,030 square feet and sales prices ranged from \$300.78 to \$875.66 per square foot of land. Sales dates ranged from April 1998 to February 2001. The witness used a land value of \$450.00 per square foot for the subject's land site, and a total land value of \$9,250,000, rounded.

Next, the witness was directed to his opinion of value using the sales comparison approach. The witness used sales data from seven properties suggested as comparable to the subject. Sales dates ranged from June 1997 to July 2000 and the ages of the properties ranged from 23 to 84 years of age. Sizes of buildings range from 232,698 to 1,069,317 square feet. Sales prices ranged from \$42.47 to \$107.54 per square foot. The appraiser determined a price per square foot for the subject of \$74.00 for a final opinion of value of \$29,200,000, as of January 1, 2000.

Lastly, the witness was directed to his valuation opinion using the income approach. The witness identified 17 Class B buildings in the downtown market, as well as four "asking rental" comparables. The witness explained that the subject had a turnover of 32 new leases in 1999, a date just before the valuation date. Leases were analyzed on a gross rent per square foot analysis. Lease dates ranged from April 1998 to August 2000. Leased areas ranged from 1,800 to 101,675 square feet on existing leases and from 350 to 185,500 square feet on "asking rental" areas. Gross rents per square foot ranged from \$17.88 to \$26.37 on existing leases and from \$20.00 to \$28.40 on asking lease rates. Adjustments were made for time, resulting in an average of \$21.94 per square foot. An opinion of \$22.00 per square foot for the subject property was provided. The potential gross rent of \$8,381,318 was given for the subject's office space and an additional \$472,150 for the subject's retail space for a total potential gross rent of \$8,853,468.

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After subtracting 15% for vacancy and collection losses and adding \$200,000 for miscellaneous income, the effective gross income for the subject is \$7,725,000, the witness testified. The witness then subtracted for six categories of expenses (cleaning; repair and maintenance; utilities; roads, grounds and security; administrative and management costs; and insurance) using BOMA as a guideline for these expenses. The witness did not deduct for TI's in arriving at NOI. The witness opined that in certain instances such a deduction would not create a proper comparison for those properties that do not utilize a similar methodology.

After subtracting for the six items of expenses, the stabilized net income before real estate taxes totaled \$4,630,000. Next, the witness developed an overall capitalization rate and concluded an overall rate of 16.6%. Applying this rate to the subject's NOI resulted in an opinion of value for the subject of \$27,925,000, as of January 1, 2000, via the income approach.

After giving primary consideration to the income approach and considerable consideration to the sales comparison approach, the witness opined a final market value estimate for the subject of \$28,000,000, as of January 1, 2000. The witness also testified that, in his opinion, the market value for the subject would not be any less than \$28,000,000 for each of the years 2001 and 2002.

On cross-examination, the witness was asked about his qualifications as a CRA, or a Certified Review Appraiser, since that is what his signature contains as a qualification on the letter of transmittal. The witness testified that a CRA is a person designated to undertake review reports of appraisals. The witness also testified that his report was a complete self-contained appraisal report. Nevertheless, in spite of the appraisal being a complete self-contained report, the witness referred to the taxpayer's evidence to arrive at many of his conclusions. The witness was also questioned on his use of the term "fully-renovated" when describing the subject property. The witness cited this information as coming from a Lurie Company brochure. However, the witness testified he was not familiar with the actual scope of the renovation itself, which occurred in 1998. Nevertheless, the witness classified the building as a Class B building, based upon its recent renovation.

Turning to the use of the appraiser's comparables, the witness was questioned on his use of several properties in his analysis. Use of comparables in the CBD versus use of other comparables was questioned, particularly his use of much newer comparable properties and several properties that were much different from the subject in terms of size, location, larger floor plate sizes and lease classifications. Many of these buildings were newer buildings that had also undergone renovations, which the witness

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classified as Class B properties. Most of the comparables were built in the 1960's and 1970's. Moreover, the sales comparables used were for leased fee transactions, not fee simple. After answering all of the questions posed to him, the witness was excused.

