FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Gray Realty of Illinois, Inc.
DOCKET NO.: 02-23556.001-C-3, 03-20024.001-C-3, and 04-20057.001-C-3
PARCEL NO.: 28-25-401-016-0000

The parties of record before the Property Tax Appeal Board are Gray Realty of Illinois, Inc., the appellant, by attorney Thomas J. McNulty and attorney Thomas J. Boyle, with the law firm of Neal, Gerber & Eisenberg in Chicago; the Cook County Board of Review by Assistant State's Attorney John Coyne; as well as the intervenors, Hazel Crest School District 152 ½ for tax years 2002 through 2004, by attorney Scott Longstreet of Robbins Schwartz Nicholas Lifton Taylor in Chicago and School District #228 in tax year 2003, by attorney Joel DeTella, with Sraga Hauser, LLC. in Flossmoor. Having due notice been given to the parties, the Village of Hazel Crest, intervenor solely in tax year 2002, failed to appear at the hearing.

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 #	PIN	LAND	IMPROVEMENT	TOTAL
02-23556.001-C-3	28-25-401-016	$146,189	$689,811	$836,000
03-20024.001-C-3	28-25-401-016	$146,189	$689,811	$836,000
04-20057.001-C-3	28-25-401-016	$146,189	$689,811	$836,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 197,881 square feet of land improved with a part two-story and part three-story, single-tenant, owner-occupied, office building. The improvement was built-to-suit in 1992 with an addition in 1997. The building includes 46,528 square feet of building area as well as an alarm system.

At the commencement of this hearing, the PTAB dealt with several procedural matters relating to verbal motions made by the parties. First, the intervenor, School District #152.5, submitted a motion to consolidate the 2002 through 2004 tax appeal years for hearing and decision purposes. There being no objections from the remaining parties, the PTAB finds that these appeals involve common issues of law and fact and a consolidation of the appeals would not prejudice the rights of the parties. Therefore, without objections from the parties and pursuant to Section 1910.78 of the *rules of the Property Tax Appeal Board (86 Ill.Admin.Code 1910.78),* the PTAB consolidated the above appeals.

Second, PTAB also noted that the attorney for the Village of Hazel Crest had failed to appear at the hearing. This intervenor had been a party to only one tax appeal year, 2002; and had adopted the board of review's evidence in tax year 2002. Nevertheless, pursuant to the Official Rules of the Property Tax Appeal Board, failure to appear at hearing is sufficient grounds for default without good cause shown for failure to appear. Without objections from the remaining parties, the PTAB defaulted intervenor, Village of Hazel Crest.

Third, the parties stipulated that the appraisers with the designation of Member of the Appraisal Institute (hereinafter MAI) be accepted as experts in the field of real property valuation without objection.

Fourth, the appellant verbally moved to exclude witnesses during the proceedings. Without objections from the remaining parties, the PTAB granted appellant's motion to exclude witnesses.

Fifth and lastly, prior to the hearing, the intervenor, School District 152.5 had submitted a motion to strike the appellant's rebuttal exhibit. This motion was withdrawn at hearing.

As to the basis of this appeal, the appellant argued that the fair market value of the subject is not accurately reflected in its assessed value.

As to the overvaluation argument, the appellant's first witness was Simon Dvoretsky, a civil engineer who has undertaken independent construction estimates and consulting for 40 years. He holds a degree from the Byelorussian Technical Institute in Byelorus, which he indicated was the equivalent of a master's degree in civil construction engineering in the United States. This witness's resume was marked and identified for the record as Appellant's Exhibit #1. Dvoretsky's testimony indicated that his business was registered with the Illinois Construction Development Board, while he elaborated on the type of construction estimates and consulting that, he has been involved with throughout the years. He stated that he had submitted a construction estimate for repair work on this subject property, but that he had not undertaken the work. Dvoretsky was offered as an expert in the field of independent construction consulting and cost estimating by the appellant without objections from the parties and was so considered by the PTAB.

As to the subject property, Dvoretsky testified that he was employed by the building's owners in April of 2006 to estimate the conversion construction costs of the subject building in two schemes, both of which renovated the building from single-tenant office space to multi-tenant office space. Scheme #1 was to convert the building into nine tenant spaces at a cost of $2,719,979, while scheme #2 was to convert into seven tenant spaces at a cost of $2,699,583. His reported estimates along with line item breakdowns, diagrams, and 13 exclusions based upon the aforementioned schemes were marked and identified for the record as Appellant's Hearing Exhibit #2. Dvoretsky stated that there would be a time adjustment of diminished costs between 5% and 7% if the work had been completed anywhere between January 1, 2002 and January 1, 2004. Further, he stated that these costs did not include architectural and/or engineering design costs.

The appellant's pleadings included a copy of a full, narrative appraisal undertaken by appraiser, Michael Kelly. As appellant's witness #2, Kelly testified that he holds the designations of Member of the Appraisal Institute (hereinafter MAI) and a Member of the Society of Real Estate Appraisers (hereinafter SRPA). He stated that he had personally inspected the subject property three times. Kelly, who holds the designation of MAI and whose credentials were previously stipulated to by the parties was called as an expert in the field of real estate valuation and accepted by the PTAB as such.

