

**PROPERTY TAX APPEAL BOARD'S DECISION**

APPELLANT: Midway Industrial Park, LLC  
 DOCKET NO.: 03-23701.001-I-3 through 03-23012.009-I-3 and  
 04-23832.001-I-3 through 04-23832.010-I-3  
 PARCEL NO.: See below.

The parties of record before the Property Tax Appeal Board are Midway Industrial Park, LLC, the appellant, by attorney Harold J. Hicks of Madigan & Getzendanner, Chicago; the Cook County Board of Review by Assistant State's Attorney John J. Coyne; and the intervenor, Reavis Township High School District #220, by attorneys Robert E. Swain and Michelle A. Todd of Hodges, Loizzi, Eisenhammer, Rodick & Kohn, Arlington Heights.

The subject property consists of approximately a 58.5 acre, or 2,547,300+/- square feet, parcel improved with two one-story industrial/warehouse buildings of masonry construction approximately 47 years old. One of the subject's improvements contains 908,000 square feet of building area while the second improvement contains 61,600 square feet of building area, which includes 840 square feet of mezzanine area. Currently, these improvements are multi-tenant facilities.

(Continued on Next Page)

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds **no change** in the assessments of the property as established by the **Cook** County Board of Review is warranted. The correct assessed valuations of the property are:

<b>DOCKET NO.</b>	<b>PARCEL NO.</b>	<b>LAND</b>	<b>IMPR.</b>	<b>TOTAL</b>
03-23701.001-I-3	19-05-400-014-0000	\$148,458	\$ 3,363	\$ 151,821
03-23701.002-I-3	19-08-200-021-0000	\$104,621	\$ 8,467	\$ 113,088
03-23701.003-I-3	19-08-200-025-0000	\$ 83,720	\$ 3,130	\$ 86,850
03-23701.004-I-3	19-08-200-026-0000	\$123,301	\$ 4,912	\$ 128,213
03-23701.005-I-3	19-08-201-017-0000	\$ 13,269	\$ 3,243	\$ 16,512
03-23701.006-I-3	19-08-201-018-0000	\$ 6,824	\$ 1,008	\$ 7,832
03-23701.007-I-3	19-08-201-021-0000	\$625,912	\$1,026,831	\$1,652,743
03-23701.008-I-3	19-08-201-022-0000	\$117,522	\$ 10,004	\$ 127,526
03-23701.009-I-3	19-08-201-023-0000	\$ 4,542	\$ 527	\$ 5,069
03-23701.010-I-3	19-05-400-008-0000	\$147,367	\$ 130,704	\$ 278,071

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Subject only to the State multiplier as applicable.

The appellant, through counsel, appeared before the Property Tax Appeal Board arguing that the fair market value of the subject is not accurately reflected in its assessed value. In support of this argument, the appellant submitted a summary appraisal report with an effective date of January 1, 2002 (Appellant's Exhibit 1) and presented the testimony of the appraisal's author, Terrence M. O'Brien of Terrence O'Brien & Co., Chicago and Glenview. O'Brien testified he has been an appraiser for over 30 years; has had the designation of Member of the Appraisal Institute (MAI) for about 30 years; is a State of Illinois licensed real estate appraiser; and is a State of Illinois licensed real estate broker.

O'Brien indicated the subject was appraised as fee simple for *ad valorem* tax purposes. The appraiser made a personal inspection of the subject on May 16, 2002. During the on-site inspection, O'Brien noted that although the improvements appeared to be in fair to good condition portions suffered from some deferred maintenance and physical deterioration. In the appraiser's opinion the subject's current use as an industrial/warehouse complex is the subject's highest and best use. The appraiser disclosed that the subject sold in September 1998 for a price of \$8,100,000 in an all cash transaction. The appraiser opined that the 1998 purchase price was indicative of its market value.

To estimate a total market value for the subject of \$8,150,000 as of January 1, 2002, the O'Brien testified he employed the three traditional approaches to value; the cost approach; the income approach; and the sales comparison approach to value.

In the cost approach, the appraiser first estimated a value for the subject's land utilizing the sales of seven vacant parcels located in the subject's general area which sold from March 1999 to April 2002. The parcels range in size from 96,441 to 3,828,000 square feet of land area and sold for prices ranging from \$162,000 to \$3,200,000, or from \$0.69 to \$1.75 per square foot of land area. After an analysis of the comparables' land sales when compared to the subject, the appraiser adjusted the comparables for location, size, time of sale, physical characteristics, zoning, and other differing factors. From this information, the appraiser estimated an indicated unit value for the subject of \$1.25 per square foot of land area or \$3,185,000, rounded.