Next, the City of Chicago (City) presented a witness that prepared an appraisal report. As its witness, the City presented Kenneth F. Polach, of the Polach Appraisal Group, Inc. The witness, an MAI, was accepted by the PTAB as an expert in the field of real estate appraisal. The scope of the appraisal was to prepare a market value appraisal for the subject property as of January 1, 2001. The witness prepared a complete summary appraisal report as an estate in fee simple. The witness opined a value of \$25,750,000 for the subject property as of the date of the appraisal.

Regarding his income approach, the witness estimated a market rental of \$23.00 per square foot for office space and a rental of \$35.00 for retail rental space in the subject property, and a \$2.00 deduction for tenant improvements for either office or retail space. After adding for miscellaneous income and subtracting for vacancy and collection losses of 11.5%, the effective gross income was calculated at \$7,658,436. Operating expenses of \$3,490,962, not including TI's or LC's, were deducted. NOI was estimated at \$4,167,474.

Capitalization rates were applied to the NOI figure to reach a value conclusion. The witness considered CAP rates on other sales of similar properties, surveys, and a band of investment approach. Sales indicated CAP rates from 9.5% to 12.7% and the band of investment approach indicated a CAP rate of 9.5%. Surveys indicated a CAP rate of 8.6% to 9.4%. The witness selected a CAP rate for the subject of 9.5%. Adding a tax load of 6.58% gave a loaded CAP rate of 16.08%. The resulting market value for the subject using the income approach as of January 1, 2001, was \$25,920,000, the witness testified.

Turning to the sales comparison approach, the witness identified eight properties suggested as similar to the subject. These sales were considered similar in terms of building size, age, and location. Sales took place between March 1998 and July 2001 and building sizes ranged from 212,000 to 610,578 square feet. Sales prices ranged from \$11,000,000 to \$51,000,000 or from \$42.47 to \$83.53 per square foot.

After considering all of the eight sales, the witness put emphasis on sale #8, located at 205 West Wacker Drive, due to its location. That property sold for a price of \$75.92 per square foot. Another property that was given special emphasis is 33 North LaSalle Street, sale #3, which sold for a price of \$71.60

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per square foot. The witness opined that the subject's value was \$65.00 per square foot of net rentable building area, or \$25,640,000, as of January 1, 2001. The witness considered both the income approach and the sales comparison approach as good indicators of value for the subject property and arrived at a market value for the subject of \$25,750,000, as of January 1, 2001.

Cross-examination of Mr. Polach followed. A number of facts were called into question by appellant's counsel. The witness was asked why a building such as the subject might have occupancy levels in excess of the typical market occupancy rates. The witness responded that amenities, location, rents or better maintenance could account for the occupancy rates higher than the market average. When asked how many properties the witness appraised in the CBD he stated four, but those appraisals were done for purposes other than ad valorem property tax cases.

The witness was also questioned on his use of comparables that were single-tenant properties while the subject contained approximately 140 tenants. The witness was further questioned on his use of a number of comparables that were part of portfolio sales. The witness testified that he did not recall the nature of many of these portfolio sales and the specifics of the sales. The witness was also directed to his use of a comparable at 33 North LaSalle Street. The witness appeared uncertain on the aspects of the terms of the sale of that property. Also called into question was the use of leased fee sales as comparable sales. Again, the witness appeared uncertain. Lastly, the witness testified further that he used three Class C buildings and five Class B buildings in his sales comparison approach. He testified that the subject is a Class B building. After cross-examination on these subjects, the witness was excused.

The last witness presented in the proceedings was Brian Aronson, a review appraiser for the City. Mr. Aronson is the president of Aronson and Associates, Ltd., a real estate appraisal firm. The witness is an MAI and a certified general real estate appraiser. The witness was accepted as an expert in the field of real estate appraisal by the PTAB.

The purpose of the witness testimony was a review of the appellant's appraisal by Joseph Ryan, the LaSalle Appraisal Group appraisal report. The witness testified that as part of his review report he inspected the subject property. The witness testified as to how he would properly derive NOI for a property such as the subject in order to determine market value. In order to determine value it is necessary to properly account for TI's, LC's, and capital reserves, termed capital costs, the witness opined.