The Kelly appraisal addressed the three traditional approaches to value, while opining an estimated market value of $1,900,000 as of January 1, 2002. Kelly testified that he undertook several other appraisals of the subject: an earlier report with an effective date of January 1, 1998 and a value estimate of $2,900,000 as well as a later report with an effective date of January 1, 2005 and a value estimate of $1,960,000. As to the variations in market value estimates, Kelly stated that there were several reasons for this variation: a significant change in the entire suburban market, which had a tremendous increase in vacancy between 1999 and 2002, most of which occurred in early 2001; as well as a tremendous decrease in rents for that same time period.

He described the subject's site as containing 197,881 square feet of land improved with a multi-story, office building with a gross area of 46,000 square feet and a net rental area of 43,000 square feet. He stated that the subject was part of the suburban office market, while noting that the entire Chicago suburban market was experiencing an average vacancy of approximately 24% absent no Fortune 500 headquarters in this geographic suburban market.

Kelly further stated that the subject's market is so small that many office guides have very little detail on this segment of the market. He indicated that the effect of this is that there is less marketability in the subject's area. He stated that another factor that affects this particular office market is the local tax rate at approximately 11% or 12%, which he indicated was roughly double, what is found in the north, northwest and O'Hare Airport markets and is largely due to a lack of development in the subject's market. Moreover, Kelly stated that the higher vacancy rates in the subject's market during this time period were attributed to the closing steel mills as well as auxiliary industries creating an absence of the basic stimulus for growth in the area.

As to the highest and best use analysis, Kelly testified that the property's highest and best use as if vacant was its present use as an office, research or light manufacturing structure, while its highest and best use as improved was its current use as a single-tenant, office building. He stated that the cost to convert this single-tenant building to a multi-tenant office building would be significant.

The Kelly appraisal addressed the three traditional approaches to value in developing the subject's market value estimate. The cost approach reflected a value of $2,104,000, rounded; the income approach reflected a value of $1,642,000, rounded; and the sales comparison approach indicated a value of $1,985,000, rounded. In reconciling these approaches to value, Kelly placed main reliance on the sales comparison approach to reflect his final value of $1,900,000 for the subject.

Kelly's appraisal expounds on the subject's neighborhood indicating that the suburb contains mostly residential and some light industrial characteristics with very little commercial properties. Thereafter, the appraisal provides an overview of the Chicago Suburban Area Office market. The appraisal stated that the subject's building had an effective age of 8 years with a remaining economic life of 52 years, with a typical life for this office building being approximately 60 years based upon the Marshall Swift Cost Manual and this expert's experience. In addition, it indicated that the improvements were of a Class C type office building and in average condition.

In Kelly's appraisal, the first method developed was the cost approach. The initial step under the cost approach was to estimate the value of the site. He used seven suggested land sales of local sites that ranged in size from 49,773 to 653,400 square feet and in price from $0.71 to $4.75 per square foot. These properties sold from May, 1995, through December, 2001. He testified based upon these land sales, his conclusion of land value for the subject was $2.75 per square foot for a total land value of $544,000.

Using the Means Cost Manual, Kelly estimated a replacement cost new of $4,105,900 or $88.25 per square foot. In developing depreciation, Kelly utilized the market abstraction method for calculating depreciation, relying on the market sales present in the appraisal's sales comparison approach, which were rated in terms of age and annual depreciation rates to conclude an annual rate of depreciation for the subject of approximately 7.7% or a total of 62%. The appraisal reflected that the sales ranged: in age from 12 to 33 years; in total depreciation rates from 60.69% to 77.63%; and in average annual depreciation rates from 1.85% to 6.47%. The appraisal further noted that average annual depreciation rates do not progress at a constant rate, but decrease as the property ages; therefore, the improvements will experience higher rates of annual depreciation during their early years. Kelly testified that this method was most reliable for these properties would reflect the problems of the subject's local market, such as taxes and marketability. Therefore, he stated that these properties would reflect the same elements of economic and functional obsolescence present in the subject, such as: high vacancy rates, declining market, and high property taxes compared to other municipalities.

Deducting the total accrued depreciation resulted in a depreciated value of the improvements at $1,560,242. Adding the land value of $544,000 reflected a final estimate of value under the cost approach of $2,104,000, rounded. Kelly stated that this approach to value was accorded minimal weight in his reconciliation.

The next developed approach was the income approach. Kelly obtained and analyzed six rental comparables that are analyzed on a gross basis. One actual lease and five lease offerings were reviewed with properties that ranged: in age from seven to 18 years; in building size from 1,490 to 57,000 square feet; and in gross rental rates from $14.95 to $20.50 per square foot. Kelly testified that the rent comparables were verified either through a copy of the lease abstract or through the broker representative for that building.

Kelly stated that he used gross rent rather than a net rent methodology for gross rents allow the appraiser to take into consideration the way a tenant looks at a building, which is what is the total occupancy cost. He stated that rent is composed of three components: the net, the expenses, and the total occupancy costs of the total gross rent including property taxes. He indicated that by grossing all the leases up to a full occupancy basis, one finds what the market is willing to accept in terms of total charges to a tenant. He stated that in order to have a comparison of similar buildings, it is necessary to add in all the charges so that the tenant is aware of every expense, when entering into a lease. Furthermore, he stated that this gross total rent analysis assists an appraiser in using the effective tax rate in the capitalization section of this income approach to value. He also indicated that this is very significant in this tax appeal because the subject has an effective tax rate that is approximately 11%, or almost double the typical tax rate in the City of Chicago or the northern suburbs. Therefore, this variable has to be taken into consideration within this approach to value.