When estimating a replacement cost new, the appraiser utilized information from several sources including *Marshall Valuation, the Calculator Valuation Guide, Boeckh's Building Evaluation Manual*, and other industry resources. O'Brien determined a replacement cost new for the subject of \$44.75 per square foot of building area. The subject's accrued depreciation and obsolescence was then estimated; physical deterioration, curable and incurable \$27,265,000; functional obsolescence, curable and

incurable, \$4,070,000; and external obsolescence \$4,600,000. After deducting the depreciation and obsolescence the appraiser estimated the value of the improvement to be \$4,700,000. Onsite additional improvements of \$285,000 and O'Brien's estimate of the subject land value were added to conclude an indicated value for the subject of \$8,170,000, through the cost approach.

O'Brien testified he selected eleven sales located in the subject's general area to analyze in the sales comparison approach to value. These properties range in parcel size from 189,000 to 12,300,000 square feet; in improvement size from 91,054 to 3,150,000 square feet; in land to building ratio from 1.54:1 to 4.83:1; in age from 28 to 70 years; from clear ceiling height from 14 to 40 feet; and have from 2% to 10% office space. The comparables sold February 1998 to March 2002 for prices ranging from \$600,000 to \$17,650,000, or from \$4.29 to \$10.36 per square foot of building area including land. The appraiser adjusted the sales comparables for time of sale, location, size, interior ceiling clearance, age, condition, story height, and land to building ratio. O'Brien testified that his final opinion of value through the sales comparison approach was a unit value of \$9.00 per square foot of building area including land or \$8,170,000, rounded

Contained in the O'Brien appraisal was an income capitalization approach to value. To arrive at an indication of the subject's net market rent, a market study was conducted utilizing various sources. From this study, the appraiser concluded that \$0.80 per per square foot of building area, or \$726,400 in net operating income (NOI,) is applicable to the subject. The estimated NOI is based on a stabilized vacancy rate of 12.0%. The band of investment technique was utilized to estimate an overall capitalization rate of 9.3%, rounded. Application of the overall capitalization rate to the estimated NOI resulted in an estimated value through the income capitalization approach for the subject of \$7,810,000. The witness testified that to his knowledge the subject's vacancy rate has been 27.0% for the last several years. In addition, he testified that utilization of the subject's historic vacancy would have a significant negative impact upon his estimate of value. Further, he testified the reason he did not use the historic vacancy rate is because he utilized the same methodology as the Cook County Assessor. He also testified that from his experience, the Cook County Assessor provides additional relief when a property's vacancy rate is substantially higher than the stabilized market vacancy rate. The witness testified he did not prepare appraisals for 2003 and 2004 because of the subject's vacancy factor.

In his reconciliation of the three approaches to value, the sales comparison approach was accorded the most weight and in the appraiser's opinion well supported by the other two approaches to

value. O'Brien's final opinion to value for the subject was \$8,150,000 as of the assessment January 1, 2002.

During cross-examination by the intervenor's counsel, the appraiser was asked to reiterate his conclusion of market value for the subject. He responded \$8,150,000, assuming it was at market rent and 88% occupied. He was then asked if these assumptions comport with the state of the property as of January 1, 2002, January 1, 2003 or January 1, 2004. O'Brien answered the assumptions are not consistent with the subject as of January 1, 2002, because the subject had a substantially higher vacancy rate. Further, he testified he did not render an opinion of value for the years 2003 or 2004. Under cross-examination, the appraiser testified that in an arm's length transaction as of January 1, 2002, the subject would have commanded a sales price of \$8,150,000.

Mr. O'Brien was then cross-examined by the assistant state's attorney. When asked if he was aware the subject was sold in 1998 for a price of \$8,100,000, O'Brien answered in the affirmative.

Next, Peter O. Yanson, a professional asset property manager was tendered as a witness for the appellant. The witness is the subject's asset property manager. Yanson identified several exhibits presented by the appellant's attorney as the subject's operating statements and vacancy affidavits that he caused to be produced for the years 2002 through 2004. Yanson was cross examined by both the intervenor's attorney and the assistant state's attorney regarding the accuracy of the exhibits; he replied that all the documents were accurate.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's 2003 and 2004 final total assessments of \$2,567,725 were disclosed. This assessment reflects a fair market value of \$7,132,569 or \$7.36 per square foot of total building area, land included, when the Cook County Real Property Assessment Ordinance level of assessments of 36% for Class 5b industrial property is applied. In addition two memorandums and sale summary reporting sheets for five properties from *CoStar Comps* were proffered. These properties sold from December 2004 to April 2005 for prices ranging from \$4,013,666 to \$6,500,000. The memorandum's author, Jeffrey M. Hortsch, suggested an analysis indicated the comparables had an unadjusted sales range from \$7.34 to \$12.17 per square foot of building area. Hortsch did not appear at the hearing to explain the similarities and/or differences between the comparables and the subject; the methodologies utilized to arrive at the range per square foot; or to be meaningfully cross-examined by the appellant's counsel and the Property Tax Appeal Board. Based on the foregoing the board of review requested confirmation of the subject's current assessment.

