FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: The Pepper Companies, Inc.
DOCKET NO.: 06-28725.001-C-3 through 06-28725.004-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are The Pepper Companies, Inc., the appellant(s), by attorney Lait R. Meisler of Golan & Christie LLP in Chicago; the Cook County Board of Review by Assistant Cook County State's Attorney Ben Bilton; and the intervenors, the Chicago Board of Education by attorney Ares G. Dalianis of Franczek Radelet P.C. in Chicago, and the City of Chicago by attorneys Bernard Murphy and A. Robert Masters of City of Chicago Corporate Counsel in Chicago.

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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
06-28725.001-C-3	17-09-222-001-0000	51,300	69,728	$121,028
06-28725.002-C-3	17-09-222-002-0000	49,248	69,392	$118,640
06-28725.003-C-3	17-09-222-003-0000	98,496	135,434	$233,930
06-28725.004-C-3	17-09-222-004-0000	244,843	2,437,821	$2,682,664

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of four parcels of land totaling 15,587 square feet and improved with a 21 year old, eight-story, masonry and steel frame constructed office building containing 50,136 square feet of gross and net rentable area.

The appellant, through counsel, appeared before the Property Tax Appeal Board arguing that the fair market value of the subject is not accurately reflected in its assessed value. In support of this argument, the appellant submitted a summary appraisal report. The appraisal has a valuation date of January 1, 2006. The appellant presented the testimony of the appraisal's author, Joseph M. Ryan of LaSalle Appraisal Group, Inc., Chicago. Ryan testified he has been employed by LaSalle Appraisal Group as president since 1991. He stated he holds the MAI designation from the Appraisal Institute. Ryan testified he has appraised over 100 office buildings similar to the subject and has qualified as an expert witness before many courts and administrative agencies. The parties stipulated to Mr. Ryan's credentials and his expertise as an appraiser. The PTAB accepted Mr. Ryan as an expert witness in property valuation without any objects from the parties.

Ryan testified he inspected the subject on several occasions, but for the current appraisal Tim Grogan inspected the property on July 16, 2007. Ryan described the property as a single-tenant, 50,000 square foot, masonry and glass office building. He then went on to describe the further describe the subject and its environs.

Ryan testified that the subject's highest and best use as vacant would be for commercial development and that continuation of its use as an office building is its highest and best use as improved. He testified that he looked to land sales when developing his opinion on the highest and best use. The appraiser did not estimate a land value in the cost approach. He opined that "the property met the eye test," that it still contributed over-and above to the underlying land value.

To estimate a total market value for the subject of $5,000,000 as of January 1, 2006, Ryan employed two of the three approaches to value: the income capitalization approach and the sales comparison approach to value.

To estimate a value for the subject through the sales comparison approach, Ryan testified he searched for sales of office buildings in the River North area and found four sales along with one sale located just outside that area. These properties are described as five, six or seven-story, masonry, single or multi-tenant office buildings built or remodeled from 1895 through 2002. The properties range in size from 30,000 to 105,000 square feet of net rentable area and sold from January 2003 to June 2005. These properties sold from $2,600,000 to $9,579,000 or from $80.59 to $108.77 per square foot of net rentable area. Ryan testified he verified the sales information through a party to each transaction. He testified he made adjustments for pertinent factors and, after adjustments, he arrived at an adjusted sale range of $80.59 to $108.77 per square foot of net rentable area, including land and reconciled the subject at $100.00 per square foot of building area, including land which reflects an estimated market value of $5,000,000, rounded.

As to sale #4, Ryan noted that this property subsequently sold in November 2006 for $5,200,000.

Under the income approach, Ryan testified he analyzed four comparables with multiple leases for two of the properties. He testified he could not find any single-tenant, office buildings in the River North market. The comparables range in size from 15,000 to 68,720 square feet. The commencement dates on the leases range from 2003 to 2005, with one lease available. The rents range from $15.00 to $32.50 per square foot, gross. Ryan testified as to the properties and the leases. Ryan testified after consideration of the data and adjustments, he estimated that rent of $22.50 per square foot of gross building area.

Ryan testified he estimated the potential gross income (PGI) at $1,128,060. Ryan testified he estimated vacancy and collection loss (V&C) of 20.0% based on surveys for the downtown and River North areas. The deduction of the V&C resulted in an effective gross income (EGI) of $902,448 for the subject. Ryan testified he reviewed typical expenses for office buildings from the Insitute of Real Estate management. The appraisal concluded expenses at $4.60 per square foot, or $230,626. The estimated expenses were deducted from the EGI resulting in a net operating income (NOI) of $671,822 for the subject.

To estimate the capitalization rate, Ryan testified he reviewed *Korpacz Investor Survey* and *Real Estate Research Corporation* which had estimates of 5.50% to 9.5%. He testified he also applied the band of investment method for an 8% capitalization rate under this method. Ryan testified he estimated a capitalization rate of 7.5% and added the tax burden of 6.21 to establish a total capitalization rate of 13.71%. Dividing the NOI by the appraiser's total capitalization rate resulted in an indicated value for the subject department store of $4,900,000, rounded.