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The witness was directed by counsel to the *Korpacz* methods for determining NOI. He relied upon the 12<sup>th</sup> edition of The Appraisal of Real Estate by the Appraisal Institute. The witness testified that NOI methodology for comparable properties must be verified with sources that are familiar with the individual properties. The witness testified that he confirms all of his comparable information to determine validity. The witness testified that proper methodology for a property such as the subject is not to deduct capital costs prior to determining NOI, or "above the line" expenses. Rather, they should be deducted as "below the line" or after the calculation for NOI is arrived. This would allow such costs to come from net cash flow and not as a deduction to NOI. The witness determined, in his opinion, that the Ryan appraisal used *Korpacz* method #3 to determine NOI.

The witness was taken through several calculations for the subject property's NOI using the *Korpacz* method 2, which the witness claimed is the correct calculation for the subject's NOI, which is to take the capital costs "below the line." Based upon these assumptions, the market value for the subject would increase. The witness also testified that the LaSalle appraisal over estimated the expense on the property. The witness concluded that the LaSalle appraisal improperly determines the methodology of the subject to calculate NOI and understates the subject's market value, based upon the income capitalization approach to value.

The witness also took issue with the LaSalle appraisal's determination of value via the cost approach. Land sales that should have been used were excluded and depreciation figures were incorrect, the witness testified. Using the Marshall Valuation Service, the witness stated that the property's correct depreciation is 78%, not 86% as given in the LaSalle report. Based upon this information the witness determined that the LaSalle report's cost approach was not reliable.

The witness also testified that the sales approach was not reliable. In one case, the witness testified regarding the comparable property which included tenants GSA and the Bank of America. Based upon their impending departure from that comparable property the LaSalle report should have considered this an inferior comparable. Also, the comparable at 33 North LaSalle Street was not included in the sales comparison approach, nor was the property at 205 West Wacker Drive. These are properties the witness testified should have been included in the sales comparison approach. The witness also testified that the LaSalle appraiser's figure of \$42.50 per square foot of building area, including land, was not credible. In conclusion, the witness determined that the LaSalle report was neither reliable nor credible.

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Taxpayer's attorney cross-examined Mr. Aronson. The date of the review report is December 13, 2004 and an opinion of value is not given. The witness testified that he had appraised the subject as of January 1, 2003 but could not recall his opinion of value. The witness admitted that sources of his information differentiate buildings as to Class A, B or C. "*The Elusive Definition of NOI and OAR*", by John Francis, MAI, was a City exhibit. From this article, it was elicited that it was appropriate to deduct capital costs "above the line" when TI's have lives shorter than the lives of the buildings in which these improvements take place. After this questioning, the witness was excused. At this point, the intervenors and the board of review rested.

Closing statements ensued. The board of review chose to make an oral statement, while the remaining parties were given leave to make written submissions.

The board of review's attorney's argued in closing that the petitioner had not carried its burden of proof. The board further argued that the evidence and testimony supports the board's assessments.

A joint post-hearing written closing argument was presented to the PTAB by the intervenors, City of Chicago and Chicago Board of Education. The post-closing joint argument by the intervenors states that the appellant did not carry its burden of proof that the subject is overvalued. The intervenors argue that their evidence and testimony was more credible than that of the appellant. Based upon their argument, the intervenors request an assessment based upon a market value for the subject of \$28,000,000, or, in the alternative, that the PTAB uphold the current assessment for the subject for the years in question.

The appellant, Lurie Company, argues for a reduction in the subject's assessment. The appellant cites to its two appraisal reports, by Uzemack and Ryan, opining a value of \$15,500,000 and \$16,150,000, respectively, and the related testimony of the two authors as the most persuasive and credible testimony given. The appellant argue that its evidence and testimony allowed the appellant to meet its burden of proof that the subject is over assessed for all three years. Lurie further argues that the board and the intervenors' evidence and testimony were not credible or persuasive. In closing, the appellant argues for an assessment based upon a market value finding for the subject of \$16,150,000 for all three years.

