FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Buckeye Terminals, LLC
DOCKET NO.: 06-24505.001-I-3 through 06-24505.006-I-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board (PTAB) are Buckeye Terminals, LLC, the appellant, by attorney Kevin P. Burke and attorney Daniel James Heywood, of Smith Hemmesch Burke Brannigan & Guerin in Chicago; the Cook County Board of Review by Assistant State's Attorney Joel Buikema; School District No. 104, intervenor, by attorney Alan M. Mullins of Scariano, Himes and Petrarca in Chicago, and Argo Community HSD 217, intervenor, by attorney Ares G. Dalianis and attorney Scott R. Metcalf of Franczek Radelet P.C. in Chicago.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***a reduction*** in the assessment of the property as established by the **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
06-24505.001-I-3	18-23-301-004-0000	27,003	4,331	$31,334
06-24505.002-I-3	18-23-301-005-0000	166,847	0	$166,847
06-24505.003-I-3	18-23-301-006-0000	95,043	285	$95,328
06-24505.004-I-3	18-23-302-004-0000	954,812	482,065	$1,436,877
06-24505.005-I-3	18-23-400-006-0000	259,092	0	$259,092
06-24505.006-I-3	18-23-402-001-0000	697,802	0	$697,802

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a bulk oil storage terminal industrial complex comprised of 9 petroleum storage tanks (828,200 barrel safe fill capacity), 61 chemical storage tanks (58,389 barrel safe fill capacity), 10 office/garage utility buildings (93,670 total square feet), four truck loading racks and two east and one west rail loading/unloading areas. The improvements are situated on an irregular-shaped parcel totaling 83.3 acres inclusive of 30.04 acres deemed excess land. The subject consists of a large industrial complex, commonly known as the Argo Terminal, located in Lyons Township, Cook County.

At the hearing, several preliminary matters were addressed. First, the PTAB consolidated the 2005, 2006 and 2007 property tax appeals for hearing purposes, pursuant to Section 1910.78 of the Official Rules of the Property Tax Appeal Board without objection from the parties.

The second matter before the PTAB is the Motion in Limine presented by the appellant's attorneys to bar the intervenors' appraiser from testifying. The appellant's attorneys submitted a four-page brief as well as several prior PTAB decisions pertaining to tank farm storage facilities arguing that the intervenors' appraiser should be barred from testifying. The motion was denied by the PTAB.

The appellant appeared before the PTAB with its attorneys claiming overvaluation as the basis of the appeal. Appellant's counsel first called Patrick T. King, the operations manager for West Shore Pipeline, located at 131 Street and Bell in Lemont and a current employee there. King described the subject property as the old Shell Oil Company facility located at 8600 West 71st Street in Bedford Park. King testified that he started working at the subject property in 1974, and although he left about two years ago, had worked there for approximately 35 years.

King described the subject property as containing a pipeline maintenance building, an eight-bay garage, two tin buildings, a lab meter garage building, warehouse, locker room, utility building, storage building as well as an office building that the appellant shares with the chemical company Hexion. The witness testified that Hexion and the subject work together as far as ground maintenance but not relating to the sale of any products. The witness also testified that the subject property experiences some flooding on both the improved and the unimproved areas.

Next, appellant's counsel called William Ranson McKay, Jr., employed by Hexion Specialty Chemicals since 2006 and currently the maintenance manager of the Argo Facility in Bedford Park. The witness testified that he has a Bachelor's degree in chemical engineering from Vanderbilt University and has worked in the chemical industry for a number of years. The witness testified that Hexion leases about 15 acres of the subject property for their resin manufacturing operations which includes the warehouse and resin building. McKay testified that Hexion manufactures epoxy resins with applications consisting of coatings for buildings, marine applications, and electrical laminates as well as civil applications for epoxy additives in concrete.

McKay described the resin building as a five-story, unfinished structure with concrete floors and exposed beams with a significant amount of chemical processing equipment on each floor. The witness stated that raw materials are pumped or moved up to the upper floors and as they move through the process arrive at the bottom floor for packaging and/or truck loading.

The witness testified that he was familiar with the process of

physically removing a storage tank from a tank farm and was involved three times over the course of his career and responsible for the overall management of the removal operation. The witness described in detail the steps required to remove a storage tank from start to finish. The witness testified that in 2006, thirteen chemical storage tanks were removed from the Argo Facility including ten on the smaller side and three medium sized tanks. McKay testified that the total cost to remove the 13 tanks was $913,000 and that Brandenburg Industrial Service, a demolition company, was paid $42,000 to knock down the steel, cut it up and remove it for scrap. The witness testified that in his opinion it would cost between 4 to 6 million dollars to remove the 45 to 50 remaining chemical storage tanks that are maintained, owned or operated by Hexion.

