FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: AT&T Midwest
DOCKET NO.: 08-20897.001-I-3 through 08-20897.005-I-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are AT&T Midwest, the appellant(s), by attorneys James P. Regan and Anthony Sanagore of Fisk Kart Katz and Regan, Ltd. in Chicago; the Cook County Board of Review by Cook County Assistant State's Attorneys William M. Blyth and Julie Ann Sebastian; and the Chicago Board of Education, the intervenor, by attorneys Ares G. Dalianis and 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
08-20897.001-I-3	26-06-113-024-0000	2,893	1,302	$4,195
08-20897.002-I-3	26-06-113-025-0000	3,078	1,656	$4,734
08-20897.003-I-3	26-06-113-026-0000	3,078	1,656	$4,734
08-20897.004-I-3	26-06-113-027-0000	3,078	71,120	$74,198
08-20897.005-I-3	26-06-113-032-0000	24,439	627,500	$651,938

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of five parcels of land totaling 33,858 square feet and improved with a multi-story, industrial building. 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.

PTAB/JBV

The appellant's first witness is Patrick Henkel, the area manager for the property management division of the company. He testified he has been employed by AT&T for over 14 years and has been in his current position for nine months. Henkel testified he is responsible for the day-to-day maintenance of the Chicago properties owned by AT&T which includes approximately 30 to 35 central offices similar to the subject.

Henkel described the technology used in the subject property. He testified there is a significant amount of cable located on the first floor of the building and these cable run from the building out to the customers' properties. The lines are hooked up to a main frame approximately 180 to 200 feet long that run the course of the first floor. Henkel testified the subject is a four-story building with a basement and that the third floor contains a small area where non AT&T businesses provide similar voice and data services to customers; these providers are called co-locators. He testified the fourth floor is completely vacant of any telecommunication equipment and that there is approximately 40% usage of the building.

Under cross-examination by the board of review, Henkel testified he was not employed in his current position during 2007 and 2008 and that he is not an Illinois licensed appraiser.

Under cross-examination by the intervenor, Henkel testified he did not know who the co-locators were in 2007 and 2008 nor did he know how many lines AT&T had running into the building during those years also.

The appellant's next witness was Daniel Novak, an employee of AT&T. He testified he has been employed as an operations and project manager for technical space for 20 months. He stated he maintains the data centers and technical spaces in both Illinois and Wisconsin. Novak testified he was familiar with the subject property in 2007 and 2008.

Novak described the equipment located within the datacenter. He testified the subject is designed to house a rack equipment system that does computing for communication systems. He described the rack system as similar to a server or rack computer. He testified there are very fragile pieces of equipment that could be heavy. He opined that it would be beneficial for a data center to be one-story because the weight of the equipment would be disbursed directly on the slab. Novak testified that a data center also contains cooling equipment. He stated the subject has computer room air conditioners. He testified the cooling has to come from underneath the floor or near the equipment and that there also needs to be a hot aisle where the hot air can be pulled back from the equipment, reconditioned and sent back as cooling air.

Novak testified the subject has a DC battery that comes off of inverters. He opined this battery would not be sufficient for a data center.

Under cross-examination by the board of review, Novak testified the back-up equipment in the subject property is very heavy, but that the switch equipment is not. He testified all the equipment is sensitive and expensive and that the infrastructure in the basement has heavy support. He testified the building is well maintained. Novak testified he is not an Illinois licensed appraiser.

In addition, the appellant submitted a complete summary appraisal report undertaken by Arthur J. Murphy and Timothy R. O'Keefe with Urban Real Estate Research. The appraisal has a valuation date of January 1, 2006. The appraisal indicates Mr. Murphy is an Illinois certified general real estate appraiser and Mr. O'Keefe is a senior staff appraiser. The appellant presented the testimony of Timothy O'Keefe. The intervenor made a motion to bar the witness from testifying because he was not a licensed appraiser at the time the appraisal was prepared. The intervenor asserted the witness violated the Illinois Real Estate Licensing Act by preparing this appraisal along with Mr. Murphy and is not competent to testify. The Board denied this motion and indicated that Mr. O'Keefe never held himself out as a licensed appraiser. In addition, the Board found that the Property Tax Appeal Board rules require the appraisal testimony offered to prove the valuation asserted may only be given by the preparer of the document and do not require that preparer to be a licensed appraiser. 86 Ill.Admin.Code 1910.67 (L). Moreover, the Board lacks the authority to regulate appraisal licenses. The Board finds the witness will be allowed to testify and that the appropriate weight will be given to the testimony based on the witness's credibility and qualifications.

Mr. O'Keefe testified that he worked at Urban Real Estate Research for 22 years as a staff appraiser, now certified general appraiser, and vice president of the company. He testified he has performed over 2,000 appraisals and has been working towards his certification since being employed by Urban Real Estate Research. O'Keefe testified that a person needs to attend certain classes and preform a certain number of appraisals to be allowed to take the licensing exam.