In reconciling the two approaches to value, Ryan testified he accorded primary weight to the sales comparison approach to value as the subject is owner occupied and has no rental history. These conclusions reflect a final indication of value of $5,000,000 for the subject property as of January 1, 2006.

Ryan testified that there was no significant changes in the subject property and the value should hold for the remainder of the triennial which is 2007 and 2008.

Under cross examination by the intervenors, Ryan acknowledged that he testified on direct that comparable sale #2 was renovated in 2004, but that the report does not contain this information.

Ryan testified that the subject's highest and best use ifs for its continued use as an office-type building. Ryan acknowledged that there were several typographical errors in the highest and best use section of the appraisal and opined that the subject's improvement does contribute to the value of the site.

Ryan opined that the book *The Appraisal of Real Estate* is an authoritative source for appraisers, but argued that this book is a source and not the definitive rule for appraisers. Ryan was showed an excerpt from *The Appraisal of Real Estate* in regards to land value. He acknowledged that it is possible for land to appreciate while the improvement on the land depreciates in value. He also acknowledged that a vacant corner lot in the River North area would be a valuable piece of land. Ryan read another excerpt from *The Appraisal of Real Estate* regarding the need to value the land as though vacant for an improved property as part of the appraisal process. Ryan opined that in an appraisal a determination that the improvements contribute to the value of the land is all that is needed for the highest and best use as improved to be its continued use.

As to the rental comparables, Ryan acknowledged that rental comparable #3 is a sublease. He testified that if he removed this sublease as a comparable the rental range is from $18.00 to $32.50 per square foot of building area. He testified he did not adjust the comparables for different size floor plates nor did he adjust for differential in net rentable area.

Ryan was shown City of Chicago Exhibits #1 and #2, printouts from *The Appraisal of Real Estate, 12th Edition* which defined gross building area and gross leasable area. Ryan acknowledged the subject's gross buildable area included the indoor parking. Ryan testified he did not include any income from the indoor parking in the income approach to value, but included the square footage in the gross rent estimate. He stated the subject contains 20 above grade parking spaces and 25 to 30 below grade spaces. He testified he did not consider the value of these parking spaces in the appraisal.

As to the capitalization rate, Ryan testified he did not derive the capitalization by extracting a rate from the sales within the sales comparison approach. He testified he utilized the *Korpacz Real Estate Investor Survey* and acknowledged that the survey can include properties that are not similar to the subject.

Ryan testified the light and air arrangement for the subject property is exposed. He explained he mostly heard the term light and air in regards to zoning and that this term means the property has exposure to light and air.

As to sales comparable #1, Ryan testified this property is an interior parcel on an alley so he opined the property has some light and air, but is inferior to the subject in this regard. He further testified this comparable does not have any indoor or dedicated outdoor parking. He confirmed the property had two tenants at the time of sale. Ryan had no knowledge as to the traffic counts for this sale.

Ryan was shown City of Chicago Exhibit #4, a copy of the Illinois Real Estate Transfer Declaration for a 2003 sale for comparable #2, and acknowledged that this document listed the subject as an industrial building. He agreed with the intervenor that this property is a multi-story office building. Ryan was then shown City of Chicago Exhibit #5, a copy of the Illinois Real Estate Transfer Declaration for a 2008 sale for comparable #2. He acknowledged this sale was almost $60.00 per square foot of building area more than the 2003 sale. Ryan acknowledged this property has an inferior light and air arrangement as compared to the subject and does not have any indoor or dedicated outdoor parking. Ryan had no knowledge as to the traffic counts for this sale.

As to sales comparable #3, Ryan opined that the light and air arrangement for this property is similar to the subject. He testified that this comparable does not have any indoor or dedicated outdoor parking. He acknowledged this property is a multi-tenant building. Ryan had no specific knowledge as to the traffic counts for this property.

Ryan was shown City of Chicago Exhibit #6, a copy of the Illinois Real Estate Transfer Declaration for a 2006 sale for comparable #4. He acknowledged he knew of this sale which was at $122.96 per square foot of building area, but testified that he did not use any sales after January 1, 2006, the valuation date of the appraisal. Ryan opined that the property had an inferior light and air arrangement compared to the subject. He testified this property does not have any indoor or dedicated outdoor parking, is a multi-tenant building, and that he was unaware of the traffic count for this property.

Ryan was questioned in regards to sale #5. He testified this property was vacant at the time of sale in June 2005 and agreed that he estimated the value of the subject property at a similar price per square foot of building area as this comparable. Ryan testified that this property has light and air on three sides as the building is taller than the one next to it and is located on a corner. The acknowledged this property does not have any indoor or dedicated outdoor parking. Ryan had no knowledge as to the traffic counts for this sale. Ryan reviewed City of Chicago Exhibit #7, a copy of the Illinois Real Estate Transfer Declaration for a 2005 sale for comparable #5. He stated this document indicates the property was not advertised for sale and acknowledged he did not make any adjustments for this.

Ryan acknowledged the subject has the largest land to building ratio of all the properties used in the sales comparison approach. He testified that he did not make adjustments for the lease fee of the comparable properties.

