

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Calumet Transfer, LLC
DOCKET NO.: 03-27670.001-I-3 thru 03-27670.016-I-3
04-25665.001-I-3 thru 04-25665.016-I-3
PARCEL NO.: See Page 16

The parties of record before the Property Tax Appeal Board (hereinafter PTAB) are Calumet Transfer, LLC, the appellant, by Attorney David C. Dillon with the law firm of Dillon and Nash in Chicago; the Cook County Board of Review by Cook County Assistant State's Attorney Marie Smuda in Chicago; and the Chicago Board of Education, the intervenor, by Attorneys Stephen H. Pugh and Cambi L. Cann with the law firm of Pugh, Jones, Johnson & Quandt in Chicago.

The subject property consists of an irregular shaped 96.5 acre site commonly known as the "Coke Production facility" improved with eight industrial buildings of varying age, size, function and condition. The appellant, via counsel, argued that the fair market value of the subject is not accurately reflected in its assessed value.

At the commencement of the hearing, several preliminary matters were addressed. First, the appellant submitted a Motion for Leave to Amend Previously Submitted Evidence several days prior to the hearing. The remaining parties submitted responses via electronic communication prior to the hearing. Upon due consideration at hearing, the PTAB denied the appellant's motion.

Secondly, the PTAB finds that these appeals are within the same assessment triennial, involve common issues of law and fact and a

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

LAND: See Page 16
IMPR.: See Page 16
TOTAL: See Page 16

Subject only to the State multiplier as applicable.

PTAB/0768/9JBV

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consolidation of the appeals would not prejudice the rights of the parties. Therefore, pursuant to Section 1910.78 of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code 1910.78), the PTAB consolidated, without objection from the parties, the above appeals.

In support of the market value argument, the appellant submitted a summary report of a limited appraisal of the subject with an effective date of January 1, 2003 and an estimated market value of \$850,000 and an appraisal update with an effective date of January 1, 2004 confirming the estimated market value of \$850,000 as arrived at and incorporated by the January 1, 2003 appraisal.

The appellant's first witness was Alan Beemsterboer, the president of George A. Beemsterboer and vice-president of Lakeshore Coal Handling Corporation. In 2003 and 2004, Mr. Beemsterboer was manager of Calumet Transfer, LLC. Beemsterboer testified that the company was formed when it purchased the subject property for the potential use as a trans-loading facility. Beemsterboer testified that trans-loading is taking materials, such as coal, that come in by one means of transportation and loading it onto another means of transportation for shipment elsewhere.

Beemsterboer testified Calumet Transfer purchased the property in November 2002 for \$850,000. He stated that, at the time of purchase, the property contained the coke battery or factory, 60 meter batteries, several buildings, the hueletts, which unloaded the coal, and a scale. Of the five or six building on the property, Beemsterboer testified that they varied in size and condition with some being in fair condition and other tin sheds that were not worth much. He explained that the meter batteries were 60 six-meter ovens in the coke battery and that the hueletts are two machines located next to the river and are used to unload the coal from barges. Beemsterboer then testified that there were no changes to the property in 2003 and 2004 from the time of the sale in late 2002.

Beemsterboer testified he became aware of the sale of the subject property through a sign posted by the real estate agent. He stated that he sent a letter to the agent making an offer of \$850,000 with a request for time to conduct an environmental study. The agent's response was that additional time would not be granted and, Beemsterboer stated, no contingencies were placed on the offer. Beemsterboer then stated that Calumet Transfer was the winning bidder for the property. Beemsterboer was then shown Appellant's Exhibit #1, a quitclaim deed for the subject property, where he acknowledged the recording of the deed in January 2003.

As to the potential use of the property, Beemsterboer testified that the subject property never developed into a trans-loading facility. He stated that he did not undertake any construction

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to further any activity on the property and, although there was a spur railroad line on the property, it was never utilized.

Beemsterboer was then shown Appellant's Exhibit #2, copies of the acquisition documents for the subject property. This exhibit included a copy of the sale and purchase agreement, however, a second copy of the sales agreement was entered into evidence as Appellant's Exhibit #3. Beemsterboer testified that the property was purchased "as is" for \$850,000 which was paid directly to the seller. He testified that he was aware of environmental contamination on the property prior to the purchase of the property. Beemsterboer stated that in 2003 Calumet Transfer remediated some of the contamination on the property in accordance with EPA covenants for \$50,000 or \$60,000.