In closing, counsel for the appellant argued that while the appellant's 2002 appraisal and the testimony of O'Brien indicated the subject had a market value of \$8,100,000, the subject was underperforming in the years at issue. Counsel asserted that the subject's 2002 assessment reflected the subject's underperformance but the subject's continued and accelerated underperformance or vacancy was not reflected in the 2003 and 2004 assessments. Counsel argued that the subject's level of occupancy slipped from 59% to 48% during the time period from 2003 through 2004. This decline, he argued, was not taken into consideration by assessment officials as was the subject's vacancy in 2002. Thus, he argued the subject was inequitably treated and consequently the assessments incorrect.

Counsel for intervenor argued that the appellant's appraisal and the testimony of the appellant's appraiser is clear; the subject's market value was \$8,100,000 as of January 1, 2003 and January 1, 2004. The intervenor's attorney argued that there is no testimony or evidence in the record of what, if any, impact the subject's vacancy had on its market value. He also argued that there is no testimony or evidence in the record that the subject was treated inequitably. Further, he contends appellant's witness Yanson explained it best in his testimony when he indicated that vacancy is part and parcel of an appraisal process.

In rebuttal, appellant's counsel argued that his argument that the subject was not treated uniformly is demonstrated by the fact the subject's declining occupancy was not taken into consideration when the subject was assessed on January 1, 2003 and January 1, 2004. Instead, he argued, the subject's assessment simply remained the same as it was on January 1, 2002.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal.

First, the Property Tax Appeal Board finds the appellant's argument regarding the equity of the subject's assessment without merit. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. The Board finds that the appellant failed to present any creditable evidence or testimony to demonstrate the subject was treated unfairly or inequitably.

The next issue before the Property Tax Appeal Board is the subject's fair market value. When overvaluation is claimed the

appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. Section 1910.65 *The Official Rules of the Property Tax Appeal Board* (86 Ill.Adm.Code §1910.65(c)).

The Property Tax Appeal Board finds the appellant's expert appraiser clearly testified during both direct and cross examination that in his opinion the subject had a market value \$8,100,000 as of January 1, 2002. Mr. O'Brien qualified his opinion slightly by indicating the subject's vacancy might have a negative effect on value in the subsequent years. The witness did not nor was he asked to render an opinion of how much that negative effect had on the subject's market value.

The Board finds that the appellant presented a credible appraisal utilizing the three classic approaches to value and credible supporting testimony from Terrence M. O'Brien, the appraisal's author. The three approaches to value appeared to contain credible data and concluded an estimate of value based on an analysis of the data. The appraiser relied most heavily on the sales comparison approach and each sale presented was described with appropriate adjustments made to each property when compared to the subject. O'Brien's conclusion in the income approach to value appeared to be reliable though the witness was not questioned or cross-examined about this approach to value. In the cost approach to value, the appraiser relied on a nationally accepted cost manual. The Board finds that the O'Brien's final conclusion of value to be aligned with the conclusions reached in the three approaches to value.

The Property Tax Appeal Board finds that the appellant's contention the subject should be given relief due to vacancy within the subject to be without merit. The appellant's appraiser utilized both market sales and market rents to determine a fair market value for the subject which the Board finds is accepted appraisal methodology and accounts for market driven vacancy.

The Board also finds the board of review submitted raw sales data of similar industrial properties that had unit prices ranging from \$7.34 to \$12.17 per square foot of building area. The subject's assessment reflecting a market value of \$7.36 per square foot of building area is supported by this data.

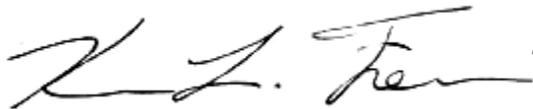
In conclusion, the Property Tax Appeal Board finds that the subject's assessments reflecting a market value of \$7,132,569 are

supported by the appellant's appraisal and the comparable sales data provided by the board of review. Therefore, the Property Tax Appeal Board finds that no reductions are appropriate.

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.



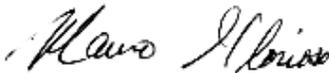
Chairman



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: March 20, 2009



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.