On redirect, Ryan testified he did consider land values in arriving at a highest and best use conclusion. He also testified that he did not include the parking in the income approach to value because his rental comparable #4 had indoor parking and had rental rates from $18.00 to $22.00 per square foot of rentable area while he estimated the subject's rent at $22.50 per square foot of building area. He testified that the subject is not receiving any income from the parking. Ryan testified he did consider parking in arriving at the rent estimate for the subject.

As to the capitalization rate, Ryan testified he did not extract a rate from the sales comparables because the income and expenses of these comparables were not available to him. Ryan opined he had sufficient data to estimate the capitalization rate at 7.5%.

In regards to the sales comparison approach, Ryan testified that he did not use newer building because there were not available, but that he did make age adjustments to the comparables that he did use.

Ryan testified that sales comparable #2 was located within one block of the subject and was used as an office building. As to the sale of this property in 2008, Ryan testified that the appraisal was completed in July 2007 and therefore, would not have been aware of the sale prior to the completion of the appraisal.

Ryan testified he did not use the 2006 sales for comparable #4 because it sold after the date of valuation and because, he opined, the buyer overpaid for the property to suit the buyer's specific purpose.

As to sales comparable #5, Ryan testified that this property was renovated in 2002 to become a very modern building which was one of the reasons the estimate of value for the subject was similar to this building's price per square foot of building area. He testified he did not make any adjustment for the lack of advertisement on the open market because, he opined, the market had a lot of buildings in play during that time and, although not advertised for sale, the parties were informed, each acting prudently and knowledgeably in their own best interests and not under duress.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $3,156,262 was disclosed. This assessment reflects a fair market value of $8,305,953 or $135.02 per square foot of building area land included, when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5A commercial property is applied. In support of this market value, the notes included raw sales information on 15 properties suggested as comparable to the subject. These properties range in size from 40,000 to 1,122,000 square feet of rentable area. They sold between September 2002 and August 2007 for prices ranging from $2,880,000 to $247,300,000 or from $63.12 to $279.23 per square foot of building area, including land. At the hearing, the board of review did not call any witnesses and rested its case upon its written evidence submissions. As a result of its analysis, the board requested confirmation of the subject's assessments.

In support of the intervenor Chicago Board of Education's position, the intervenor submitted a summary appraisal of the subject prepared by Eric Dost with Dost Valuation Group, Ltd. Dost testified he is president of Dost Valuation Group and has been an independent appraiser since 1986. He testified he is a certified general real estate appraiser in five states, including Illinois and received his MAI designation in 1993. Dost then described his educational background and his entry into the appraisal field. He testified he has prepared approximately 2,500 appraisals with 2,000 of those for commercial properties. He testified he has appeared as an expert before courts and tribunals. He was accepted by PTAB as an expert in appraisal practice without objection from the remaining parties.

The appraisal utilized the sales comparison approach, the income approach and prepared an estimate of land value to estimate the value of the subject property at $8,700,000 as of January 1, 2006.

Dost testified he inspected the subject on October 22, 2008 and in preparation for the hearing. Dost testified he made an exterior inspection of the property. Dost described the property as an eight-story, 50,136 square foot office building built in 1985. He stated the property has frontage on three streets at a double corner location. He then went on to describe the subject's environs and market conditions as of January 1, 2006.

Dost testified that the subject’s highest and best use as vacant would be for office development and that continuation of its existing use is its highest and best use as improved. Dost opined that land value is a necessary component of the appraisal and the highest and best use as improved process; he stated that you cannot determine if the improvements have contributory value unless a land value as vacant is done.

Dost described the land sales analyzed to estimate a land value for the subject. These four sales sold from January 2003 to December 2005 for prices ranging from $169.88 to $487.18 per square foot. He testified that sale #4 should have had an upward adjustment for condition of sale due to its distressed sale. Dost estimated a value for the land at $300.00 per square foot or $4,700,000, rounded.

To estimate a value for the subject through the sales comparison approach, Dost testified he searched for sales of properties similar to the subject and found four sales. These properties are described as single or multi-tenant office buildings built or remodeled from 1988 through 2002. The properties range in size from 30,484 to 113,036 square feet of net rentable area and sold from March 2005 to March 2006. These properties sold from $5,900,000 to $18,000,000 or from $129.82 to $193.54 per square foot of net rentable area.

Dost opined why sale #1 was similar to the subject. He testified that this property has underground parking and was 100% leased at the time of sale. He derived a capitalization rate from this sale of 6.3% and opined that the lease was at market. He testified that this property had a prior sale in 2004 which shows an increase in the market from the first sale to the second.

Dost testified that the reported capitalization rate for sale #2 was 8%. He stated the property was 100% occupied at the time of sale and opined that the lease was at market. He opined that, based on a later sale of this property in 2006, the market was still increasing in values.

Dost opined that sale #3 was highly similar to the subject, but was fully leased at the time of sale. He further opined that this lease was at market.

As to sale #4, Dost testified that this sale was the exercise of an option from a lease in 1998. He opined that a tenant would not exercise the option unless the sale was below market. He testified he made adjustments for pertinent factors and, after adjustments, estimated the value of the subject under the sales comparison approach at $175.00 per square foot of building area, including land, or $8,800,000, rounded.