Kelly testified that there is an inverse relationship between unit size and unit price in the real estate industry. He indicated that tenants leasing larger spaces will traditionally pay lower rents on a per square foot basis, while smaller spaces rent at a higher unit value. Reviewing the data in totality, Kelly chose a market rent of $17.00 per square foot, which was applied to the subject's net rentable area of 43,140 square feet to indicate potential gross income for the subject of $733,000, rounded. Less a vacancy and collection loss of 20% indicated an effective gross income of $585,000. Using market data reflected in the Building Owners and Managers Association Survey, 2001 edition, (hereinafter BOMA) relating to income and expenses reported for office buildings in major metropolitan areas nationwide, expenses were estimated at $238,000 resulting in a stabilized income before real estate taxes of $348,000.

Kelly used a rate abstraction methodology employing the improved sale comparables, which established a range from 11.7% to 13.8% on an overall basis to estimate a capitalization rate for the subject of 10.5%. Further, an effective tax rate of 10.7% was added resulting in a total capitalization rate of 21.2%. Capitalizing the subject's gross income by this rate produced a value estimate under the income approach of $1,642,000, rounded. Kelly testified that he accorded moderate weight to this approach to value in his reconciliation.

Under the sales comparison approach to value, Kelly utilized five suggested comparables of office buildings that are located in the south suburban market. Four of the five buildings are multi-tenant, while sale #2 is a single-tenant building. He stated that he included this sale considering that single-tenant buildings sell at lower prices per square foot than multi-tenant buildings. Further, due to the smaller market size for this subject, Kelly stated that he had little sales data of actual single-tenant buildings.

The properties sold from December, 1998, through March, 2002, for prices that ranged from $30.13 to $59.72 per square foot of net rentable area before adjustments. The improvements ranged in size from 20,600 to 73,000 square feet of net rentable area and in age from 12 to 33 years. Furthermore, Kelly's appraisal reflects a market analysis of two current listings of office buildings in the subject's immediate neighborhood of Homewood reflecting: an age from 10 to 14 years; a building size from 21,450 to 36,750 square feet; and a listing price ranging from $72.26 to $74.82 per square foot.

Kelly stated that each sale was confirmed with a review of the CoStar service data, transfer declaration, a deed or closing statement, as well as a conversation with a principal party to the transaction. He also credibly testified regarding the adjustments to the sale properties such as: location, size, age, and local tax rate. In addition, he expounded on the negative factors of the subject, which would affect value including: the subject's location in a south suburban office market; the high tax rate of the subject's municipality; and the building's single-tenant status that restricts the number of companies that would use the subject's location. After making adjustments, Kelly considered a unit value of $46.00 per square foot to be appropriate for the subject resulting in an estimated market value for the subject of $1,985,000, rounded.

Under examination, Kelly testified at length regarding sale #2, which was the single-tenant office building occupied by Martin Oil and sold for $1,900,000. He stated that there were two parts to this transaction. First, that the seller leased back about 15% of the building for $1.00 per year. Therefore, Kelly stated that he took the present worth of that rental for the lease term and added that amount back into the price, as detailed in the appraisal, increasing the price $115,000 to compensate for the leased back portion of the building. Second, that the building was sited on a large site with a land-to-building ratio of 19:1 reflecting a significant amount of excess land. Kelly stated that he parceled off the excess land located on the north side of the site using $3.00 per square foot resulting in $867,000, which was deducted from the sale price. As to this excess land, he noted that there was an option in the sale contract, which referred to the buyer using the excess land to build a church, thereon. However, he reiterated that this sale involved an office building. These steps resulted in an adjusted sale price of $1,148,000 or $55.00 per square foot. He was further examined regarding his knowledge of this sale and the option using Intervenor's Exhibit C, concluding that this was a very unusually structured sale.

Kelly was examined regarding Intervenor's Exhibit B, which was a copy of Kelly's appraisal of the subject with an effective date of September 30, 1998 and a value opinion of $2,900,000. He stated that there was no variation in property age and data or neighborhood data between this appraisal and the subject's 2002 appraisal. He indicated that the subject's total depreciation in 1998 was 32% and in 2002 was 62%. As to Kelly's income approach, he contradicted his earlier testimony, by admitting that he was aware of the actual income for only two comparables, while estimating actual net income for the remaining three properties. In comparing both of Kelly's appraisals for the subject, he also indicating that he adjusted the improved sale comparables in the 2002 appraisal for local tax rate, but that he had not adjusted the 1998 sale comparables for this factor.

In reconciling the three approaches to value, Kelly accorded moderate weight to the income approach to value and maximum weight to the sales comparison approach. Therefore, he testified that his market value estimate for the subject was $1,900,000 as of January 1, 2002. He also stated that his opinion of value for the subject as of January 1, 2003 and January 1, 2004 would be based in part on his submitted appraisal resulting in a slight variation of value at $1,900,000 and $1,960,000, respectively.