The witness was questioned as to Hexion's relationship with the Argo Facility. McKay testified that Shell Oil Company originally owned the entire Argo Facility which began its fuel terminaling operations back in the 1950's. The witness testified that in 1981 Shell Oil Company built the resins building and conducted epoxy resins manufacturing on site, however by the late 1990's, Shell Oil decided to focus on petroleum refining work and divested its chemical and terminaling operations by leasing the building to Hexion.

In support of its market value argument, the appellant submitted a complete summary appraisal report with a valuation date of January 1, 2005 and the testimony of its author, Gregg Manzione. Manzione testified that he began his career for Nationwide Consulting Company, Inc. in Glen Rock, New Jersey as a real estate appraiser and has been employed with them for 26 years. Manzione testified that he holds the Member of the Appraisal Institute (MAI) designation and is a licensed real estate appraiser in several states. The witness testified that he is not currently licensed in Illinois but has been licensed in Illinois in the past. The witness also testified that he has completed between 30 and 50 appraisals in Illinois including a dozen in the last five years. Manzione testified that he has appraised well over 100 petroleum and/or chemical storage facilities over the last five years. After an examination of Manzione's appraisal experience, he was accepted as an expert witness by the PTAB.

Manzione testified that based on his experience, source of supply is an important factor concerning storage facilities in that some buyers want to be supplied by pipeline, whereas, others want to be supplied by water. Manzione also testified that product type, the handling of gasoline, mid-oils, asphalt, or chemicals is also an important factor. Manzione further testified that in his opinion, if a storage terminal is open and operating, it's generally sold for the same purpose or to operate as a storage terminal. The witness testified that he has never seen a terminal that is open and operating being purchased, whereby, the improvements are demolished and improved with a totally different use. The witness also testified that storage terminal sales contain a certain amount of personal property including pipes,

pumps and computers. Manzione testified that terminal size impacts value in that as the terminal capacity gets bigger, the price per barrel that the product sells for goes down.

The witness stated that price per barrel is the unit of comparison commonly used to value storage facilities. The witness explained that although the unit of comparison is barrels, safe fill barrels or the actual usable part of the tank, not the full tank size is considered. The witness also stated that an important factor concerning bulk storage terminals is not how many barrels can flow through the facility, but rather how many barrels can be stored in the tanks. Moreover, Manzione testified that having dealt with all major oil companies, all minor oil companies and having appraised numerous bulk storage terminals, he considered barrel capacity the key unit of comparison.

Manzione testified he conducted a full interior and exterior inspection of the subject proeprty as well as six of the improved comparables used in the appraisal report. When describing the subject, Manzione indicated the subject contains approximately 83 acres of land, inclusive of approximately 30 acres of excess land and described in detail the subject's surrounding area. The witness stated that there are 9 bulk petroleum storage tanks with a total safe fill capacity of 828,200 barrels and 61 chemical storage tanks, 43 of which are in use, with a total safe fill capacity of 58,389 barrels. The witness also stated that the 18 out of service storage tanks have limited or no use. The witness described in detail the storage tanks utilized on the premises by product description, tank #, type tankage and safe fill capacity that existed as of January 1, 2005.

The witness testified that there are 10 miscellaneous small buildings and that eight of the buildings contain less than 7,000 square feet, whereas, the ninth building (identified as Building #5 in the report) is a 50-year-old warehouse containing 36,210 square feet. Manzione described the tenth building as a five-story industrial loft building containing approximately 18,975 square feet (identified as the Resin Building or Building #10 in the appraisal report). In addition, the witness indicated there is rail and truck loading and unloading bays and described the purpose and type of the ten miscellaneous buildings.

In describing the storage tanks, Manzione stated that petroleum tanks are much larger in that they contain between 50,000 and 100,000 barrels, whereas, chemical tanks are much smaller. Manzione also stated that on the petroleum side, gasoline is relatively fungible with the exception of additives included at the end; consequently, petroleum can be utilized by many different end users.

When estimating a total market value for the subject, the appraiser employed the sales comparison approach to value. Manzione explained that properties like the subject are involved with business contracts, exchanges and swaps as well as other issues, therefore, the income approach to value was not

considered appropriate. Also, the witness explained that because of the large number of terminal sales available, a cost approach was not performed, except for the Resin Building (Building #10), which Manzione considered unusual for this type facility. Manzione testified that the Resin Building is an unusual facility for a storage terminal and so not to undervalue the subject, considered it important to perform a separate cost analysis on this building. The witness testified that the other nine buildings associated with the subject property are typical and found at most bulk oil storage terminal facilities.