Under the income approach, Dost testified he analyzed four comparables that are similar to the subject physically and/or locationally. These properties range in rental size from 33,000 to 97,000 square feet of rentable area with asking rents as of September 2008 from $9.35 to $30.62 per square foot of rentable area. Dost testified he made downward adjustment to the comparables because they were asking rents. Dost concluded a rent for the subject at $16.00 per square foot of building area.

Dost testified he included income from the subject's parking spaces. Dost estimated the subject contained approximately 52 indoor and dedicated outdoor parking spaces. Dost testified he reviewed market rents for parking spaces, listed them in the appraisal, and estimated income for the subject from parking at $187,200 and expense recoveries at $775,802. Dost testified he estimated the potential gross income (PGI) at $1,765,178. Dost testified that there is a mathematical error in the income summary chart within the appraisal that shows a lower net operating income due to this error.

Dost testified he estimated vacancy and collection loss (V&C) of 20.0% based on market reports which resulted in an effective gross income (EGI) of $1,412,143 for the subject. Dost testified he reviewed the Building Owners and Managers Association Exchange Report for expenses for office buildings to conclude expanses at $16.94 per square foot, or $849,168. The estimated expenses were deducted from the EGI resulting in a net operating income (NOI) of $562,975 for the subject. Dost testified that there is a mathematical error in the income summary chart within the appraisal that shows a lower net operating income due to this error.

To estimate the capitalization rate, Dost testified he analyzed comparables sales, looked at investor surveys and applied the band of investment technique. As to the comparables sales, Dost testified two of the sales had sufficient income to calculate a capitalization rate. These two sales derived capitalization rates of 6.3% and 8%. Dost reviewed *Korpacz Investor Survey* which had estimates of 5.50% to 9.5%. He testified he also applied the band of investment method to estimate a capitalization rate of 6.5%. Dividing the NOI by the appraiser's total capitalization rate resulted in an indicated value for the subject at $8,700,000, rounded.

In reconciling the two approaches to value, Dost testified he considered the sales comparison approach to be a strong indicator of value with more emphasis on the income approach to estimate a value for the subject of $8,700,000 as of January 1, 2006.

On cross examination by the appellant, Dost acknowledged that none of the land sales he used were developed for office building purposes; three sales were for residential purposes and one remains vacant. Dost also acknowledged that the appraisal does not contain a discussion of these sales or their adjustments within the appraisal beyond the chart. He testified that land sales #1 and #3 are superior to the subject and land sale #4 is similar.

Dost indicated that the appraisal contains a typographical error for sales #2 and #4. The chart does not list the adjustments for the conditions of sale; sale #2 was an assemblage where a downward adjustment of 10% was necessary and sale #4 was a distressed sale for an upward adjustment of 10%.

As to the sales comparables, Dost testified that sales #1 through #3 were leased fee sales while #4 was the termination of a lease with the exercising of the option to purchase. Dost opined that these leases on the sales were at market value therefore, there is no leasehold value and the fee simple value would be equal to the leased fee value estimate. Dost acknowledged that the sale price for sale #4 was established in 1998 at the commencement of the lease.

As to the rental comparables, Dost acknowledged these were all asking rents as of September 2008. He testified he did not make an adjustment to account for the different market conditions. He opined that he market went up and then down for no net change.

Dost acknowledged that the subject property does not generate any income from its parking. His analysis of parking rates is from September 2008 and that he did not make any adjustments for time. Dost testified that the taxes included in his expense recovery chart are based on an estimate of what the taxes would be if the property sold for the value estimated in the sales comparison approach. He acknowledged this is a higher amount than the actual.

In support of the intervenor City of Chicago's position, this intervenor submitted a summary appraisal of the subject prepared by James A. Gibbons with Gibbons and Sidhu, Ltd. Gibbons testified he is vice president of Gibbons and Sidhu and that he has been an appraiser for over 30 years. He testified he is a certified general real estate appraiser in Illinois, Indiana and Wisconsin and received his MAI designation in 1987. Gibbons testified he has prepared thousands of appraisals one all types of properties with a majority of those appraisals for commercial property. He testified he has appeared as an expert before courts and tribunals. He was accepted by PTAB as an expert in appraisal practice without objection from the remaining parties.

The appraisal utilized the sales comparison approach, the income approach and prepared an estimate of land value to estimate the value of the subject property at $9,700,000 as of January 1, 2006.

Gibbons testified he performed an exterior inspection of the subject on several occasions. Gibbons described the property as a modern, eight-story, masonry and steel constructed office building built in 1985. He opined that the property has a distinct architectural style on a double corner lot.

Gibbons testified that the subject’s highest and best use as vacant would be for office development and that the continuation of its existing use is its highest and best use as improved. He testified he valued the land to test the highest and best use as improved. He opined that the improvements need to contribute to the value of the land for continuation of the existing use.

Gibbons described the land sales analyzed to estimate a land value for the subject. These four sales sold from December 2003 to July 2004 for prices ranging from $193.10 to $466.64 per square foot. He testified that all the land sales are located in the River North area with sale #1 located next to the subject. After adjustments, Gibbons estimated a value for the land at $275.00 per square foot or $4,300,000, rounded.