Beemsterboer was asked questions in regards to Tax Increment Financing (TIF). He testified that Calumet Transfer never received any TIF funds in relation to the subject property.

Under cross-examination by the intervenor, Beemsterboer acknowledged there was over \$1,600,000 in back taxes owed on the property prior to the closing date. He stated the closing statement was not included as evidence because it was in the possession of the attorney who handled the closing. He also acknowledged that there were other liens on the property prior to closing, but he was unaware of who paid those liens.

Beemsterboer acknowledged that the sales agreement states the seller filed for bankruptcy. He was unaware of whether the appellant purchased the subject property through an auction.

Under cross-examination by the board of review, Beemsterboer testified that he did not know the amount needed to repair the railroad lines on the subject property nor was he aware of the cost for remediation of the environmental contamination.

On redirect, Beemsterboer testified that Calumet Transfer did not pay any liens or back taxes on the subject property either prior to or after the purchase of the subject property. Beemsterboer was then shown Appellant's Exhibit #4, a copy of the borrower's statement, where he stated that no other costs were expended for the purchase of the subject property. This document was not a complete document, was unsigned by the title company, and was not accompanied by a settlement statement.

On final cross, Beemsterboer testified that the borrower's statement was sent to him recently by the bank and the title company possessed the settlement statement. He reaffirmed that Calumet Transfer purchased the subject property for \$850,000.

The next witness called by the appellant was Howard B. Richter who authored the appraisal submitted into evidence. The parties stipulated to the qualifications of Richter as an expert in the

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field of property valuation and, without objection from the parties, he was accepted as such by PTAB.

The appellant's appraisal gave an estimate of market value as of the effective date of January 1, 2003 of \$850,000. This appraisal was marked as Appellant's Exhibit #5. The appraisal reflects that a personal inspection of the subject property was undertaken on March 11, 2004. The property is located east of the Calumet River to Burley Avenue and from 114th street to 11th street in Chicago. Richter testified the property does not have a conventional street address and is irregularly shaped so his description of the address refers to the bulk of the property that is continuous and almost rectangular in shape. Richter testified that the appraisal contains an error as to the ownership of the property when it sold to Calumet Transfer.

Richter testified that at the time of inspection of the property on March 11, 2004, there were approximately six buildings and substantial site improvements located on the subject property. He stated that of those six improvements, three of them could have potential for re-use; however, none were in a condition to be habitable. Richter opined the cost to make these buildings operable would be uneconomic. He testified the remaining buildings were deteriorated, derelict, missing essential structural elements and of no potential for reuse. He also indicated that the remaining specialized improvements were related to the production of coke, a byproduct of coal and were not contained in buildings. As to the batteries, or coke ovens, Richter testified that these improvements must be maintained at high temperatures at all times or else the linings of the bricks deteriorate and opined the cost to reinstate them could be in the millions. Richter stated the ovens had been turned off for many years.

Richter stated he was guided through the inspection by an employee of Calumet Transfer and was presented with an aerial photograph of the subject property. He described the property as heavily littered with portions of buildings, material and equipment left abandoned in place.

Richter opined that because the improvements add no contributory value to the property, the sales comparison approach was the method to utilize to arrive at an estimate of market value for the subject for 2003 and 2004. Richter testified he gave substantial consideration to the area in which the subject was located because he opined it was a unique-market area that would impact the potential future use of the property.

As to the subject zoning, the appraisal indicates the subject is zoned M3-3 for industrial use. Richter testified that this zoning permits virtually any industrial use, but no alternative use. He testified he saw no apparent use for the property in the foreseeable future and he determined the highest-and-best use of

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the property to be moot as the property is considered to have value only to a speculator, willing to make a relatively modest investment in the hope of some future, unperceived, development proposal.

In addition, Richter testified he considered the sale of the subject property and gave it significant weight in estimating the subject's value. He opined that the bankruptcy sale met the conditions of proper exposure to potential buyers and that no one acted under duress or hastily as required to meet the definition of market value.

The appellant's appraisal utilized the sales comparison approach to value in estimating the subject's market value. As to sale #1, Richter testified this property was located directly east of the subject property and is entirely vacant land that has never been put into any service. He referred to the property as "the buffer property" and explained that it was left vacant by the owners to provide a buffer between the industrial development and the nearest homes. Richter considered this property inferior to the subject because it did not have river frontage and was low-lying land that could potentially have drainage problems. Richter was unaware as to whether this property sold at an auction, but was satisfied it met the definition of market value. This property sold in June 2003 for \$150,000 or \$3,450 per acre.