The appellant then called the supervising appraiser, Arthur J. Murphy. Murphy testified he is president of Urban Real Estate Research, an Illinois certified general appraiser and a designated MAI with the Appraisal Institute. He testified he supervised the work of Mr. O'Keefe in preparing this appraisal, thoroughly reviewed the appraisal before signing it, and is fully responsible for everything in the report. Murphy testified that Mr. O'Keefe has worked in his office since 1991. He testified that there was no appraiser certification in 1991, but that his staff were all taking classes and working towards their MAI designations with the Appraisal Institute. He opined that Mr. O'Keefe is more familiar with the property and understands the appraisal better than he does. There was no further testimony from Murphy and no objections from the other parties as to any lack of cross-examination.

The appellant recalled Mr. O'Keefe to continue testifying. O'Keefe testified that he is currently an Illinois certified general real estate appraiser. He testified he has appraised approximately 10 to 15 telephone central offices and that he would work with one of two MAI designated appraisers when performing these appraisals. O'Keefe testified he has taken many classes in regards to appraisal practice. He testified he has appraised over 1,000 industrial properties and two digital data centers in Chicago.

O'Keefe testified he inspected the subject on December 20, 2006. He described the subject property and its environs. O'Keefe testified the subject is a four-story, industrial, loft building with a passenger elevator and no docks. He testified it has limited electrical capacity, heavy floor loads, ceiling heights of 10 to 16 feet with an average of 14 feet and a floor plate of 22,000 square feet. He testified the basement is used to house the emergency battery backup system. O'Keefe testified the land is zoned for residential use, but public utilities are allowed based on a special use.

To estimate a total market value for the subject of $1,960,000 as of January 1, 2006, O'Keefe and Murphy employed all three of the traditional approaches to value.

Under the cost approach, O'Keefe testified he analyzed four land sales located in the subject's market area. The comparables range in size from 3,125 to 15,982 square feet. These properties sold from May 2003 to June 2006 for prices ranging from $9.07 to $15.83 per square foot. O'Keefe testified the comparables are all zoned residential because the highest and best use of the subject as vacant, based on the legal use of the property, is residential. He testified he made adjustments for pertinent factors to arrive at a land value for the subject of $10.00 per square or $340,000, rounded.

Using the Marshall and Swift Cost Manual, O'Keefe testified he estimated the replacement cost new for the improvement to be $7,833,342. He testified he then added indirect costs and entrepreneurial profit for an overall replacement cost of $8,875,176. O'Keefe testified he included entrepreneurial profit because, in his opinion, people won't develop properties if they are not compensated. Using the age/life method, O'Keefe depreciated they improvement by 82% for a total depreciated value of $1,597,532. The land was added back in for a total value under the cost approach of $1,900,000, rounded.

Under the income approach, O'Keefe testified there was no rental information on other public utilities and he, therefore looked for older, loft-warehouse type properties similar to the subject. He testified he reviewed the leases of five rental comparables. These properties ranged in size from 50,000 to 205,000 and have rates of $2.00 to $3.25 per square foot of building area. O'Keefe estimated the subject's market rent to be $3.00 per square foot of above grade building area and $2.00 per square foot of below grade building area. This resulted in a potential gross income of (PGI) $271,621. Vacancy and collection loss was estimated at 10% of PGI for an effective gross income of $244,459. Reserves for replacement, leasing commissions, and management fees were estimated at $37,938. Therefore, the effective net income (ENI) was estimated at $206,521.

In determining the appropriate capitalization (CAP) rate, O'Keefe testified he utilized the band of investment technique as well as analyzed national investor surveys. He testified he applied an overall CAP rate of 10.50% to the ENI to estimate the market value for the subject under this approach at $1,970,000, rounded.

The final method developed was the sales comparison approach. O'Keefe testified he analyzed four comparables. O'Keefe testified he looked for older, multi-story, industrial buildings located primarily on the south side of the City of Chicago. He described each comparable. The properties range in building size from 57,997 to 115,956 square feet of above grade building area and sold from January 2004 to October 2006 for prices ranging from $1,600,000 to $2,940,000, or from $19.47 to $27.59 per square foot of above grade building area, including land. The properties ranged in age from 56 to 85 years and in land to building ratio from .48:1 to 1.55:1.

O'Keefe testified that after adjustments for differences within the subject and the comparables, he estimated a value for the subject of $26.00 per square foot of above grade building area, including land which yields a value for the subject property under the sales comparison approach of $1,960,000, rounded.

In reconciling the various approaches, O'Keefe testified he gave greatest weight to the sales comparison approach, secondary weight to the income approach and the least amount of weight to the cost approach. After reconciliation, the appraisal estimated the value for the subject property as of January 1, 2006 to be $1,960,000.

Under cross-examination by the intervenor, O'Keefe testified that the statement in the certification letter referring to an update appraisal meant that he had appraised the property before. He acknowledged that the cover letter does not state the appraisal is an update. He reiterated that he prepared the report, that Mr. Murphy reviewed the report, that Mr. Murphy may have asked for changes, and that they both signed the report as responsible for its contents. He again reiterated that he was not licensed at the time of preparing this appraisal, but that he was taking classes and performing the requirements needed to gain his license.