Manzione explained that a land analysis was conducted for the 30 acres of excess land and that he was told on site that the excess land is subject to chronic flooding. Manzione identified the excess land as located on the east side of the subject property and heavily wooded. Manzione did not consider the excess land available for industrial use without incurring additional expenses, however, the witness considered it important to conduct a separate valuation for the excess land.

As the subject meets the four sequential tests of highest and best use, it was Manzione's opinion that the subject's highest and best use as improved is its current use. Industrial development would be the subject's highest and best use as vacant.

The first step performed by Manzione was to estimate the value of the 30 acres of excess land. The witness examined the sales of four properties located in Chicago or Bedford Park, Illinois. The appraiser selected parcels with similar zoning and in areas generally similar to the subject's location. The parcels range in size from 7.66 to 25 acres. The comparables sold from January 2001 to December 2004 for prices ranging from $1,053,250 to $7,000,000 or from $137,500 to $280,000 per acre. After comparing and contrasting the comparables to the subject and making adjustments for size, date of sale, location and flooding, Manzione estimated $50,000 per acre for the excess land, resulting in an estimated value of $1,500,000, rounded. The witness explained why he made a substantial downward adjustment to the four comparables based on the subject's chronic flooding problem.

Next, Manzione valued the bulk storage terminal portion of the subject via the sales comparison approach. Manzione testified he examined the sales of eight bulk oil storage terminal facilities. The appraiser's Sales 1 through 5 included petroleum tank facilities and the three remaining properties, Sales 6 through 8, were chemical storage terminals. Six terminals are located in Illinois, one in Texas and one terminal is located in Indianapolis, Indiana. The comparables ranged in barrel capacity from 66,711 to 855,693. Four comparables were supplied by single, dual or multiple pipelines and four comparables were supplied by barge and/or rail. The comparables were situated on sites ranging in size from 11.62 to 160.20 acres. The comparables sold from May 1997 to December 2001 for prices ranging from $1,035,200 to

$20,000,000 or from $5.25 to $29.98 per barrel. The comparables included buildings that ranged in size from 3,000 to 280,485 square feet of building area.

Continuing his testimony, Manzione described each of the eight sales noting the characteristics of each. Manzione testified he confirmed all eight sales. Again, he reiterated his rationale of using barrel capacity as the unit of comparison. The witness explained that the comparable sales included buildings, loading facilities and amenities associated with storage terminals so that price per barrel would reflect the value of the land, buildings, truck racks, pollution control equipment and personal property. The witness also explained that he valued the petroleum tanks separately from the chemical tanks in that they command different prices. To reflect these differences, Manzione relied on two sets of sales to determine an overall value for the subject.

The witness testified that in his opinion the personal property at the subject facility represents 20% of the overall value. Therefore, Manzione made a downward adjustment of 20% to each of the sales for items such as pipes, pumps, computer equipment, furniture, truck loading racks, specialized meters, etc. The appraiser made no adjustments for time of sale; the witness testified that "the bulk liquid storage market was very flat from the mid '90s through the 2007 timeframe." Manzione did, however, adjust the comparable sales for location, capacity, supply source, product type and miscellaneous. After making these adjustments, Manzione estimated a unit value of $5.00 per barrel for the petroleum tanks and $18.00 per barrel for the chemical tanks resulting in a value estimate for the bulk storage terminal portion of the subject via the sales comparison approach of $5,192,000.

Next, Manzione valued the Resin Building (Building #10) because he considered it a unique structure and not normally found at bulk storage terminal facilities. Using the Marshall & Swift Cost Manual, Manzione estimated a replacement cost new for the Resin Building of $94.83 per square foot or $1,799,399. Adding the cost for sprinklers and the five-stop elevator resulted in a total cost new of $1,942,169. Manzione then applied straight line depreciation of 40% or $776,868, to arrive at a depreciated value of $1,165,000. Finally, Manzione valued the building's two-story addition at $191,000 resulting in a total depreciated value estimate of $1,356,000 for the Resin Building.

In his final value estimate, Manzione testified that the petroleum and chemical storage terminal value of $5,192,000 and the Resin Building value of $1,356,000 reflected a value estimate of $6,548,000 for the buildings and land. Adding the excess land value of $1,500,000 resulted in a total final value estimate of $8,048,000 for the subject as of January 1, 2005.