Sale #2 is an 87.5 acre site located immediately north of the subject. The appraisal notes this property is the former Acme Steel blast furnace property and currently owned by parties related to the owners of the subject property. This property is zoned M3-3. Richter testified that the improvements on this property were conveyed separately for salvage value and that the land was sold as vacant. This property sold in November 2003 for \$880,000 or \$9,786 per acre.

Richter was directed to sale #3 and testified that this property is located immediately south of the subject. This property is 81.5 acres and improved with numerous buildings totaling 1,500,000 square feet of building area. Richter testified that some of the buildings, more than 500,000 square feet, were still in use. He stated this property sold in January 2001 for \$6,000,000. According to the appraisal and Richter's testimony, the sales contract allocated \$3,000,000 to the building improvements and \$1,500,000 to other assets listed in the contract. Richter testified the land sold for \$1,500,000 or \$18,385 per acre.

The appraisal included the sale of two additional properties in the discussion of comparable #3. Richter testified in regards to one property that the age of the sale excludes it from comparability, but was included to substantiate his allocation of price per acre on land versus buildings.

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The appraisal includes several pictures depicting portions of the subject property. Richter testified that one photograph depicts a portion of the subject property that is an entrance to the subject property, but not a dedicated street. Richter stated the street is maintained by the appellant who is also the owner of the adjacent property, but not used exclusively by the appellant. A photograph in the appraisal depicts one of the brick buildings and lists it as potentially usable. Richter testified he did see the interior of the building, but opined that to make the exterior of the building usable, the appellant would need to repair the severely damaged upper fiberglass panels; the truck docks; and create a usable access drive to the docks. Richter testified to the various reasons he opined that the building had no potential for renovation or return to service. He also opined that the other buildings and equipment photographed in the appraisal did not have any potential for reuse or add any value to the property for various reasons.

As to environmental conditions, Richter testified he did not consider any adverse environmental conditions when appraising the property. Richter testified he has no expertise in this area and was told there was no environmental study available. The appraisal indicates the appraisal was conducted without any presumptions of adverse conditions existing on the property.

Richter testified that at the time of the appraisal, he was unable to establish that the subject property was located in a TIF district.

Richter testified that, based on all the factors for the comparable properties, he estimated a value for the subject property as vacant on January 1, 2003 of \$850,000.

Appellant's Exhibit #6, the 2004 appraisal update for the subject property, was presented to Richter. He opined that this update letter complied with the Uniform Standards of Professional Appraisal Practice (USPAP). He testified to the standards and the "departure provision" within the USPAP and opined that he complied with these standards and the provision.

As to the 2004 appraisal update, Richter testified that he reviewed the sales of three additional properties in updating the value of the subject property for January 1, 2004.

Richter testified the first sale at 11201 S. Torrence Avenue was a vacant land sale and much smaller in size than the subject at 23 acres. He testified that this property is located on a heavily traveled arterial street and has superior access. He also stated the property was purchased as part of an assemblage. The appraisal indicates this property sold in July 2004 for \$26,975 per acre. Richter stated significant downward adjustments the above cited reasons.

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As to 11237 Torrence Avenue, Richter testified this 44 acre site was sold as part of the same assemblage as the first sale. He stated the access to this property is superior to the subject.

Richter further testified that this assemblage sale was supported by the City of Chicago and that the City made a commitment to provide improved infrastructure to the immediate vicinity of the property. He stated all utilities were in place on the property and it was ready for immediate development. The appraisal update indicates this property sold at auction in February 2004 for \$22,727 per acre. Richter testified that for the stated reasons he made substantial downward adjustments.

Richter testified the sale of both sides of 183rd Street, West of Vincennes Avenue is a 107 acre site zoned for heavy industrial use. He stated the site contained minor improvements that were specialized to the former use and, he opined, had no contributory value to the property. This property sold in February 2003 for \$8,411 per acre. He testified that the property was superior in some characteristics and inferior in others, and therefore, the adjustments offset each other and there was not a significant adjustment to the sale price.

Richter estimated the value of the subject property on January 1, 2004 to be unchanged from the value arrived for the subject on January 1, 2003.