After hearing the testimony and reviewing the record, the PTAB finds that it has jurisdiction over the parties and the subject matter of this appeal.

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The appellant argues that the subject property's market value is not accurately reflected in its assessed valuation. When overvaluation is claimed the value of the property must be proved by a preponderance of the evidence. See National City Bank of Michigan/Illinois v. Property Tax Appeal Board 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill. Admin. Code 1910.65(c). Having considered the evidence and testimony presented, the Board concludes that the appellant has satisfied this burden and a reduction is warranted.

In reaching its conclusion, the PTAB reviewed the record and the testimony before it. Four appraisals were submitted; two by the appellant and two by the intervenors. Two review reports were submitted; one on behalf of the board of review in its review of the Uzemack appraisal and one by the City in its review of the Ryan appraisal. Testimony was given by two of the appellant's witnesses; both are authors of the appellant's appraisals: Mr. Joseph Ryan and Mr. Anthony Uzemack. Three intervenors' witnesses also provided testimony: Mr. Kevin Byrnes, Mr. Kenneth Polach and Mr. Brian Aronson. Byrnes and Polach were valuation witnesses and Aronson was a review witness. The board of review did not present any witnesses or testimony on its review report and provided no witnesses to support the current assessment. The appellant's appraisals reached conclusions of value of \$16,150,000 for the Joseph Ryan appraisal and \$15,500,000 for the Anthony Uzemack appraisal. The board's appraiser reached a market value conclusion for the subject property of \$24,200,000. The Byrnes report reached a market value conclusion for the subject of \$28,000,000 and the Polach report reached a market value conclusion of \$25,750,000.

The PTAB finds that the appellant has successfully carried its burden that the subject is over assessed for all three years. The Board further finds that the best evidence of market value in the record is the appraisal and testimony provided by Joseph M. Ryan, MAI, of the LaSalle Appraisal Group. The Board gives less weight to the Uzemack report because it contained several errors in reporting and did not report some sources of miscellaneous income. The Board gives no weight to the board of review's report prepared by Eric Donnelly, who did not appear, nor did any party testify on behalf of the board of review. The Board gives little weight to the Byrnes report as it relied upon several properties not considered as comparable to the subject and further that it relied upon BOMA expenses that were not indicative of the subject in its reporting data. The Board gives little weight to the Polach report due to its improper

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assumptions in reporting. The Board gives little weight to the Aronson review report and finds the witness was not credible.

The intervenors' witnesses' testimony and appraisal reports and review reports contain several fatal flaws. First, these witnesses and reports attempt to classify the subject property as a Class B property and not as a Class C property. Second, these witnesses and their related reports make a concerted attempt to use *Korpacz* as the standard in the industry for reporting NOI, which it is not. Third, the intervenors and their witnesses incorrectly claim that the only issue in this case is whether or not deductions for TI and LC should be made "above the line" or "below the line." Rather, the only issue in this case is the subject's fee simple market value for ad valorem tax purposes. For all these reasons, the CBOE and the City failed to successfully establish that the subject is under assessed in relation to its market value. The most reliable and credible conclusion of the subject's market value is the appraisal report and the testimony provided by Joseph M. Ryan, MAI.

Therefore, the PTAB finds that the market value for the subject property as of January 1, 2000 to be \$16,150,000; for January 1, 2001 to be \$16,150,000; and for January 1, 2002 to be \$16,150,000.

The intervenors' appraisers are not credible regarding their claim that the subject property is a Class B property. Further, the intervenors' appraiser's credibility is called into question by the claim that the building became a Class B property after its renovation. The renovation was not major nor did it eliminate any of the outdated design features of the subject. It is unlikely to change a 70-year-old Class C property with small floor plates and inefficient design to move up in class by a renovation, particularly a renovation the likes of which the subject experienced.