Appellant's counsel questioned Manzione with regard to his opinion of value for the subject as of January 1, 2006. Manzione

testified that there would be no significant difference in his estimate of market value for the subject as of January 1, 2006.

During cross-examination by the intervenors', Manzione was questioned regarding the land sales used in his report. Manzione agreed that Sale #1 occurred four years prior to the date of value and that Sale #2 occurred three and one-half years prior. The witness explained that although he testified the subject has chronic flooding problems, he relied on information provided by onsite personnel. The witness also explained that on page 23 under Item E of his report, it says, "the subject is not located in a designated flood area"; however, he indicated that it might be an error, but agreed that none of the subject property is located in a designated wetland area. Based on the subject's chronic flooding problem, Manzione testified he applied a 50% downward adjustment to the four land comparables. The witness fully answered the intervenors' questions with specific references to the appellant's appraisal.

During cross-examination by the board of review, the witness was questioned as to why he only valued the Resin Building and not the other nine buildings on the facility. Manzione responded that the unit of comparison is not building square footage, but rather price per barrel, commonly used to value storage facilities. The witness explained that price per barrel, as a unit of comparison, includes the value of the storage tanks, the land, the buildings as well as the value of all the other amenities required to operate a bulk liquid storage terminal.

The witness was again questioned in regard to the subject's flooding issue. Based on his conversations with onsite personnel, the witness testified he was told that most of the excess land was subject to chronic flooding, remains unused, contains a lot of vegetation, and has other issues. The witness testified that he relied on data and information provided to him onsite as to the subject's total land size.

Further, Manzione was questioned as to his improved sales comparables and the adjustments applied thereto. Manzione testified that his Sale 5 consisted of a bulk sale and that Sale 6, also a bulk sale, included a second terminal in New Jersey. The witness reiterated the fact that Sales 6, 7 and 8 included chemical tanks, Sales 1 through 5 contained petroleum tanks and that Sale 2 contained both petroleum and chemical tanks. The witness testified that he applied a 5% adjustment for product spectrum to Sale 3 which deals with jet fuel. The witness explained that because jet fuel is less volatile to handle than gasoline, there is no need for a lot of vapor controls which are necessary at gasoline terminals. Manzione responded credibly regarding the background of each sale as well as the adjustments applied to each.

On redirect examination, Manzione testified that the four land sales he used applied only to the subject's excess land. Manzione testified he did not value the subject's entire land

area, but if he did, he would have used larger properties. Again, Manzione explained that the unit of comparison of barrel capacity includes all the buildings associated with the bulk oil storage terminal. The witness explained that by taking the sales price, and dividing it by the safe fill capacity you come up with a price per barrel which includes all the different features of the property including buildings, land, truck racks, and tanks. In addition, the witness testified that his estimate of market value for the subject would not be greatly impacted whether the subject contained 83 or 90 total acres of land.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final total combined assessment of $3,229,965 was disclosed. In addition, the board of review submitted a one-page memorandum describing the subject as a bulk oil and chemical storage facility situated on a 3,970,665 square foot site. The total combined assessment reflects a fair market value of $11,359,684 or $124,558 per acre for the subject when the Cook County Real Property Assessment Ordinance level of assessments of 36% for Class 5b and 22% for Class 1-00 property is applied.

As evidence, the board of review submitted CoStar Comps service sheets for five land sales located in Alsip, Bedford Park, Bridgeview and/or Chicago, Illinois. The sales occurred between February 2002 and November 2004 for prices ranging from $4,453,990 to $13,785,000. The board's market analyses disclosed an unadjusted range of between $93,375 and $523,398 per acre. In addition, the board's memorandum revealed the sale properties were not adjusted for market conditions, location, size, zoning and/or other related factors. No witnesses were called on behalf of the board of review.

Two taxing districts intervened in this matter. The intervenors submitted a summary appraisal report with a valuation date of January 1, 2005, (Intervenors' Exhibit #1) and the testimony of its author, William Enright of Appraisal Associates, Inc. in Chicago, Illinois. Enright testified that he is a State of Illinois certified general real estate appraiser with a Member of the Appraisal Institute (MAI) designation. The witness testified he has prepared over 3,000 appraisals including 10 to 15 tank farms. The witness also testified he made an exterior inspection of the subject property on April 24, 2007 as well as a partial interior inspection on May 30, 2007. After an examination of Enright's appraisal experience, he was accepted as an expert witness by the PTAB.