Under cross-examination by the Chicago Board of Education (BOE), Richter was presented with Intervenor's Exhibit #1, a Westlaw printout of the Illinois law defining fair cash value; Intervenor's Exhibit #2, a copy of pertinent sections of the 2004 Edition of the USPAP; and Intervenor's Exhibit #3, a Westlaw printout of Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428, 256 N.E.2d 334 (1970). Richter acknowledged that the sale of the subject property was approved by the bankruptcy court and reviewed Intervenor's Exhibit #4, a Westlaw printout of Norin v. Scheldt Mfg. Co., 297 Ill. 521, 130 N.E. 791 (1921). He acknowledged he did not specifically state that the subject property was under the jurisdiction of the bankruptcy court anywhere in the appraisal.

Regarding sales #1 and #2, Richter testified these properties sold under the jurisdiction of the bankruptcy court. Richter acknowledged he did not indicate the bankruptcy courts' involvement in the sales within the appraisal.

Richter testified in regards to sale #3 that the purchase contract allocated \$3,000,000 to the buildings and \$1,500,000 to other assets and concluded the land sold for \$1,500,000. Although Richter opined the land value may have been overstated, he was unable to say how for certain. He acknowledged the purchase contract was not included in any way within the appraisal. His appraisal stated sale #3 had superior zoning, but

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Richter acknowledged that the subject property had the same zoning as sale #3. He then testified the comparable did not have superior zoning.

During cross-examination by the board of review, Richter opined that both the 2003 appraisal and the 2004 update letter comply with requirements of USPAP. Richter was questioned extensively on what information was contained in his appraisal, such as property identification numbers, grantor and grantee of a sale, auction information, and how this lack of information complies with USPAP. He was also questioned extensively on the departure provision of USPAP and the compliance of the 2004 update appraisal or letter with USPAP.

Richter agreed that if a sales contract indicated there was a purchase price and assumptions of liens or mortgages, the actual sale price would include both the purchase price and the amount of those liens or mortgages. Richter testified there was an assumption of liability clause in the subject property's sales contract that had Calumet Transfer assuming any mechanic's liens or liens on the property if there were any.

Richter acknowledged that the appraisal states that three of the buildings located on the subject property were potentially usable even though an interior inspection was not conducted. The appraisal notes that any value they may have is offset by the costs to demolish the specialized improvements and abandoned buildings. However, Richter could not provide any estimates of demolition costs.

Richter testified that he was never informed by Beemsterboer that \$50,000 or \$60,000 was expended by Calumet Transfer for remediation of hazardous substances on the subject property. Richter stated he was told there were no known hazards on the property at the time of purchase.

When asked about adjustments made to the suggested comparables, Richter testified he did not make quantifiable adjustments, but qualitative ones by indicating if the properties are superior or inferior to the subject. He stated that the measurement of these adjustments is not in the appraisal, but that the adjustments were based on his professional judgment, experience and familiarity with both properties.

On redirect, Richter testified further as to USPAP, the departure rule and the departure provision. He stated he did not include information in his appraisal concerning the auction of the sales comparables because it was not required under USPAP and was satisfied the sales were not made under duress.

The board of review submitted "Board of Review-Notes on Appeal" for 2004 that reflect the subject's total assessment of \$1,050,704. The board of review did not submit any evidence for

the 2003 appeal. The parcels for this property have different classifications and yield a market value of \$2,981,200 or \$30,896 per acre of land using the Cook County Real Property Classification Ordinance for Class 5B property of 36% and Class 1 property of 22%. The board also submitted raw sale information on a total of three comparables that range in price from \$26,975 to \$89,618 per acre of land. No adjustments were made for locations, size, or zoning. As a result of its analysis, the board requested confirmation of the subject's assessment. At the hearing, the board of review did not call any witnesses.

In support of the intervenor's position, the intervenor submitted two summary appraisals of the subject prepared by real estate appraiser Bill Enright with effective dates of January 1, 2003 with an estimated market value of \$3,500,000 and January 1, 2004 with an estimated market value of \$3,600,000. The appraisals were marked as Intervenor's Exhibits #5 and #6, respectively.

Enright was the intervenor's first witness in this appeal. Prior to his testimony, the parties stipulated as to the qualifications of Enright and he was admitted as an expert in the field of property valuation without objection of the parties.