Under the income approach, Gibbons testified he had previously appraised all of the rental comparables and had information as to the lease terms. These properties range in rental size from 5,107 to 46,000 square feet of rentable area for rental rates from $14.00 to $18.88 per square foot of rentable area. Gibbons testified the rental comparables are all based on a net basis. Gibbons concluded a rent for the subject at $17.00 per square foot of building area for a potential gross income (PGI) at $852,312.

Gibbons testified he estimated vacancy and collection loss (V&C) at 17% based on surveys and his general experience appraising properties in the River North area which resulted in an effective gross income (EGI) of $707,419 for the subject. Gibbons testified he deducted expenses of 4% for costs that could not be recouped from a tenant along with reserves for replacement at $.15 per square foot of building area. The estimated expenses were deducted from the EGI resulting in a net operating income (NOI) of $671,602 for the subject. Gibbons described the expenses under the non-recoverable expenses category.

To estimate the capitalization rate, Gibbons testified he relied upon his experience appraising properties in the area as well as investor surveys and applied the band of investment technique. Gibbons reviewed *Korpacz Investor Survey* which had estimates of 5.50% to 9.5% and, Gibbons testified, the overall rate developed by the band of investment was 7%. He testified he concluded an overall rate of 7.25% which resulted in an indicated value for the subject at $9,265,000, rounded.

To estimate a value for the subject through the sales comparison approach, Gibbons analyzed six sales. These properties are described as single or multi-tenant office buildings built or remodeled in 1889 through 2006. The properties range in size from 29,000 to 68,555 square feet of net building area and sold from June 2004 to August 2005. These properties sold from $5,900,000 to $8,970,000 or from $129.82 to $220.69 per square foot of net buildable area.

Gibbons testified he appraised sale #1 which is two buildings. He testified one building is older and one is newer with some renovation done to the buildings after purchase. Gibbons stated this property has a parking lot and is located on a corner.

Gibbons described sale #2 as located on a corner with the elevated train line adjacent to the property. He stated sale #3 has on-site parking, but is not a corner lot.

Sale #4, as described by Gibbons, is a single-tenant building. He testified the property is located one lot east of the elevated train lines. Gibbons testified the property also sold the previous year for $122.62 per square foot of building area while the 2005 sale was for $163.10 per square foot of building area. He opined that these sales show the market improving.

Gibbons testified sale #5 has a parking lot associated with it and that the property is located on a corner. He testified that sale #6 has ground floor retail. Gibbons stated that the purchase price of $6,400,000 included the recorded amount of $6,050,000, plus $350,000 paid to the seller because the seller did not make their 1031 exchange timeline.

Gibbons testified he made adjustments to the comparables for pertinent factors. He opined that after adjustments the subject's appropriate overall value under the sales comparison approach was $200.00 per square foot of building area, including land, or $10,000,000, rounded.

In reconciling the two approaches to value, Gibbons testified he placed primary emphasis on the sales comparison approach and found the income approach credible to estimate a value for the subject of $9,700,000 as of January 1, 2006.

On cross examination by the appellant, Gibbons acknowledged that all but one of the land sales were for residential development and that he was unaware of the development plans for the remaining sale. He testified that the land value he estimated for the subject was above the value of three of the four land sales and that the fourth sale was significantly higher than the other sales. He testified this sale, sale #3, included costs for permits and building plans. He acknowledged the appraisal does not include adjustments for this.

Gibbons also testified that he did not make any adjustments to land sales #1 and #4 for their larger size, but that sale #2 was adjusted for its less functional land size. He acknowledged that none of the land sales had the same use as the subject under the highest and best use analysis.

Gibbons was asked questions regarding his rental comparables and vacancy rate. He credibly explained his reasoning for those conclusions. Gibbons testified that his capitalization rate of 7.25% did not include a tax load and that he did not include the taxes within his 17% vacancy rate.

As to the sales comparables, Gibbons testified that five of the sales were leased fee sales. He testified that there is no adjustment specifically for the leased fee status, but that he made whatever adjustments were appropriate. He acknowledged that the estimate of value for the subject is above all the comparables sales prices per square foot of building area except for sale #6. He acknowledged this property contains first floor retail.

In rebuttal, the appellant called Mr. Terrence P. McCormick. McCormick testified he is co-owner of McCormick and Wagner, L.L.C. McCormick testified he is a State of Illinois certified general appraiser and hold the MAI designation with the Appraisal Institute. He stated he has been an appraiser for 32 years and has appeared before courts and agencies as an expert in property valuation. McCormick testified he has conducted technical and desk reviews on approximately 20 appraisals. McCormick was accepted as an expert in property valuation without objection from the parties.

McCormick testified he completed a desk review of the Dost appraisal. He testified he did not inspect the subject property or the sales comparables used in the land value and the sales comparison approach. McCormick opined that parts of the data within the Dost appraisal were adequately described, but that the land sales chart, rental chart, and improved sales chart were very abbreviated and some pertinent information was lacking from those charts. He further opined that the report was not reliable based on the contradictory information within the appraisal report.