Enright testified he considered tank farms to be limited market properties in that they are not typically bought and sold on the open market due to the limited number of people in the business of operating this type facility. As such, the witness explained that this type property is not sold or bought as a home or a simple industrial building might be.

Enright described the subject property as well as the area

immediately surrounding the subject. Enright explained that the general area to the north of the subject is a tank farm complex, referred to as the Argo Terminal, the area to the east as improved with industrial uses that front along Archer Avenue, the land to the south is improved with single-family homes and the land to the west includes a strip of land extending to the Chicago Sanitary Drainage and Ship Canal. The witness stated that the subject's current zoning allows for all activities permitted in the L1, Light Manufacturing District, including warehousing, packaging activities and office structures.

Enright testified he did not consider the cost approach and the income capitalization approaches applicable to the valuation of the subject. Enright also testified he considered the highest and best use of the property as vacant to be industrial development. As improved, Enright considered the subject's highest and best use to be "continued use as improved on an interim basis pending future redevelopment with a more intensive use." The appraiser explained that the subject's land value as vacant is greater than the value as improved and ultimately the subject site will likely be redeveloped with more intensive industrial or commercial use. The witness testified that interim use may remain in place for five years or it may remain in place for one hundred years, there is no definite time frame for how long interim use will remain. The witness explained how the interim use status would change if the land value declined to a point where the value of the land as if vacant was less than the value of the land as improved, or if the property was sold and redeveloped.

Enright testified he prepared an opinion of value for the subject as vacant by analyzing the sales of eight vacant industrial sites, seven of which were improved at the time of sale. The witness testified that the eight sales were acquired for redevelopment and located within six miles of the subject. Continuing his testimony, Enright described each of the eight sales noting the characteristics of each. The sales occurred between April 2002 and December 2004. Ranging in size from 460,429 to 2,005,938 square feet of land area, the comparable properties sold for prices ranging from $1,946,274 to $8,500,000, or from $3.70 to $5.97 per square foot of land. After adjusting the comparables for property rights, financing terms, conditions of sale, market conditions, location, size and other characteristics, the appraiser testified, he concluded an adjusted value range for the subject of from $2.75 to $3.25 per square foot of land area. Utilizing a unit value of $3.00 per square foot, the witness testified, in his opinion, the subject's land had a fair market value of $11,500,000 as of January 1, 2005. The witness testified that in his opinion, land values increased between 2005 and 2007; however, he did not prepare an appraisal report for 2006 or 2007.

Under cross-examination Enright testified that "there have been several transfers of tank farms on a regional and national level." The witness testified that his opinion of highest and best use for the subject as improved was "continued use as a bulk

petroleum storage terminal on an interim use." The witness also testified that "continued use of the facility as a bulk petroleum terminal remains a viable use." Enright testified that to his knowledge as of the date of hearing, the subject's improvements were likely to still exist. When questioned why he did not appraise the subject's improvements, the witness responded he based his opinion of value on the subject's highest and best use.

During Enright's cross-examination by appellant's counsel he was asked to read the first two sentences under **Interim Use** from the Appraisal of Real Estate, 12th Edition. Enright read the following:

> "The use to which a site or improved property is put until it is ready for its future highest and best use is called an interim use. Thus, interim use is a current highest and best use that is likely to change in a relatively short time, say, five to seven years."

The witness responded that there is no absolute time frame for interim use of a property.

Also, Enright was questioned as to the Brandenburg Industrial Service Company's estimate of demolition costs for the subject. Enright included a copy of *A Budgetary Demolition Proposal* with his appraisal report prepared by Brandenburg Industrial Service disclosing the demolition costs to remove all existing improvements at the subject, net of salvage value, was $150,000. However, Enright testified that the cost estimate is unsigned, is only a budgetary estimate and the witness did not recall the person he spoke to at Brandenburg. In addition, the witness agreed that the Brandenburg demolition cost proposal did not include numerous items including: removing the four loading racks, cleaning the tanks, disconnecting the piping, electrical lines and circuits, layout work as well as removing foundations. Furthermore, the witness disclosed that in his report there is a potential for adverse environmental conditions at the subject which is not addressed in the Brandenburg demolition and removal proposal.

Enright was questioned as to the demolition and removal costs associated with his sales comparables. Enright testified that Sale 3 consisted of a 664,000 square foot manufacturing complex torn down for $4.00 per square foot or $2.7 million and Sales 1, 2 and 6 were improved with large industrial facilities associated with significant demolition costs. The witness was asked to identify the demolition costs for a Class C Building, containing 93,000 square feet of building area like the subject, as of December 2009 from the Marshall & Swift Cost Manual, the witness responded that the demolition costs range from $3.60 to $5.35 per square foot or between $300,000 and $400,000 not including the tanks, the loading racks and piping.