Directly on point, during cross-examination of appellant's appraisal witness Ryan, counsel referred to his appraisal report for the building located at 120 South LaSalle Street. This is a perfect example of a building that underwent a major renovation, yet remained a Class C property. In that case, appellant Lurie Company expended \$24 million dollars to perform a major renovation. That property was a 71-year-old, 23-story, office building in the CBD. The property was almost entirely vacated in order to perform the renovation. This fact was expertly analyzed in that case by Lurie's appraiser, Terrence McCormick, MAI, wherein the conclusion was reached that, in spite of this major renovation, the building, due to its construction and design, remained a Class C building. (See The Lurie Company v. The Cook County Board of Review, 99-25370-C-3, affirmed on appeal by the Illinois Appellate Court, 1<sup>st</sup> Dist., Third Division, Case No. 1-

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05-0849, May 10, 2006). In this case, the intervenors claim that the subject property, which had not gone nearly as substantial a renovation as the property referenced herein was transformed into a Class B property. This claim is without merit.

The PTAB finds, that for purposes of this appeal, that the subject is a Class C building. The subject property, due to its age, exhibits many of the following characteristics that define it as a Class C building: a narrow building design features with resulting small floor plates; common areas on each floor occupy a large percentage of space; elevators and stairs that occupy prime rental space, which in newer buildings are more commonly designated for rental space; and outdated mechanical systems. Also, Class C buildings are generally at the lower end of the rental range. These buildings do not offer many amenities. Class C buildings are an older vintage, usually built in the first half of the 20<sup>th</sup> century.

On the contrary, Class A buildings are more modern, newer, attractive properties that are designed with maximum efficiency in mind. These are most desirable properties. Floor plates are reserved primarily for rental space. Elevators, washrooms and common areas are set into areas that do not limit the rental areas. Rents are at the high end of the range. Building systems are modern and meet the needs of the building without continual upkeep and maintenance. Modern interior finish is generally exhibited in a building that is a Class A structure. These buildings are able to attract larger, more established tenants.

In the middle are Class B buildings. Buildings in this category have more modern design features than a Class C building but are not on par with Class A buildings. Generally, they are of an older vintage than Class A buildings and newer than Class C buildings. While building systems in a Class B structure are adequate they are not up to the level of a Class A system that can account for most future needs; maintenance and upkeep are necessary. Interior finishes and trim are less modern than Class A buildings and newer and more modern than older, Class C buildings. Rents are usually in the mid-range. These buildings attract a good tenant base but not tenants that would occupy a Class A building. Ages of these buildings most often are up to 50 years of age, excluding the newer, more modern Class A buildings.

Also, in the subject property there is a large turnover of tenants indicative of a Class C property that attracts less desirable tenants. Average unit sizes are approximately 2,800 square feet and that cannot attract major tenants with good credit histories and long range tenancies. The average tenant in the subject remains at the site for an average of only three and one-half years. New tenants demand improvements and capital

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expenditures in order to occupy office space. Moreover, the subject is in constant need of tenants and must attract tenants. Tenants are less credit worthy. Therefore, based upon all of the factors exhibited, the PTAB finds that the subject is a Class C property.

Next, the intervenors argument that the *Korpacz* survey was improperly used in Ryan's appraisal methodology and that the NOI in the Ryan appraisal was arrived at improperly is not persuasive. Ryan clearly articulated that he merely used *Korpacz* as one reference in his development of the subject's CAP rate. Further, he testified that the *Korpacz* survey is most appropriately used for the institutional grade investor for Class A, much newer than the subject, properties. In spite of this, during cross-examination, the witness was taken through various calculations to exhibit that a property's NOI would change based upon whether or not expenses were made above or below the line. While this is a seemingly obvious conclusion, the witness was taken through a number of laborious calculations on cross-examination to exhibit this point. Such an exercise added little to the proceedings.