McCormick testified that the Dost appraisal concludes a highest and best use as vacant as office building, but that three of the land sales are for residential development and the fourth was vacant. He testified these sales are a different use than the subject property and may be indicative of a site whose highest and best use is also residential, but not indicative of an office building site.

McCormick opined that the highest and best use analysis preformed by Dost shows that the improvement contributes value to the site and that the contradiction is in what the land sales were used for. He opined better comparables would be sites that were developed with office buildings. McCormick testified that the high vacancy rates in the area suggest that the prominent development is residential and that, as vacant, the subject property may not be developed as an office building.

As to the income approach, McCormick testified that the rental comparables were listed in an abbreviated chart format and were asking prices from September 2008. He testified that there was nothing in the report to show how a 10% adjustment was made to these comparables for the time. In addition, McCormick noted that two of the rental comparables contained 5,000 and 7,000 square feet of rental area while the subject contained 50,000 square feet. He opined that many times the asking price is higher than the actual rate.

McCormick testified that the parking income is attributable to a surface lot. He opined that there was not enough evidence to show that the subject, if leased, would rent out the parking. McCormick opined that the parking was an amenity for a single-tenant user.

McCormick testified that Dost converted net rents into gross rental rates. He testified that it was more common to load the tax rate than to put the real estate taxes, which are the subject of the appeal, into the gross rates. McCormick testified that Dost added all the expenses in and then subtracted out the vacant space. He testified that when the taxes are not known, it's best to just load the tax rate.

McCormick opined that Dost's capitalization rate was lower than the rates he developed or sourced which is in contrast to the higher risk associated with the large vacancy rates.

As to the sales comparables, McCormick opined that the chart in the appraisal is much abbreviated and some pertinent data would be useful. He testified that Dost did not thoroughly explain the previous sale that shows a 33% appreciation in value for this property. He noted that this sale was also used by Gibbons in his appraisal with more detailed information.

Sale #2, McCormick testified, is a multi-tenant property with no income or expense information give to determine how this leased fee sale would equate to a fee simple valuation. He noted this property was 100% leased.

McCormick testified that sale #3 is a multi-tenant building that was also 100% leased at the time of sale. He testified that sale

#4 was leased at the time of sale and that the tenant exercised an option to purchase that was developed in 1998. He opined that there was no information regarding rental terms or how the option could be market related in 2006. He further opined that the sale #4 was not supported by market data.

McCormick testified that he also reviewed the Gibbons appraisal. McCormick opined that there was sufficient information provided for the comparable data included in the appraisal, but that the value conclusions were not supported by the data provided.

As to the highest and best use, McCormick testified that the Gibbons appraisal found the subject's highest and best use to be office and that the improvement contributed value to the site. McCormick testified that the land sales included in the appraisal to develop the value for the land were for residential development rather than office building. He testified that the sales are more reliable for a condominium highest and best use, than what the value of the land is as vacant for office building.

McCormick opined that two of the rental comparables were dated terms and were very small at 5,000 and 10,000 square feet of rental area while the subject is at 50,000 square feet. As to rental #1, McCormick testified that the property was purchased in June 2005 and leased in December 2005 with no information as to if this property was a built-to-suit transaction. He opined that this information would indicate whether this is a market transaction.

McCormick testified that there are significant vacancy rates for River North office space. McCormick opined that the expenses estimated by Gibbons were not supported by the market and were below the sources stated in the appraisal.

As to the capitalization rate, McCormick testified that in developing the band of investment approach, Gibbons chose an equity dividend rate that was low by comparison of the data within the appraisal. He testified that the River North area has the highest vacancy of all the submarkets in the Chicago area and that Gibbon's rate does not seem to take that into account. McCormick also questioned why Gibbons chose a net rent and did not load the capitalization factor for taxes that he owner would have to pay for. He opined that when the vacancy rates are significant, over 10%, those expenses have to be paid by the owner.

McCormick testified that the sales comparables are primarily multi-tenant properties that were leased. He testified that there was no data on expenses or estimated revenue and expenses for the subject to compare to.

McCormick testified that sale #1 was the only sale where the property was vacant at the time of sale and more indicative of a fee simple transfer. He testified that the information he reviewed showed that sales #2, #3, and #5 were both fully leased at the time of sale, but that no income and expense data was provided.

Sale #4, McCormick testified, was fully leased to a single tenant for 15 years prior to the sale which was the exercise of an option to purchase. He testified that there was no information provided in the appraisal to determine whether the contract rent was at a market rent similar to what was estimated for the subject.

In conclusion, McCormick opined Gibbons did not provide a reliable conclusion to value in the sales comparison approach and that the analyses, opinions and conclusions in the report are not appropriate and reasonable for the subject.

On cross examination by the Chicago Board of Education, McCormick acknowledged he did not inspect or review interior photographs of the subject. He testified there were 20 uncovered outside parking spaces, but he did not know how many covered outside or inside parking spaces were available at the subject. He opined that this information would be useful to know. McCormick acknowledged that most buildings in River North do not have dedicated parking and that having this parking would be a benefit or amenity for a potential buyer.