Enright testified that he reviewed several sources to obtain information on the subject property one of which was the Richter appraisal. He stated the descriptive information in the Richter appraisal appeared to be accurate. Enright testified he would include the conditions surrounding a sale because it could have an influence on the end sale price. He opined that a bankruptcy proceeding would have a negative impact on the sale price.

Enright testified he performed an exterior inspection from the outside of the subject on August 22, 2006 and noted that the property was located in an industrial area and appeared to be abandoned. He stated he would not determine the conditions of the buildings based on his visual review.

Enright testified he reviewed the sale of the subject property in December 2002 for \$850,000 or \$.20 per square foot. He also stated the seller was subject to the bankruptcy court. Enright opined that this sale price was not indicative of the market because it involved a bankruptcy proceeding and because the price per square foot was well below the unit prices of the comparables.

Enright then testified that the highest and best use of the subject property would be for industrial use. The appraisal did not include any of the buildings in determining a market value for the subject and the property was appraised as vacant.

Enright testified he utilized the sales comparison approach to estimate a market value. Under this approach, Enright examined five suggested sales comparables. The properties were all

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located within three miles of the subject. The properties ranged in size from 2,526,480 to 8,973,360 square feet and sold from February 2000 to February 2002 for prices ranging from \$2,625,000 to \$88,950,164 or from \$.44 to \$1.75 per square foot.

Enright testified that none of the sales used in his appraisal sold subject to bankruptcy. He further stated he did not use any bankruptcy sales, similar to the subject, because there were sufficient sales within the market.

As to sale #1, Enright testified that this sale was also a portion of sale comparable #5. This property is part of the Chicago Manufacturing Campus. Enright stated he made upwards adjustments for market conditions and lack of river frontage and downward adjustments for size and access. He testified that the address listed for this comparable in the appraisal is the correct address of the property as indicated by the assessor's records and CoStar Comps printouts.

As to sale #2, Enright noted this property was located in Indiana approximately three miles from the subject. He opined this property was comparable to the subject due to its size, zoning and proximity to the subject. He testified upward adjustments were made for market conditions and river access and downward adjustments were made for size and ingress and egress. Enright opined it was appropriate to utilize sales from properties located outside the subject's state.

Enright opined sales #3, #4 and #5 were similar to the subject in size, location and zoning. He testified he made several adjustments to these properties for size, market conditions, water access and ingress and egress.

The appraisals also indicate additional market data which includes six additional sales. Enright testified he listed these additional sales to show the market and that there were other sales. Enright discussed the details of those sales and opined that they were not comparable to the subject for various reasons. Enright testified he did not utilize these sales to estimate a market value for the subject property.

After making adjustments, Enright testified he determined a value for the subject to be in the middle of the range of the comparables at \$.85 or \$.86 per square foot. He testified he estimated the value for the subject property as of January 1, 2003 to be \$3,500,000 and for January 1, 2004 to be \$3,600,000. Enright testified the difference in value is due to time and market conditions.

Upon cross-examination, Enright acknowledge that sale #2 in the Richter appraisal is similar to the subject in size, shape, location and date of sale, however, Enright opined the sale was not comparable because of the conditions of sale and the fact

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that the property sold at an auction pursuant to a bankruptcy proceeding.

In addition, Enright stated he did not rely on the subject's sale price in estimating the subject's market value because the property sold pursuant to a bankruptcy proceeding and sale price was below typical unit prices for land sold in the subject's market.

Enright acknowledged that sale #2 was of a property located in a new industrial area in Hammond, Indiana. He also agreed that this property had a different tax structure than property in Illinois and that this could affect the sale price.

For sale #3, Enright was questioned regarding environmental contamination on this property and any remediation done. Enright testified he had no knowledge of known environmental contamination on the subject property and did not value the subject property as if it had environmental contamination.

Enright testified that sale #4 is located to the immediate south of the subject property. The appraisal stated that the improvements on this property were in fair to poor condition. Enright testified the improvements were demolished, but did not know when.

As to sale #1, Enright acknowledge that there was a relationship between the buyer and seller of this property that he was not aware of at the time of writing the appraisal. He further testified that this information would not affect his opinion of value for the subject.

As to sale #5, Enright acknowledged this property is also located in the Chicago Manufacturing Campus and that there were considerable incentives given by the City of Chicago to facilitate this sale. He stated he made no adjustments to this comparable for these incentives.