Also, intervenors claim that the only issue in this case is whether or not TI's and LC's should be taken above or below the line for NOI. Rather, the only issue in this case is the subject's correct market value in fee simple. Ryan properly explained how he valued the property in a fee simple interest, not as a leased fee and not for an institutional investor grade property. Ryan relied upon The Appraisal of Real Estate to perform a proper methodology for the subject's fee simple interest. This text is considered a standard in the industry and is published by the *Appraisal Institute*, and is cited in virtually every appraisal, including the intervenors' appraisals for its definition of fee simple interest, as follows:

"Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat." The Appraisal of Real Estate, 12<sup>th</sup> edition.

This text, Ryan testified, states that if TI's are at market rates and the owner expends cash for TI's that he is not recapturing, this expense should be deducted "above the line" and should be then capitalized to obtain the fee simple value for the property. That is the case with the subject property and that was the methodology performed by the Ryan appraisal report.

The intervenors also brought forth an article titled "*The Elusive Definitions of NOI and OAR*," written by John M. Francis, MAI, in

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an effort to bolster their claim that TI's must be taken below the line. However, it appears from this article that the Ryan methodology is clearly an appropriate method for valuing a property such as the subject. The article cites:

"While the textbook refers to other valid capitalizations of appropriate income figures to capitalize, one can conclude that, based upon the foregoing analysis and other things being equal, an appraiser's preferred [emphasis added] method of calculating NOI that is to be capitalized could be stated: "*net income after consideration of all fixed and variable expenses (including stabilized leasing commissions) and reserves for replacements (including stabilized allowances for tenant improvements)*". In effect, this is method 3, or NOI 3" "One supposed justification for not deducting allowances for tenant improvements and leasing commissions from income before arriving at NOI is that, under accounting rules, their costs usually have to be capitalized and therefore should not be expensed. But this is an oversimplification" [emphasis added] "*Most tenant improvements and leases have lives shorter than the lives of the buildings to which they relate; therefore, stabilized allowances for their being incurred again periodically should be deducted from income before arriving at the NOI to be capitalized.*" From John M. Francis, MAI, "*The Elusive Definitions of NOI and OAR*" at page 59.

Obviously, in a building of this age and number of tenants, TI's and LC's are a constant expense. Tenant turnover is in a range from 30-40 tenants per year, approximately. Based upon the evidence, the average tenant stays three and one-half years. In spite of this factual information, the intervenors claim that the appellant's estimate of a five-year turnover average of tenants is excessive. The intervenors claim that ten years is more realistic. This is simply not true and does not address the continuing cycle of tenant improvements and leasing commissions undertaken by the owner of the subject property. It is for this reason that expenses for these categories must be considered higher than average.

The Ryan report takes into account all of these factors relevant and pertinent to the subject property. He effectively explains the property rights appraised and the methodology used to obtain a fee simple market value. He thoroughly inspected the subject on a number of occasions and is very familiar with the subject. The building and its amenities are clearly described in his

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report and he does not rely upon outside sources for the subject's description. It is properly described as a Class C office building.

Joseph M. Ryan developed three approaches in estimating the subject's market value. Ryan personally inspected the property. Ryan's appraisal report's letter of transmittal is dated June 8, 2001. Ryan utilized the three approaches to value in estimating the subject's market value. The value estimates under each of the approaches to value were as follows: cost approach, \$16,260,000; sales comparison approach, \$16,760,000; and the income approach, \$16,130,000. After reconciling all three approaches to value, the final market value for the subject was determined to be \$16,150,000 as of January 1, 2000.

The cost approach for a building of this age is of limited value. Built in *circa* 1930 the building suffers from a number of outdated design features. Approximately 24% of the property is non-usable wasted space. The owners have installed some amenities in an effort to keep tenants from vacating the subject to newer and more modern buildings. Due to the age of the building and its design, the cost approach is of limited use in analyzing the subject's market value. Depreciation is very difficult to determine for such a structure.

Ryan successfully developed an estimate for the subject using the sales comparison approach. The appraiser used sales comparables of the same vintage as the subject and made adjustments accordingly. All comparable properties were Class C buildings. The appraiser explained his use of the fee simple approach and opined a value of \$42.50 per square foot of building area, including land, or \$16,760,000.