McCormick testified that the subject's land does have value. He described what types of properties are allowed under the subject zoning, which includes office, residential or retail. McCormick testified that the Dost report did not adjust for zoning because they were all deemed similar.

McCormick agreed with Dost's conclusion as to the subject's highest and best use as improved. He acknowledged that this conclusion is supported.

McCormick acknowledged that improved sales #1 and #2 include income, but state he did not know where any of the information came from. He opined that testimony by Dost that he reviewed the income and lease information and determined them to be at market would not satisfy his concerns.

McCormick testified that it depends on the circumstances as to whether a rational buyer would exercise an option to purchase if the value of the property was less than the option price.

McCormick opined that the 10% adjustment for the rental comparables for their asking price is not supported because the adjustment is for asking only and does not include time of lease.

In response to questions about Dost's vacancy rate, McCormick opined that the market data does not support the rate chosen by Dost. He acknowledged that Dost did provide market data.

McCormick testified that Dost used a reasonable source for developing his expenses and that he properly accounted for the vacancy space within the subject.

McCormick acknowledged that Dost reviewed two sales from the sales comparison approach as part of his analysis to determine the capitalization rate. However, McCormick testified he could not determine where the income and capitalization rate for these sales came from. McCormick agreed that having comparable market data that an appraiser analyzed and is comfortable with is a great source.

On cross examination by the City of Chicago, the intervenor focused on the Gibbons appraisal. McCormick acknowledged that the zoning for the land comparables are similar to the subject property. McCormick testified that determining a land value is the first step in the cost approach, but that many times this approach is not utilized in the appraisal process. McCormick opined that if an appraisal was analyzing whether the existing improvements were still the property's highest and best use, using different highest and best use properties would be a problem.

McCormick testified that rental comparable #1 was the most comparable to the subject in size and agreed that the estimated rent developed by Gibbons for the subject was within $.68 of this rental comparable.

McCormick agreed that when a subject property has on-site parking, it is good to use comparables that have on-site parking as well, all other things being comparable.

On redirect, McCormick opined that in the highest and best use analysis an appraiser needs to look at the market to see what is happening in the market, but that developing an actual value for the land is not necessary.

In rebuttal, the City of Chicago called Mr. Michael S. MaRous. MaRous testified he is president of MaRous & Company, a real estate appraisal and consulting firm, since 1980. He testified he is a State of Illinois licensed appraiser and received his MAI designation from the Appraisal Institute. MaRous stated he has been on approximately 30 committees formed by the Appraisal Institute and was past president. He also testified he is a member of the Counselors of Real Estate. MaRous testified he has appraised all types of properties with the main concentration in the Chicago land area. He testified he has been an expert witness at the PTAB on prior occasions and in the courts. The PTAB admitted Mr. MaRous as an expert in the field of property valuation without objection from the parties.

MaRous testified he completed a review of the LaSalle appraisal prepared by Ryan. He testified he performed an exterior inspection the subject property in mid 2008. MaRous opined that the Ryan appraisal did not thoroughly describe the subject's location on a double corner lot with very high visibility and high traffic counts. He opined the exposure the subject receives has value. He testified the appraisal discussed minimally the parking available at the subject and the quality and modernization of the interior space. MaRous described light and air as the ability of natural light to get into an office. He opined it was very desirable amenity.

MaRous testified that the Ryan appraisal did not include any land sales to prove up the point that the highest and best use is the existing use.

As to the income approach to value, MaRous opined that the leases provided in the Ryan appraisal were dated and that the adjustments made to the comparables were significantly downward. He opined the vacancy rate was supported, but that his return on equity in the capitalization rate was a little high.

He opined that the income approach for an owner-occupied property was not the most important approach. However, he opined that the estimate of gross rent for the subject was low and the capitalization rate appeared to be high. He testified all these factors would estimate a lower value by the income approach.

MaRous opined that subleases were not as good a comparable because there could be other factors in the consideration and they are generally at a discount.

As to the sales comparison approach, MaRous testified that the comparables are all older, interior properties without parking. He testified that the appraisal did not address the parking available to the subject or the light and air benefit to the subject. He did acknowledged that the comparables are located in close proximity to the subject.

MaRous testified that sale #1 is an older building renovated in 1987. He testified that the ground floor is retail and the upper floors are office. He stated 50% of the building was leased at the time of sale.

MaRous testified that the front of the building for sale #2 is on a secondary service street, but that the building backs up to Ontario and has exposure. He testified that sale #3 is a corner lot with high visibility. He stated that this building is a shell. He opined that this building would need significant adjustments for time, condition and parking.

MaRous testified that sale #4 has is an attractive building with character, but not as modern as the subject. He testified this property sold again in November 2006 for a higher value and MaRous questioned by Ryan did not use this sale.

MaRous opined that all the comparables were class C or class D buildings while the subject is a class B or B+ building. He opined that these properties set the base value and then values increase upward for condition, location, frontage, light and air, parking, and modernization. MaRous then testified that adjustments need to be made for pertinent factors and opines that Ryan did not adequately adjust for these factors. Based on this, MaRous opined that the value estimated in the sales comparison approach is significantly understated.