Under cross examination by the board of review, Enright testified he did not make adjustments to sale #5 because the incentives were also available for the subject property even though they did not receive them.

The appellant re-called Richter as a rebuttal witness. Richter addressed the Enright appraisals submitted by the board of education. Richter testified that Enright's sale #1 was not an arm's length transaction, but a sale of convenience between related parties.

As to Enright's sale #2, Richter testified that this property was not comparable to the subject because it is located outside of

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Illinois. He opined that the economic factors are different from Illinois and, therefore, make the property not comparable.

Richter testified that sale #3 in the Enright appraisal has some limited degree of comparability for estimating the value of the subject property. However, he opined that, in his belief, the sale price was \$4,700,000 and not \$8,950,000 as listed in the Enright appraisal. Richter stated that the additional amount included by Enright was TIF funding paid by the City of Chicago. He also testified that the sale of this property was never consummated in its entirety as the purchaser defaulted on the sale. Richter also noted this property includes deep water slips on Lake Michigan which can accommodate large vessels.

Richter testified sale #4 was not vacant land at the time of sale and that Enright did not attribute any of the value of the buildings. He opined that because of this the sale was inappropriately adjusted.

As to Enright's sale #5, Richter testified that there was also some limited degree of comparability to the subject. He testified, however that this property was part of a joint venture to create a captive market in the location for suppliers to the Ford Plant located nearby. He also testified that this property was subject to financial incentives from the City of Chicago.

Richter then addressed the additional market data that was included in the Enright appraisal. The appraisal review letter also analyzes these sales.

Under cross-examination by the intervenor, Richter outlined with a red marker sale #4 as shown in the photograph within Richter's appraisal review letter. Richter was then presented with Intervenor's Exhibit #8, an aerial photograph of Enright's sale #4. Richter acknowledged that there is no building as large as he describes in his appraisal review on the property that is Enright's sale #4. The intervenor then tendered Intervenor's Exhibits #9 and #10, copies of the warranty deeds for Enright's sale #4 and the property Richter did an appraisal review on as Enright's sale #4, which is the same property that is listed in Richter's appraisal as sale #3. Richter then acknowledged that his appraisal review for sale #4 was conducted on the wrong property.

Under cross-examination by the board of review, Richter was questioned in regards to compliance with USPAP when conducting appraisal reviews. He acknowledged that there was no certification page in either of the review appraisal letters. There was further questioning in regards to compliance with the USPAP. Although Richter testified the Enright appraisal did not comply with all the USPAP requirements, he did acknowledge that his own appraisal also contained these errors. The appraisal review states that the engagement is limited to an analysis of

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the data gathered and presented in Enright's appraisal. Richter testified that this statement did not limit his opinion in the review of an alternative value.

In re-direct, Richter opined that the 2003 review does have a certification in it because he references the certification in his 2003 appraisal as part of the review.

In direct questioning concerning the board of review's evidence, Richter was presented with Appellant's Exhibit #10, a letter from Richter analyzing the sales information submitted by the board of review. Richter testified that the board of review's evidence included CoStar Comp sales and a memo listing these sale prices per acre. He opined that the evidence was not an appraisal, but simply adjusted sales of properties that were not comparable to the subject.

On cross-examination by the board of review, Richter was questioned extensively on the compliance of Appellant's Exhibit #10 with USPAP. Again, Richter testified he did not attach a certification to this exhibit, but opines that the certification within his 2003 appraisal is incorporated into this document by reference.

Richter stated one of the sales submitted by the board of review is not comparable due to being 25% smaller than the subject; however, he acknowledged that in his own appraisal he used a property that was much smaller than the subject.

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.

When overvaluation is claimed the appellant has the burden of proving the value of the property 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, the PTAB concludes that the appellant has not satisfied this burden and that a reduction is not warranted.

In determining the fair market value of the subject property for tax years 2003 and 2004, the PTAB closely examined the parties' two appraisal reports and the appellant's rebuttal evidence. The PTAB accords little weight to the board of review's evidence because no witness was called to provide testimony and be cross-examined about the data and to explain the methodology used. Moreover, the PTAB found the evidence lacked analytical components, had limited property data, and had limited analysis.