The board of review timely submitted "Board of Review Notes on Appeal" in tax appeal years 2002 and 2004 wherein the subject's final assessment of $1,426,203 was disclosed. This assessment indicates a market value of $3,753,166 or $80.66 per square foot applying the ordinance level of assessment at 38% for class 5a property as designated by Cook County Real Property Assessment Classification Ordinance. A breakdown of the board of review's evidence submission reflects: in tax year 2002, a market analysis prepared by Jeffrey Hortsch with an effective date of January 1, 2000 and a market value of $3,600,000 was submitted; while in tax year 2004, a market analysis prepared by Jeffrey Hortsch with an effective date of January 1, 2004 and a value of $3,800,000 was submitted. In tax year 2003, the board of review was defaulted. These analyses provided limited data and explanation, while addressing only two of the three traditional approaches to value. Moreover, Mr. Hortsch was not presented to testify regarding either his qualifications or the methodology used in his reports.

Intervenor, School District #228, submitted in tax year 2003, only, Intervenor's Exhibit #1, which is a copy of complete appraisal report prepared by Valuation Management Consultants with an effective date of January 1, 2003 and a value opinion of $4,900,000. This intervenor was defaulted in tax appeal years 2002 and 2004. The intervenor called as its witness, Robert A. Ashenden, who holds the designation of MAI and whose credentials were previously stipulated to by the parties as an expert in the field of real estate valuation. Ashenden's appraisal, which had been timely filed in tax year 2003, was marked and identified for the record as Intervenor's Exhibit #1.

The Ashenden appraisal addressed the three traditional approaches to value in developing the subject's market value estimate. The cost approach reflected a value of $5,400,000, rounded; the income approach reflected a value of $4,800,000, rounded; and the sales comparison approach indicated a value of $4,960,000, rounded. In reconciling these approaches to value, he placed main reliance on the income and sales comparison approaches to reflect his final value estimate of $4,900,000 for the subject.

Ashenden testified that he had personally inspected the subject's exterior and the interior public spaces or main lobby area of the subject on October 24, 2004. His appraisal indicated that the subject was located in the southwest suburban market area and that the general area of the subject was a multi-tenant office market with a relatively high vacancy of about 20% within this market. He stated that the effects of this high vacancy would be diminished as to the subject, which is a single-tenant, owner-occupied office building.

As to the subject's descriptions, Ashenden indicated that the property contains 197,153 square feet of land with an improvement built in 1992 with an addition in 1997. The building being of good condition, he gave it a weighted age of 8 years with a life expectancy of 55 years according to the Marshall Swift Cost Manual. The highest and best use as vacant would be for office development, while as improved, would be its current use as an office building. He testified that he came to this conclusion based upon the surrounding land usage of the subject as office or light industrial use with low vacancy.

In the cost approach, Ashenden utilized four land sales to estimate the subject's land value at $2.00 per square foot or $395,000, rounded. The land comparables sold from March, 1999, to July, 2003, for prices that ranged from $0.67 to $3.21 per square foot. The properties contained land sizes that ranged from 160,000 to 297,067 square feet.

Using the Marshall Swift Valuation Service, Ashenden's appraisal estimated a replacement cost new base value of $136.61 per square foot or $5,893,166 including a lump sum of $200,000 for site improvements. The appraisal notes that the subject was built and occupied by the owner, so no entrepreneurial profit was accounted for. In addition, he classified the subject as a Class B suburban office building, while testifying that the final base cost of the subject was $122.36 per square foot. The appraisal reflected that the subject's building was well maintained and in good condition. He testified that he used a 55-year life from the cost manual and an actual age of 8 years equating to 15% physical depreciation for the subject. He stated that there was no functional obsolescence for the subject because it was built as an owner-occupied, single-tenant, office building and well designed for its intended use. Moreover, he stated that there was no deduction for functional or economic obsolescence, even though, a high real estate tax burden is a form of economic obsolescence. Therefore, the final depreciated cost was estimated at $5,009,191, with clarifying testimony of several typographical errors reflected in this approach to value. Adding the land value of $395,000 resulted in a value of $125.17 per square foot of net rentable area or $5,400,000, rounded.

Under the income approach, Ashenden used four, multi-tenant rental comparables located within the subject's neighborhood. They ranged: in age from 7 to 15 years; in occupancy from 72% to 100%; and in size from 18,632 to 21,450 square feet of net rentable area. The properties rentals ranged from $10.00 to $14.00 per square foot on a net basis; therefore, the appraiser estimated a middle value of $12.00 per square foot, net. He testified that the multi-tenant rental market is experiencing approximately a 20% vacancy rate, which would be less significant on a single-tenant, occupant building. However, he also stated that this vacancy rate for the multi-tenant market in 2002 through 2003 was an indication of an approaching weak market. Despite this testimony, Ashenden's appraisal reflects the application of a 5% vacancy and collection loss to the subject. Expenses were estimated at $30,457 resulting in a net operating income of $461,339. Ashenden stated that he did not use a load factor for the effective tax rate because he assumed that the subject taxpayer is the tenant and would be paying the real estate taxes themselves; therefore, he used a straight capitalization rate. Capitalizing the income by 9.50% reflected a value estimate under the income approach of $4,860,000, rounded.

Under the sales comparison approach, Ashenden utilized seven properties containing two-story or four-story structures sited within communities neighboring the subject. Six properties contain multi-tenant office buildings, while property #5 has a single-tenant building. The properties sold from January, 2001, through June, 2003, for prices that ranged from $1,875,000 to $5,600,000, or from $86.14 to $156.38 per square foot of net rentable area before adjustments. The improvements ranged in size from 21,000 to 74,000 square feet of net rentable area and in age from 11 to 20 years. In addition, the sales reflected overall capitalization rates from 8.9% to 12.79%. Ashenden stated that the structures were primarily class B or C office buildings; however, he indicated that he did not make a special determination of which class was applicable to each building.