MaRous opined that there were other sales available for Ryan to use in the sales comparison approach to value. He noted others within his review.

In conclusion, MaRous opined that the final estimate of value in the Ryan appraisal was not reliable.

On cross examination by the appellant, MaRous acknowledged that Ryan adjusted the sales comparables for FAR. He also acknowledged that Ryan summarized his comparable sales adjustments in the appraisal. He acknowledged that his report indicates the construction dates of the sales and does not take into consideration the renovations.

MaRous testified that sale #2 was not renovated at the time of sale. He stated he verified sale #4 through public records and not conversations with parties to the transaction. He testified he was not aware of any circumstances surrounding the 2006 sale for this comparable and that the transfer forms do not indicate any unusual circumstances.

MaRous testified that the best comparables for the subject would be modern, owner-occupied, single-tenant, new buildings with parking in the River North area and into the Loop, River West, River East, and Near South Side. He acknowledged that Ryan made adjustments to the sales for their sale dates.

He also acknowledged that the additional sales comparables he submitted in his review report where older buildings with renovations.

MaRous agreed that his review states that Ryan's capitalization rate at 17.5% is adequately supported by the market. As to the expenses, MaRous testified that the Ryan appraisal has lower expenses than the market data. He acknowledged that the appraisal explained why the maintenance and administration costs were lower.

MaRous testified that the subject has a lower land to building ratio than the comparables. On direct, he opined that adjustments were needed for this factor. On cross examination, he acknowledged that the subject's higher land to building ratio results in a smaller building and less rentable area.

On redirect, MaRous explained his opinion on Ryan's comparable sale #4. He testified that the inclusion for the 2006 sales information appears to be just factual information and was not relied on in making adjustments; he opined he should have relied more on that sale.

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(a))*. 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 satisfied this burden and that a reduction is warranted.

In determining the fair market value of the subject property for tax year 2006, the PTAB examined the parties' three appraisal reports and testimony, the board of review's submission, and the rebuttal documentation and testimony.

The PTAB finds the board of review's witness was not present or called to testify about their qualifications, identify their work, testify about the contents of the evidence or report on their conclusions or be cross-examined by the appellant and the Property Tax Appeal Board. Without the ability to observe the demeanor of this individual during the course of testimony, the Property Tax Appeal Board gives the evidence from the board of review no weight.

The PTAB also finds that the Dost appraisal gave most weight to the income approach to value in estimating a value for the subject property which is a single-tenant, owner-occupied building. The remaining experts testified that the most relevant approach to value for this time of building would be the sales comparison approach. In performing this approach, Dost used rental comparables that were asking rents and parking fees that were almost three years after the lien date. Although Dost made adjustments for the asking component of these comparables, no adjustments were made for the time component.

In addition, Dost testified that the appraisal contains a little error in regards to the general and administrative expenses. He testified this error would change the net operating income by approximately $30,000. He later testified that error would change the final estimate of value for the subject property by approximately $400,000. The PTAB finds this error to be more than a little, ministerial error, but a substantive error. The data does not reflect the correct information and cannot be analyzed by the PTAB. Therefore, the PTAB gives no weight to this appraisal.

The PTAB finds that both remaining appraisers placed most weight on the sales comparison approach to value. Additionally, 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. Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207 (2nd Dist. 1979); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989). Therefore, the PTAB gives this approach the most weight.

The PTAB finds that both the Ryan and Gibbons appraisals provided improved sales that were similar to the subject and, with adjustments, reflective of the subject's market value.

The PTAB gives diminished weight to Ryan's sales comparable #1 and Gibbons' sales comparable #6 as these properties contain retail space on the first floor which is significantly different than the subject's single-tenant, owner-occupied use. In addition, the PTAB give diminished weight to Ryan's sales comparable #3 and Gibbons' sale #4 for the condition of the sale. One property sold at auction, while the other one sold as an option to purchase from the tenant.

The remaining sales were given significant weight by the PTAB and have unadjusted sales prices ranging from $86.67 to $193.54 per square foot of building area, including land. The PTAB finds the appraisers had inappropriate adjustments or the absence of adjustments for the property rights conveyed for six of the seven comparables. Therefore, the PTAB will review the raw sales data and make the necessary adjustments to determine the subject's market value.

The PTAB finds the most significant comparables to be Gibbons' sales comparable #1 which contains parking, is close in size to the subject, and located on a corner lot and Ryan's sales comparable #4 which is a single-tenant office building. Ryan's sale #4 subsequently sold in November 2006 for $5,200,000 or $122.96 per square foot of building area. Ryan testified that he did not include this sale because it occurred after the lien date. However, the PTAB finds no evidence to discredit this sale and will consider the 2006 sale in its analysis.

The subject property's 2006 assessed value equates to a market value of $135.02 per square foot of building area, including land which is within the unadjusted range of comparables. After considering all the evidence including the experts' testimony and submitted documentation as well as the adjustments necessary, the PTAB finds that the subject's 2006 assessment is supported by the comparable sales contained in this record.

As a result of this analysis, the PTAB finds that the evidence and testimony has demonstrated that the subject property was not overvalued and that a reduction in the subject's assessment is not 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 | 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: June 22, 2012

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.