The witness also testified that although his report disclosed the subject is not located in a designated flood zone, on the date of

his inspection, it appeared there could be some low lying land and poorly draining soils. The witness, in his report, provided a flood map of the subject area which disclosed that to the south and immediately adjacent to the subject is a flood zone area. Enright testified that upon his inspection of the subject, the onsite personnel indicated that the southern portion of the subject suffers from flooding.

Appellant's counsel then questioned Enright about his eight sales comparables. The witness testified that he verified the sales through public records, the buyer, the seller, CoStar, other appraisers and/or published articles. The witness testified that "land values have increased in recent years due to strong demand for development sites." However, Enright provided no support for this statement in the report. In fact, the witness agreed that intervenors' Sale 8, which sold in April 2002 and the oldest sale used, sold at one of the higher unit values.

Enright testified that the intervenors' eight sales are one-half or less than one-half the size of the subject property. Enright also testified that intervenors' Sales 1 and 2 qualify for the Class "6B" industrial tax incentive but that this information was not disclosed in the report. Enright further testified that Sale 3, the site of a new soccer stadium, was part of an assemblage by the buyer, however, no adjustment was made. The witness testified that Sales 4 and 8, located near each other, were acquired by Peoples Gas in connection with a remediation project, however, no adjustment was made and CoStar reflected this sale as an improved industrial site. According to CoStar, Enright agreed that Sale 4 was not on the market at the time of sale and the buyer, Peoples Gas, approached the seller directly on the sale. Finally, the witness testified he determined the subject's land size based on county records, but did not verify the size with the surveyor or other party.

In rebuttal, Joseph M. Ryan, president of LaSalle Appraisal Group, Inc., in Chicago, was called as a review appraisal witness by the appellant. Ryan testified he is a State of Illinois certified real estate appraiser with a Member of the Appraisal Institute (MAI) designation. Ryan was questioned briefly regarding his credentials and experience. The witness testified he has been qualified as an expert in technical reviews of appraisals and completed a desk review of the Enright report. Ryan testified he has appraised eleven bulk storage terminal facilities all within Illinois. The witness was accepted as an expert witness by the PTAB without objection from the parties.

The witness testified he inspected the subject in connection with the desk review on April 4, 2008. The scope of the assignment, the witness testified, was to determine whether the appraisal report prepared by Enright used proper methodology in appraising the subject property. Ryan testified, in his opinion the market value indicated in the Enright appraisal was not supported by the data within the report.

Ryan briefly described the subject property as well as the area immediately surrounding the subject. Based on his inspection, Ryan testified that in his opinion, the Enright report does not adequately address and account for the flooding issues associated with the subject's 30 acres of excess land. Ryan opined the subject's excess land could not be developed without remediating the flooding problem. The witness testified that on the day of his inspection, the site appeared to be marshy, with vegetation that was somewhat typical of wetland marshy areas, appeared muddy and the site was below the grade of the street.

Also, Ryan testified that the Buckeye representatives he spoke to have no intention of changing the subject's current use, in fact, as of his most recent visit that occurred on November 7, 2010, the subject was still operating as a bulk oil storage terminal. The witness testified that he was unaware of any bulk storage terminals that have been demolished and sold for alternative industrial purposes in the metropolitan area of Cook County.

Ryan disagreed with Enright's analysis and conclusion of highest and best use in that in one section of the report, Enright disclosed the subject was an interim use, however, in another section he indicates the subject property was viable and that bulk oil storage sales existed. Ryan questioned why Enright did not employ these sales to render a value. Ryan testified that Enright vacillated as to what he was appraising and ultimately appraised the land. However, the witness stated that Enright testified that the subject's improvements were viable and as improved the highest and best use was for continued use. Ryan testified that in his opinion, it was appropriate to value the improvements situated on the subject property.

Regarding the sales used by Enright, Ryan testified that intervenors' Sales 4 and 8 were purchased by a gas company and consisted of sites adjacent to facilities owned by the gas company to remediate the contaminated sites. Therefore, Ryan did not consider the sales arm's length. Ryan testified that Sale 3 is the Toyota Park soccer stadium and consisted of an assemblage of adjoining parcels to perfect a site large enough to build the stadium. The witness indicated he would not use an assemblage sale for a fee simple market value analysis. The witness testified that Sales 1 and 2 are: improved with buildings; located in the Bedford Industrial Park with utilities and improvements to the sites; and qualified for Class 6 status from the assessor's office, which at the time lowered the assessment from 36% to 10%. Ryan did not consider Sales 1 and 2 comparable to the subject. Ryan also testified that Enright's comparables are all significantly smaller than the subject.