In addition, PTAB accords little weight to the sale of the subject in December 2002 because of the circumstances surrounding the sale. The acquisition documents show that outstanding taxes and liens were owed prior to the sale; however, the taxpayer testified that he did not pay more than the \$850,000 as offered prior to this information's disclosure. Moreover, the circumstances surrounding the sale at a bankruptcy call into question the arm's length nature of the transaction and do not establish that the sale price was at market value.

That having been said, the PTAB then looks to the remaining evidence that comprises the Richter appraisal and testimony presented by the appellant; the Enright appraisals and testimony presented by the intervenor(s); and Richter's testimony in regards to the reviews of the board of review's and the intervenor's evidence.

The PTAB finds that both appraisers utilized the sales comparison approach to value. The PTAB finds that there were several structures on the property. Richter found that the buildings contributed no value to the land while Enright valued the property as vacant land. Richter did not conduct any interior inspections of the buildings. The evidence and testimony indicates that three of these structures had potential for re-use; however, no rehabilitation costs were provided. The PTAB finds that the appellant failed to provide sufficient evidence to establish that the improvements on the subject property had no value.

Turning to the value of the land, the appellant's sales #1 and #2 were accorded little weight because the credibility of these sales are in question. Richter testified that these properties were sold as part of bankruptcy proceedings, however, the appraisal never indicated this. Although Richter found these sales to be arm's length, the inclusion of the circumstances of the sales would have bolstered his opinion of the arm's length nature. There was no evidence or testimony regarding the specifics of these sales. By not including this information, it clouds the appraiser's credibility and calls into question the arm's length nature of the sales.

As to appellant's sale #3, the PTAB finds that this property is similar to the subject in size and location. The sale price as listed in the appraisal allocates a value to the land based on the sales contract. The contract allocated values to improvements, land, and other assets. In the instant appeal, the subject property is not vacant land. The PTAB finds the value for this comparable property should have included both the value for the land and the value for the improvements, which calculates to a purchase price of \$4,500,000 or \$55,154 per acre.

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As to the intervenor's appraisal, the PTAB give little weight to its sales comparable #2 as it is located in Indiana. There was no testimony by any party that the subject property's market was on a national or regional basis and the PTAB found credible, with regards to this topic, Richter's testimony that, for industrial properties, the economic factors between the jurisdictions of different states limits the comparability for valuation purposes.

In addition, intervenor's sales #1, #3 and #5 received considerable incentives from the City of Chicago to purchase the property. Although the subject property was located within a TIF district, those incentives were never included as part of the purchase of the subject property during that same time period nor was there any testimony that the subject property was offered any incentives at any time. The direct involvement of the City of Chicago to influence those sales makes the sale prices questionable and, therefore, limits their comparability.

The appellant also included several additional sales within its 2004 appraisal update. Richter's own testimony was that sales #1 and #2 were part of an assemblage of properties. The conditions of these sales limit their comparability to the subject and are given little weight.

The board of review and the intervenor focused many of their questions on Richter's compliance with USPAP in developing his appraisal, appraisal update letter, appraisal reviews, and review of the board of review's evidence. In the instant appeal, compliance with USPAP goes towards the credibility of the appraiser. The PTAB finds that in all substantive matters, the evidence complies with USPAP.

There was a great deal of testimony in regards to the additional sales submitted within the intervenor's appraisal. Enright testified that the comparability of these properties was not addressed and that they were not utilized as comparables. The PTAB finds that there was sufficient testimony from both parties for the PTAB to determine that these properties should not be considered in valuing the subject property and are also given little weight.

The remaining sales given significant weight by the PTAB have sales dates from July 2000 to February 2003 and sales prices ranging from \$900,000 to \$4,500,000 or from \$8,411 to \$55,154 per acre or \$.19 to \$1.26 per square foot of land. The subject property's current assessed value equates to a market value of \$2,981,200 or \$30,896 per acre or \$.70 per square foot of land. After considering all the evidence including the experts' testimony and submitted documentation as well as the adjustments and differences for sale date, location, condition of the land, building conditions, and type of legal conveyance in the appellant's and the intervenor's suggested comparables, the PTAB

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finds that the subject's current 2003 and 2004 assessments are supported by these comparable sales contained in this record.