Regarding his adjustments, Ashenden testified that: sale #1 contains a smaller and older building, but a superior location in comparison to the subject; sale #2 contains a larger and older building, with an inferior location; sales #3 and #4 contain a larger and older building; sale #5 contains an older, but smaller building as well as inferior location to the subject; sale #6 contains an older and significantly larger building as well as an inferior location; and sale #7 contains an older and smaller building with a downward adjustment for market conditions. Further, he stated that this was a multi-tenant, medical office building. After making narrative adjustments, Ashenden considered a unit value of $115.00 per square foot per net rentable building area to be appropriate for the subject estimating a market value for the subject of $4,960,000, rounded.

In reconciling the three approaches to value, Ashenden placed least weight on the cost approach because of the tenuous nature of estimating depreciation. Therefore, he placed primary weight on the income and sales approaches to value for a final market value for the subject of $4,900,000, rounded.

Under cross-examination, Ashenden testified that he believed the highest and best use of the subject was for a corporate headquarters and not multi-tenant usage, but he also indicated that he was unaware of how many corporate headquarters were located in the subject's submarket. As to his improved sale comparables, he stated that he physically drove by the properties and verified the sale data primarily with reference to CoStar Comps printouts. However, he admitted under oath that CoStar Comps data is not always correct. As an example, Appellant's Exhibit #4 was marked and identified for the record. It is a copy of the warranty deed for sale #1 reflecting the sale of four land parcels and a significant increase in land size, while Ashenden's appraisal reflects only two land parcels. Further, Ashenden testified that there was limited comparability between a medical-use office building and a straight, office-use building due to the increased costs and needs associated with a medical building. He stated that he had no personal knowledge of whether the subject was zoned for and/or could be used as a medical office building.

As to Ashenden's income approach, he was examined regarding the absence of an effective tax rate in developing his approach to value. Examination continued using Appellant's Exhibit #5, which were pages from the Property Assessment Valuation, Second Edition published by the International Association of Assessing Officers dealing with application of an effective tax rate.

As to Ashenden's improved sale properties, he testified that he did not make any investigation as to the real estate taxes on these properties. However, he indicated that a heavy tax burden could either cause a decline in real estate value or directly influence an investor's decision. Moreover, he elaborated on a hypothetical wherein an initial estimate of $12.00 per square foot net rent would result in added taxes of $14.00 per square foot resulting in approximately $26.00 per square foot gross rent. In addition, he stated that there would be costs incurred to convert the subject to multi-tenant usage and that these costs would be taken into account by any investor. Ashenden also indicated his agreement with the general proposition that the relationship between size and unit rent is inverse, that larger properties tend to rent at a lower unit value, while the converse was also true, smaller buildings rent at a higher unit value. He also agreed with the industry proposition that deriving capitalization rates with comparable sales is the preferred technique, when there is sufficient data of similar competitive properties in the market.

Intervenor, Hazel Crest School District #152.5, throughout tax years 2002 through 2004, submitted a complete, summary appraisal prepared by Renzi and Associates, which was marked for identification purposes as Intervenor's Exhibit A. This appraisal contained an effective date of January 1, 2002 and a value opinion of $3,200,000. This intervenor called as its witness, Neil J. Renzi, the appraiser who prepared this evidence and who also holds the MAI designation. The credentials of this appraiser were previously stipulated to by the parties as an expert in the field of real estate valuation and was considered as such by the PTAB.

The Renzi appraisal addressed the three traditional approaches to value in developing the subject's market value estimate. The cost approach reflected a value of $3,200,000, rounded; the income approach reflected a value of $3,250,000, rounded; and the sales comparison approach indicated a value of $3,125,000, rounded. In reconciling these approaches to value, he placed main reliance on the sales comparison approach with support from the income approach to reflect his final value estimate of $3,200,000 for the subject.

Renzi testified that he personally inspected the subject on two occasions. This was an exterior inspection of the property on July 15, 2005, and a subsequent time after the appraisal had been completed for an interior inspection. However, he stated that the changes he noted in this interior inspection did not materially affect his value estimate. He noted these changes as being aware of the good quality of the subject property and its potential for multi-tenancy. In addition, he stated that he relied on the subject's descriptive data reflected in the appellant's appraisal because he did not have time to measure the subject.

Renzi indicated that the property had a chronological age of eight years and that the subject's location was very good for a single-occupant, industrial property. He also indicated that he had not noticed any drop in the office properties' market values similar to the subject in the south suburbs between 1998 and 2002. However, he did note a slight price increase in the years preceding 2000 with a moderate upward trend beyond the date of valuation. In contrast, his appraisal noted that the subject's area had a limited office presence in its immediate vicinity, while the majority of the area's office space was located in proximity to better transportation amenities and more intensive commercial uses.

As to the subject, Renzi's appraisal indicated that the improvements were in average physical condition, but that the subject's weakness included its unconventional floor plan as it was built in stages. As to its highest and best use, as vacant, he indicated that the subject's zoning classification and density restrictions were relatively stringent; therefore, the subject's site would be limited to industrial or office development. As to the highest and best use, as improved, the appraisal indicated that given the substantial value differential between the value of the subject's improvements when compared to the land value, as well as the physical characteristics of the improvements and effective demand, the existing improvements significantly contribute to the overall value or its present use as an office property. In addition, he indicated that there would be costs incurred to convert the subject property from a single-tenant to multi-tenant building and that said costs would be considered by any prospective investor. He testified that both net rentable area and gross building area are reflected in his appraisal, but he relied on the later because his comparables in the income and sales approaches were reported as such.