Ryan did not consider the $150,000 demolition cost estimate provided by Brandenburg for the subject a reasonable estimate of the demolition costs. Ryan testified that in 2006, at the subject property, 12 tanks, a horizontal storage drum, 15 pumps, five filters, a railcar, a truck rack and one small shed were razed to surface level with some underground pipe cleaning for a total

cost of $1,913,000, of which Brandenburg billed the company $42,000, or about 4½% of the total. The witness testified that based on the Marshall & Swift Cost manual, cost estimates of between $3.00 and $5.00 per square foot for industrial buildings were cited.

Ryan testified that in his opinion the methodology used in the Enright appraisal was wrong in that it did not consider the improvements that existed on the site, asserted that the subject was an interim use, and that the subject was not valued as a bulk oil storage terminal complex.

Under cross-examination, Ryan testified that Enright failed to value all the improvements located on the subject property. Ryan also testified that he first inspected the subject on April 4, 2008 but did not visit the subject in 2005, 2006 or 2007. Ryan did not consider the subject's location to be good in that it has no dedicated streets or sewer system, and the land is not graded to street level.

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

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

The Property Tax Appeal Board places no weight on the board of review's evidence. The board of review presented an in-house memorandum summarizing raw data for five land sales located in Alsip, Bedford Park, Bridgeview or Chicago, Illinois. The PTAB finds the memorandum lacked analysis concerning the suggested comparables' similarity or dissimilarity to the subject. Further, there are no adjustments to the sales for time of sale, conditions of sale, location, size, or any other factor used in a conventional comparative analysis. Additionally, the board of review did not provide any independent documentation or testimony verifying the correctness of the CoStar Comps information, nor did it provide the property record cards for the subject property and the comparables to assist the PTAB in its evaluation of the comparability of the properties. Therefore, the board of review's evidence is accorded no weight.

The Property Tax Appeal Board finds Enright's testimony and appraisal lacks credibility and is unpersuasive and contradictory. In his analysis of the subject's highest and best use as improved Enright determined the highest and best use to be

its continued use. While the witness qualified this suggested highest and best use as improved as "on an interim basis", the record is absent any independent verification of the length of time he considered interim. The PTAB finds that Enright's interim highest and best use conclusion speculative and not supported by any market data.

The PTAB further finds that appraisal theory, as demonstrated by Enright's reading of the first two sentences under **Interim Use** from the Appraisal of Real Estate, 12th Edition, suggests a five to seven year period. The PTAB finds the evidence and testimony of all parties revealed the subject, as of the hearing date, was utilized as a bulk oil storage terminal complex. The PTAB further finds that the record is absent of any testimony or evidence that its current use was likely to change in the immediate future. When questioned why he did not appraise the subject's improvements, Enright responded he based his opinion of value on the subject's highest and best use. The PTAB finds the witness' response contradictory.

Enright testified that the subject's land value as vacant is greater than the value as improved and ultimately the subject site will likely be redeveloped with more intensive industrial or commercial use. Thus, Enright indicated that the valuation of the subject's land as vacant was appropriate. The PTAB finds this methodology clearly speculative and not credible in light of the fact the subject, as of the hearing date, was being used as a bulk oil storage terminal/industrial complex. The PTAB finds the record contained no testimony or evidence suggesting that the current use was likely to change.

Enright acknowledged during cross-examination that the land comparables he selected were significantly smaller than the subject. In addition, the witness disclosed in his report there is a potential for adverse environmental conditions at the subject site. Furthermore, the witness testified that although his report disclosed the subject is not located in a designated flood zone, on the date of his inspection, it appeared there could be some low lying land and poorly draining soils. The witness, in his report, provided a flood map of the subject area which disclosed that to the south and immediately adjacent to the subject is a flood zone area.

Enright testified that upon his inspection of the subject, the onsite personnel indicated that the southern portion of the subject suffers from flooding. Enright, despite the substantial differential in size between the subject and the suggested land comparables, the subject's possible contamination as well as flooding problems, found the subject's land value at mid-range of his smaller less risky sales comparables. The PTAB finds the intervenors' appraiser's reasoning unpersuasive.

Finally, Enright was questioned as to the Brandenburg Industrial Service Company's estimate of demolition costs for the subject.