As a result of this analysis, the PTAB finds that the evidence and testimony has not demonstrated that the subject property was incorrectly valued and that a change in the subject's assessment is not warranted.

| DOCKET # | PIN | LAND | IMPRVMT | TOTAL |
|------------------|---------------|-------------|----------------|--------------|
| 03-27670.001-I-3 | 26-18-200-010 | \$ 7,959 | \$ 862 | \$ 8,821 |
| 03-27670.002-I-3 | 26-18-210-022 | \$ 185 | \$ 0 | \$ 185 |
| 03-27670.003-I-3 | 26-18-301-008 | \$ 7,841 | \$ 0 | \$ 7,841 |
| 03-27670.004-I-3 | 26-18-301-009 | \$ 18,036 | \$ 0 | \$ 18,036 |
| 03-27670.005-I-3 | 26-18-403-050 | \$ 8,015 | \$ 0 | \$ 8,015 |
| 03-27670.006-I-3 | 26-18-408-006 | \$397,622 | \$502,767 | \$900,389 |
| 03-27670.007-I-3 | 26-19-102-014 | \$ 32,492 | \$ 2,903 | \$ 35,395 |
| 03-27670.008-I-3 | 26-19-102-022 | \$ 1,272 | \$ 0 | \$ 1,272 |
| 03-27670.009-I-3 | 26-19-200-025 | \$ 35,339 | \$ 6,415 | \$ 41,754 |
| 03-27670.010-I-3 | 26-19-200-027 | \$ 4,729 | \$ 1,710 | \$ 6,439 |
| 03-27670.011-I-3 | 26-19-200-029 | \$ 39 | \$ 0 | \$ 39 |
| 03-27670.012-I-3 | 26-19-200-031 | \$ 1,756 | \$ 641 | \$ 2,397 |
| 03-27670.013-I-3 | 26-19-200-034 | \$ 5,412 | \$ 1,978 | \$ 7,390 |
| 03-27670.014-I-3 | 26-19-200-035 | \$ 5,030 | \$ 1,817 | \$ 6,847 |
| 03-27670.015-I-3 | 26-19-200-037 | \$ 5,633 | \$ 604 | \$ 6,237 |
| 03-27670.016-I-3 | 26-19-201-016 | \$ 43 | \$ 0 | \$ 43 |

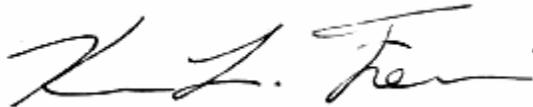
| DOCKET # | PIN | LAND | IMPRVMT | TOTAL |
|------------------|---------------|-------------|----------------|--------------|
| 04-25665.001-I-3 | 26-18-200-010 | \$ 7,959 | \$ 862 | \$ 8,821 |
| 04-25665.002-I-3 | 26-18-210-022 | \$ 185 | \$ 0 | \$ 185 |
| 04-25665.003-I-3 | 26-18-301-008 | \$ 7,841 | \$ 0 | \$ 7,841 |
| 04-25665.004-I-3 | 26-18-301-009 | \$ 18,036 | \$ 0 | \$ 18,036 |
| 04-25665.005-I-3 | 26-18-403-050 | \$ 8,015 | \$ 0 | \$ 8,015 |
| 04-25665.006-I-3 | 26-18-408-006 | \$397,622 | \$502,739 | \$900,361 |
| 04-25665.007-I-3 | 26-19-102-014 | \$ 32,492 | \$ 2,535 | \$ 35,027 |
| 04-25665.008-I-3 | 26-19-102-022 | \$ 1,272 | \$ 0 | \$ 1,272 |
| 04-25665.009-I-3 | 26-19-200-025 | \$ 35,339 | \$ 6,415 | \$ 41,754 |
| 04-25665.010-I-3 | 26-19-200-027 | \$ 4,729 | \$ 1,710 | \$ 6,439 |
| 04-25665.011-I-3 | 26-19-200-029 | \$ 39 | \$ 0 | \$ 39 |
| 04-25665.012-I-3 | 26-19-200-031 | \$ 1,756 | \$ 641 | \$ 2,397 |
| 04-25665.013-I-3 | 26-19-200-034 | \$ 5,412 | \$ 1,978 | \$ 7,390 |
| 04-25665.014-I-3 | 26-19-200-035 | \$ 5,030 | \$ 1,817 | \$ 6,847 |
| 04-25665.015-I-3 | 26-19-200-037 | \$ 5,633 | \$ 604 | \$ 6,237 |
| 04-25665.016-I-3 | 26-19-201-016 | \$ 43 | \$ 0 | \$ 43 |

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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: October 31, 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.