The first method developed was the cost approach. The initial step under the cost approach was to estimate the value of the site. Renzi used four land sales with varying zoning that ranged in size from 94,599 to 177,448 square feet. The properties sold from April, 2000, through May, 2001, for prices that ranged from $250,000 to $575,000, or from $1.19 to $3.24 per square foot. The appraisal indicated a land value of $3.00 per square foot to the subject's land size of 197,152 square feet indicating a value of $590,000, rounded.

Using the Marshall Swift Valuation Service Cost Manual, Renzi's appraisal classified the subject as an average, Class C office building which reflected a value of $75.00 per square foot. However, Renzi estimated a replacement cost new of $3,256,960 or $70.00 per square foot of gross building area. In addition, entrepreneurial profit of 10% was estimated in the appraisal without further explanation.

In developing depreciation, Renzi utilized the age-life method for calculating depreciation. The appraisal reflect an effective physical age as the same as the subject's chronological age of 8 years with a physical life of similar properties estimated at 50 years. At hearing, he testified that the range of physical life could have been from 45 to 55 years or from 50 to 60 years. Therefore, physical deterioration was estimated at 16% with a remaining physical life of 42 years. Functional obsolescence was estimated at 5% attributed to the segmented construction of the subject's construction having been built in stages. Renzi testified that it is very difficult to try to prove up functional obsolescence through a matched pair analysis in this instance because of the uniqueness of the subject's building.

In addition, he stated that a heavy tax burden could be a form of external or economic obsolescence. In his appraisal, external obsolescence was estimated at 10% due to the subject's location in Hazel Crest, which has a limited office presence in its immediate vicinity. Moreover, Renzi stated that his allocations for functional and economic obsolescence were not extracted from market data shown in his report.

Therefore, total accrued depreciation of 31% was applied resulting in the depreciated value of the building improvements at $2,472,033. Renzi stated that he did not perform a market extraction method to determine depreciation because it was not reliable unless you have strong comparable sales that are relevant in location, age and physical characteristics due to the method's very speculative nature. He also indicated that total depreciation typically increases during the life of a property. Lastly, adding the land value of $590,000 and the site improvements value of $150,000, reflected a final estimate of value under the cost approach of $3,200,000, rounded.

Under the sales comparison approach, Renzi utilized five properties improved with a multi-story, multi-tenant office building. He testified that typically multi-tenant properties have a wider market and sell for a higher price than a single-tenant property. The properties sold from October, 1999, through September, 2002, for prices that ranged from $1,450,000 to $2,750,000, or from $51.84 to $95.45 per square foot of gross building area before adjustments. The improvements ranged in size from 21,450 to 53,048 square feet of gross building area and in age from 13 to 20 years. Renzi testified that he looked at the multiple listing service, CoStar Comps service, and other brokers or appraisers in order to obtain these improved sale properties. In addition, he stated that steps are undertaken to verify each sale transaction. He indicated that the information source for the improved sale sizes were assessor's records and probably spot measurements that would have been done by a staff member in Renzi's office. He also indicated that his comparison was based upon gross building area for this is how small office buildings, such as the subject, are marketed. Further, he stated his chosen comparables had a unit of comparison based on gross building area in his analysis.

Regarding these sales, Renzi testified that there were areas of primary adjustments: age, construction quality, land-to-building ratio, and aesthetic appeal. He stated that the later adjustment was prompted by the subject, which is located in a pastoral setting with a pond and open land adjoining the building. The subject's building has: a specific design, concrete tilt-up walls, a rubber membrane roof, good quality finishes inside the structure, and a setting next to the woods and a pond. In contrast, he noted that his comparables contained generic brick buildings without any special design to them. Thereafter, Renzi elaborated on the adjustments to his sale comparables. After making these adjustments, Renzi considered a unit value of $70.00 per square foot to be appropriate for the subject using 46,528 square feet and estimating a market value for the subject of $3,250,000, rounded.

As to the income approach, Renzi considered four leases, three of which were rentals of his improved sale comparables utilized in the prior approach to value. He stated that the source for these properties was the multiple listing service or CoStar Comps service. He indicated that the rental rates were per square foot of leasable area because tenants will only pay for what they use. The properties ranged: in size from 5,500 to 12,500 square feet;

in lease terms from three to five years; and in rental rates from $16.25 to $23.75 per square foot. Three of the rental comparables were leases, while the fourth, rental #2, was an offering. The buildings were multi-story, multi-tenant office buildings that ranged in age from 7 to 18 years. Under examination, Renzi noted that his appraisal contained contradictory rental rates for rental #2. In elaborating on his adjustments, he testified that in making adjustments to these comparables one major factor considered was the fact that the subject property had a special identity that none of the comparables did. Specifically, he noted that the subject's single-tenant: controls the entire building, has their corporate name displayed, and permits sales staff and customer base easy access, while presenting a more prominent image in contrast to a multi-tenant building wherein tenants share space. Further, Renzi reiterated his expert opinion that smaller properties tend to rent for higher unit rates than larger properties, but that he did not apply this theory to this subject property.