Enright submitted a copy of *A Budgetary Demolition Proposal* prepared by Brandenburg Industrial Service disclosing the demolition costs to remove all existing improvements at the subject, net of salvage value, was $150,000. However, Enright testified the cost estimate is unsigned, is only a budgetary estimate and the witness did not recall the person he spoke to at Brandenburg. In addition, the witness agreed that the Brandenburg demolition cost proposal does not include numerous items including: removing the four loading racks, cleaning the tanks, disconnecting the piping, electrical lines and circuits, layout work as well as removing foundations. The PTAB finds Enright's demolition cost estimate for the subject is not credible.

The Property Tax Appeal Board finds the testimony and appraisal report of Gregg Manzione to be the most credible in the record. The appraiser employed the sales comparison approach to estimate a market value for the subject. Manzione did not consider the income approach appropriate in that properties like the subject are involved with business contracts, exchanges and swaps as well as other issues. Also, a cost approach was not performed, except for the Resin Building (Building #10), which Manzione considered unusual for this type facility. In addition, Manzione performed a separate land analysis for the 30 acres of excess land.

The PTAB first finds Manzione's determination of the highest and best use of the subject to be its existing use as a bulk oil terminal storage complex to be the most credible in the record.

Manzione testified that because of the large number of terminal sales available, a cost approach was not performed, except for the Resin Building (Building #10), which Manzione considered unusual for this type facility. Manzione testified that the Resin Building is an unusual facility for a storage terminal and so not to undervalue the subject, considered it important to perform a separate cost analysis. The PTAB finds Manzione's cost analysis rational credible.

The PTAB finds Manzione used four comparables to estimate a market value for the subject's 30 acres of excess land. Manzione did not consider the excess land available for industrial use without incurring additional expenses and cost to address the chronic flooding problem. Manzione adjusted the comparables for features such as location, size, date of sale, zoning and flooding. The Property Tax Appeal Board finds the adjustments reasonable, understandable and in keeping with accepted appraisal practice. Therefore, the PTAB finds Manzione's estimate of value for the excess land credible.

Manzione testified that price per barrel is the unit of comparison commonly used to value bulk storage terminals. Manzione also testified that an important factor concerning bulk storage terminals is not how many barrels can flow through the facility, but rather how many barrels can be stored in the tanks. In addition, Manzione testified that having dealt with all major oil companies, all the minor oil companies and having appraised

numerous bulk storage terminals, he considered barrel capacity the key unit of comparison.

Manzione, unlike Enright, developed a sales comparison approach using improved comparables with similar attributes as compared to the subject. The PTAB finds that Manzione's use of the comparable sales approach composed of bulk oil storage terminals is superior to the analysis used by Enright.

The courts have stated that where there is credible evidence of comparable sales, these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (2nd Dist. 1979). The Court further held that significant relevance should not be placed on the cost approach or the income approach especially when there is market data available. Id. Moreover, in Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989), 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.

Thereby, the Property Tax Appeal Board finds that Manzione's selection and examination of eight bulk oil storage terminal/industrial facilities reliable comparables to determine an estimated market value for the subject's improvements. The sales were similar overall in use; in product spectrum; in barrel capacity; in source of supply and in age to the subject. The PTAB finds the adjustments made to the appellant's sales comparables reasonable. Manzione testified that the sales included buildings, loading facilities and other amenities associated with bulk storage terminals so that price per barrel would reflect the land, buildings, truck racks, pollution control equipment as well as personal property. Further, under cross-examination the PTAB found Manzione's responses credible.

Conversely, the Property Tax Appeal Board finds that the intervenors' appraiser failed to estimate a value for the subject property as improved despite his knowledge that the improvements existed as of the valuation date; were still utilized as a bulk oil storage terminal/industrial complex as of the hearing date; had no data this use was likely to change in the near future; and his written opinion in the appraisal that the improvements added contributory value to the site. The PTAB finds that Enright's failure to include improved comparable sales within his appraisal detracts from the weight and credibility of the report and his ultimate opinion of value.

In conclusion, the PTAB finds the appellant's appraiser presented the most credible testimony and most persuasive evidence of the subject's market value as of the assessment date at issue. Manzione testified there would be no significant difference in his estimate of market value for the subject as of January 1, 2006. Based on this foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of $8,048,000, as of January 1, 2006. Since the fair market value of

the subject has been established, the Property Tax Appeal Board finds that the Cook County Real Property Assessment Ordinance level of assessments of 36% for Class 5b and 22% for Class 1-00 property is applied and a reduction is warranted.

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

Acting 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: November 18, 2011

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.