The use of the Ryan sales comparable approach was discussed by the intervenors' review appraiser. He suggested that 33 North LaSalle Street and 205 West Wacker should have been used as comparable sales. As a reasonable explanation, the witness testified that the 33 North LaSalle building's sales price did not include the seller's continuing obligations after the sale of the property. Furthermore 205 West Wacker is a much different property from the subject and is substantially smaller than the subject, which would explain its higher sales price per square foot.

The PTAB further finds that the Ryan report is more reliable than the Uzemack report. The Uzemack report does not mention sources of miscellaneous income and retail space on the first floor. Also, he relied upon COMPS service in support of his comparables, while Ryan independently checked his sources with at least one party to each transaction. Therefore, the PTAB finds that the

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Uzemack report is neither as persuasive nor reliable as the Ryan report.

As previously stated, the board of review's report merely critiques the Uzemack report. The author of the board's report was not presented as a witness to either explain his report or be subject to meaningful cross-examination. Moreover, the board did not present any witness to substantiate the current assessment that it requests that the PTAB uphold for all three years in question.

The two reports presented by the intervenors lack credibility. These witnesses attempted to convince the PTAB that the subject was transformed into a Class B building. As a result, they used comparable properties that would indicate a higher value for the subject. They also relied upon the 1998 subject renovation, terming it a "fully-renovated" property. As previously explained, not only was it not a "fully-renovated" property, but, even assuming it had been the subject of a major renovation, that would not transform this 70-year-old structure into a Class B building. Moreover, the Polach report attempts to use a 10-year-period to explain lease turnover, stating that the appellant's use of a 5-year-period is not reasonable. In fact, the average tenant turnover in this property is three and one-half years. This, of course, has an impact upon the building's expenses and would improperly lead to a higher value for the subject.

The PTAB finds that the intervenors' review appraiser lacked credibility. This witness was taken through a number of sample calculations to determine a property's NOI using a *Korpacz* methodology that reflects method 2. The review witness testified that this was the correct method to determine NOI for a CBD property. However, Ryan admitted on cross-examination that if asked to describe his methodology using *Korpacz*, it would most likely be method 3. However, Ryan further testified *that he did not use Korpacz* [emphasis added] to determine the subject's NOI. Furthermore, this rebuttal witness testified as to the John Francis article, previously admitted as a City exhibit. Nevertheless, as previously explained, this article appears to justify the Ryan method for determining NOI. The review appraiser attempts to use the Francis article very selectively. Also, the witness did not fairly represent the use of BOMA in his comparison to the subject property, a class C property. The PTAB finds the review appraiser's testimony to be not credible.

In conclusion, the PTAB finds that the appellant's appraisers and witnesses were more credible than both the intervenors' appraisals and witnesses and the board of review's appraisal and evidence. Further, the PTAB finds that the appellant met its burden of proof by a preponderance of the evidence.

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Therefore, considering the evidence and the testimony presented, the PTAB finds that the subject had a market value of \$16,150,000 as of each of the 2000, 2001, and 2002 assessment dates. Furthermore, the PTAB finds that the Cook County Real Property Classification Ordinance of 38% for class 5a commercial property, such as the subject, shall apply. Applying the figure of 38% to the subject property's market value, the PTAB finds that the correct assessed value of the subject property is \$6,137,000 for each of the three years at issue. Since the subject property's current assessment for the year 2000 is \$10,369,923, for the year 2001 is \$9,880,002, and for the year 2002 is \$9,880,001, a reduction is warranted for all three years.

<u>DOCKET NO.</u>	<u>PARCEL NO.</u>	<u>LAND</u>	<u>IMPR</u>	<u>TOTAL</u>
00-24524.001-C-3	17-09-419-001	\$3,192,000	\$2,945,000	\$6,137,000
01-25795.001-C-3	17-09-419-001	\$3,192,000	\$2,945,000	\$6,137,000
02-28826.001-C-3	17-09-419-001	\$3,192,000	\$2,945,000	\$6,137,000

PTAB/mmg

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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: April 1, 2008



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

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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.