Thereby, Renzi estimated a market rent of $24.00 per square foot of gross leasable area for the subject. He testified that greatest weight was accorded to rental #3, which was located down the street from the subject and contained a rental rate of $23.75 per square foot. Under examination, he provided no explanation for the subject's estimated rental outside of his comparables' rental range.

Renzi's appraisal referred to <u>Blacks Office Guide/Winter 2001/2002</u>, for data on the Near West/South/Southwest suburban office market, which reflected a market vacancy rate of 23.3% and an average rent rental rate of $13.69 per square foot. Less a vacancy loss of 18% as well as a nominal collection loss of 2.0% resulting in a combined vacancy and collection loss of 20%, indicated an effective gross income of $828,288. At hearing, Renzi testified that the Kelly appraisal's graph depicting increasing vacancy rates in the office market was accurate. Renzi looked to the three rental comparables for expenses, which ranged from $5.77 to $9.39 per square foot of gross building area. Deducting expenses of $4.00 per square foot of net rentable area or $172,560 as well as replacement for reserves and management fees for this subject indicated a net operating income of $623,879.

Since Renzi's development of vacancy and expenses were similar to Kelly's appraisal, Renzi was examined regarding his determination of a capitalization rate. He stated that he used the band of investment method, the most common method, to conclude an 8.08% overall capitalization rate. He indicated that a market extraction method was unreliable unless the appraiser had inside access to transactional information for each property. In addition, he estimated a tax load of 11.91% resulting in a loaded capitalization rate of 19.99%. Capitalizing the subject's annual income produced a value estimate under the income approach of $3,125,000, rounded.

In reconciling the three approaches to value, Renzi testified that he accorded primary weight to the sales approach to value because properties of a single-occupant nature typically sell based on the principle of substitution. He indicated that the cost and income approaches were used to support the indication of value developed in the sales approach. He stated that the cost and income approaches were unreliable for this particular type of subject property. Renzi's final value estimate for the subject was $3,200,000.

In rebuttal at hearing, the appellant recalled its expert valuation witness, Michael Kelly, who acknowledged that he was still under oath. Kelly was examined regarding Ashenden's improved sale property #1. Kelly stated that he had not physically inspected the intervenor's sale #1, but had appraised the property. He indicated that there was a total of 108,257 square feet of net rentable area within the sale's multi-tenant space. Upon review of this property's tenant mix, Kelly stated that in totality there were from 20 to 40 tenants, while only one doctor occupied 1,100 square feet of the total 108,257 square feet. Therefore, Kelly testified that this sale property would not be considered a medical office building, in his expert opinion. In addition, he stated that this property sold in July, 2001, inclusive of four buildings within the property's complex.

Furthermore, as to Ashenden's improved sale property #7, Kelly testified that he was aware of this sale property and that it was a medical office building. Specifically, he stated that this property's building was solely occupied by doctors. He stated that this property lacked comparability to the subject due to its superiority. He indicated that medical office buildings were more expensive to build on a per square foot basis and would generate higher rents on the same basis.

As to the hearing exhibits, it was noted that the Intervenor's objection to the admission of Appellant's Exhibit #2 was sustained because the documentation had not been timely filed by the appellant. Appellant's Exhibits #4 and #5 were not moved into evidence, but utilized in impeachment of the Intervenor's witness. Further, Intervenor's Exhibits A, B, and C were entered into evidence without objection.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The PTAB further finds a reduction in the subject's assessment is warranted.

When overvaluation is the basis of the appeal, the value of the property must be proved by a preponderance of the evidence. *86*

Ill.Admin.Code 1910.63(e). Proof of market value may consist of an appraisal, 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 presented, with a focus on the comparable sales, the PTAB finds that a reduction is warranted.

Within these appeals, various evidence submissions were tendered as well as testimony of numerous experts in the field of real estate appraisal. These experts either expounded on their work product or were called upon to rebut the validity of other evidence submitted by the parties.

In determining the fair market value of the subject property for tax years 2002 through 2004, representing one triennial assessment period, the PTAB closely examined the parties' five appraisal reports. The PTAB accords little weight to both of the board of review's evidence submissions for they lacked the preparer's testimony concerning his qualifications, the methodology regarding data used therein, and his conclusions.

The PTAB then looks to the remaining evidence that comprises the Kelly appraisal and testimony submitted by the appellant and the intervenors' evidence encompassing the Ashenden appraisal and testimony as well as the Renzi appraisal and testimony. As to the parties' arguments, the PTAB finds that the intervenors' evidence reflects a market value opinion of either $4,900,000 or $3,200,000, while the appellant opines a value of $1,900,000. The PTAB notes that the Kelly appraisal and the Renzi appraisal, both of which were submitted in each year under appeal, opine a value less than the current market value of the subject reflected in the board of review's evidence of $3,753,166.

The PTAB finds, after hearing the testimony and observing the demeanor of the three expert appraisers, Kelly's appraisal and supporting testimony is the most indicative evidence of the subject's market value in the record. In totality, this appraisal developed the three traditional approaches to value in order to estimate market value. Overall, the PTAB accorded most weight to the appellant's evidence due to: the extensive experience of the appraiser; the credibility of testimony elicited from this expert; his thorough and personal inspection of the subject property and his knowledge of its environs; the usage of appropriate adjustments to the sale comparables; and the development of and adherence to the highest and best use of the subject property.

Moreover, the PTAB accorded least weight to the Ashenden appraisal due to: the subject's unsupported class B office property designation; lack of knowledge of the subject's zoning; contradictory statements regarding the subject's market area; absence of obsolescence in development of depreciation; absence of a load factor in development of an overall capitalization rate; a low vacancy and collection loss in contradiction to testimony and market data; questionable verification of market data which called into question the veracity of the remaining sale comparables; and the inclusion of multi-tenant, medical buildings as improved sale comparables without appropriate adjustments.

As to the remaining experts, Kelly and Renzi, both placed least weight on the cost approach to value. Both experts developed a close land value ranging from $2.75 to $3.00 per square foot. Both utilized the <u>Marshall Swift Cost Manual</u> and considered the subject property to be a class C office building with varying amounts of depreciation. However, the Renzi appraisal opined a base cost for the subject of $75.00 per square foot, while contradicting itself later by applying $70.00 per square foot for the subject without explanation.

In contrast, Kelly placed less validity on the cost approach to value due to the subject property's size and large amount of depreciation, while noting its unique characteristics: a single-tenant, office building sited in a less than thriving section of the office market. In addition, PTAB finds that Kelly's development of depreciation less than persuasive considering the subject's young age and pastoral descriptions. Lastly, this position regarding reliance on the cost approach was confirmed by the testimony of the remaining appraisal experts.

Kelly indicated that secondary consideration was given to the income approach to value. All experts testified that a heavy tax burden can cause a decline in market values and would be a factor considered by an investor; however, only Kelly considered these factors in making adjustments to the rental comparables. In his income approach, Kelly viewed one lease and five offerings of rental comparables located within the subject's immediate neighborhood. Kelly credibly testified that there was a distinct absence of leases relating to single-tenant office buildings of the size of the subject's building. This fact was confirmed by the remaining experts in the development of their respective income approaches. Both Kelly and Renzi estimated a 20% vacancy and collection loss as well as relatively similar overall capitalization rates.

In distinguishing the development of the income approach, PTAB accorded Renzi less weight due to unsupported and contradictory application of expenses below the rental comparables' range and income above the comparables' range as well as application of gross building area to the rental comparables and usage of net rentable area for the subject. Further, Kelly estimated potential gross income at $17.00 per square foot of net rentable area, while Renzi estimated $24.00 per square foot of net rentable area. However, Renzi's estimate for the subject was above the range established by his rental comparables without adequate explanation. Moreover, Renzi testified that he placed most weight on rental #3 located down the street from the subject; however, that comparable contained a rental rate of $23.75 per square foot with a leasable area commensurate with only one-quarter the size of the subject's leasable area. Therefore, the PTAB finds that Renzi did not adequately adjust the comparables to the subject for the disparity in their size and multi-tenant usage in comparison to the subject. Thereby, PTAB finds that the income approach is too speculative because the subject property is an owner-occupied, office building in the south suburban office market.

Furthermore, the PTAB accorded diminished weight to the Renzi appraisal due to: a limited inspection of the subject property; acknowledgement of an industry standard that was inversely applied to this subject property without a detailed explanation; and in the income and sales approaches application of a utility argument and/or adjustment, which is most applicable to business value as opposed to its appraiser's application to real estate value.

The courts have stated that where there is credible evidence of comparables sales, these sales are to be given significant weight as evidence of market value. Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207 (2^{nd} Dist. 1979); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5^{th} Dist. 1989). Therefore, the PTAB will give primary weight to the sales comparison approaches to value within the appraisals.

In totality, the parties' experts submitted 13 suggested sales comparables. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9, the Court held that of the three primary methods of evaluating property for purposes of real estate taxes, the preferred method is the sales comparison approach. Thus, the PTAB finds that the best evidence of value is the market data submitted by the parties under this approach to value.

The PTAB finds that regardless of the Ashenden and Renzi opinions that the subject's market was good, there was a stark absence of single-tenant, office buildings as comparables in the sales and income approaches to value submitted by any of the parties. Therefore, it was incumbent upon the three expert appraisers to obtain multi-tenant, office buildings and make appropriate adjustments to these properties.

In reviewing the sales comparables, the PTAB accorded diminished weight to the Ashenden properties due to questionable verification of market data and/or the usage of medical office buildings as comparables. As to the remaining comparables, PTAB accorded varying weight to the Kelly and Renzi sale comparables. However, two comparables, Kelly sale #1 and #5 and Renzi sale #3 and #4, were utilized by both appraisers in their respective analyses. Greater reliance was placed on these comparables as well as Kelly sale #2, which was a single-tenant property that Kelly found to be superior to the subject. Kelly's adjustments to sale #2 were less than persuasive; therefore, PTAB accorded appropriate adjustments to this sale as well as the other sale comparables.

After considering all the evidence, including the experts' testimony and submitted documentation, as well as the adjustments and differences for characteristics in the appellant's and the intervenor's suggested comparables, the PTAB finds that the subject's assessment for tax years 2002 through 2004 is not supported by the sale properties in this record.

Based on this analysis, the Property Tax Appeal Board finds that the subject had a fair market value of $2,200,000 for tax years 2002 through 2004. Since fair market value has been established, the ordinance level of assessment for Cook County as reflected in the Cook County Real Property Assessment Classification Ordinance for class 5a property of 38% shall apply.

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: January 26, 2010

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.