O'Keefe testified that subject has 3,000 amps of power and he opined this was an adequate amount of power for an industrial building. He testified the subject has no truck docks or drive-in doors. He also testified that the building has a card swipe feature for security purposes and the windows on the first floor of the building have been bricked up. O'Keefe acknowledged he did not write an appraisal report with a January 1, 2007 or January 1, 2008 date of value.

As to land sales, O'Keefe testified land sale #1 had no brokers involved in the sale and he did not know if the property was listed on the open market. He also testified that this property is a third the size of the subject. O'Keefe testified land sale #2 was an interior parcel unlike the subject's corner lot and is half the size of the subject. He testified land sale #3 was about 20% the size of the subject and that land sale #4 is less than 10% the size of the subject.

As to improved sale #3, O'Keefe was shown *Intervenor's Exhibit #2*, a CoStar Comps report from 2013 detailing the sale of this comparable. O'Keefe testified he did not know if this property was demolished after it was purchased because he has not been by the site since and he did not know if the purchaser was a condominium developer. He testified that CoStar Comps updates there reports periodically and that what is currently written in this exhibit may not be the report he looked at when he prepared the appraisal. He agreed that if the intent of the purchaser was to demolish the property than this sale could be used as a land sale; he the land sale price would be approximately $30.00 per square foot. He reiterated that this sale was a good improved sale at the time the report was written and that if the property was demolished it was done after the date of sale.

As to the cost approach, O'Keefe testified he included both the above grade square footage and the below grade square footage separately in developing the replacement cost new. O'Keefe was questioned repeatedly about why he only included the above grade square footage on the cost data page in the appraisal and O'Keefe clarified several times that this page clearly shows the value of both the above grade improvement and the basement.

O'Keefe testified that the subject had a remaining economic life of 10 years and an estimated life of 41 years. He testified that there was a typo in regards to the estimated life, but that was corrected and the calculations were based on the correct data. He testified that if the estimated life was 40 years the depreciation amount would change from 82% to 80%. He acknowledged this would increase the value of the property under the cost approach by $200,000.

In the income approach, O'Keefe testified that rentals #1, #2, #4, and #5 are multi-tenant buildings. He acknowledged that rentals #2 and #3 are crane buildings and the subject is not. O'Keefe acknowledged that rental #4 consists of 33 acres of land with a barge slip, but opined this rental was located in a comparable neighborhood. O'Keefe did not know the amps of power, if there is back-up HVAC, and the load bearing capacities for these rental comparables.

O'Keefe testified that some investors would like to see the leasing commissions below the line and not included in the expenses. O'Keefe testified that his appraisal firm usually keeps the leasing commissions within the expenses. He was then shown *Intervenor's Exhibit #3*, a copy of two pages from an appraisal prepared by Urban Real Estate Research with a valuation date of January 1, 2009. This exhibit included a page addressing leasing commissions and how they are considered by most investors to be "below-the-line" and that is how this appraisal treated this expense.

As to the capitalization rate, O'Keefe testified he did not know the details of the 13 buildings that CoStar Comps reported on for a capitalization rate.

As to improved sale #1, O'Keefe was shown *Intervenor's Exhibit #4*, a CoStar Comps report from 2013 detailing the sale of this comparable. O'Keefe acknowledged that the square footage as listed in the exhibit is different than what was used in the appraisal, but testified that the information from 2006 listed the square footage as 94,748. He also acknowledged that this exhibit indicates there were no brokers involved in the sale.

As to improved sale #2, O'Keefe was shown *Intervenor's Exhibit #5*, a CoStar Comps report from 2013 detailing the sale of this comparable. He testified this property was a general warehouse with distribution warehouse capabilities. He stated that the exhibit indicates there were no brokers involved in the transaction, but did not know if it was exposed to the market. He acknowledged that he reported this building to be a two-story building and that the exhibit lists it as a one-story building.

O'Keefe testified that improved sale #4 was listed on the open market prior to sale. He was shown *Intervenor's Exhibit #6*, a CoStar Comps report from 2013 detailing the sale of this comparable and acknowledged that this exhibit indicates the property was not listed on the market prior to the sale, but indicated that there were brokers listed on the exhibit.

O'Keefe testified that these improved sales did not have the same amp power as the subject, back-up electrical batteries, a diesel generator, redundant HVAC, or were used as a datacenter. He acknowledged the appraisal does not specifically state that he estimated a value under the sales comparison approach both below grade and above grade square footage, but testified that he attributed the value to the above grade building area while cognizant of the fact that the below-grade space does contribute value.

On cross-examination by the board of review, O’Keefe testified that the subject and the improved sales comparables were not used as data centers. He testified he was inside improved sale #2. O’Keefe testified the proximity of the improved sales as compared to the subject. He further explained how he included the basement value within the $26.00 per square foot of above grade building area estimate of value in the sales comparison approach. He described the subject’s basement.

In the income approach, O’Keefe explained how he converted rental comparables #1 and #2 from gross to net values. He then testified to the proximity of the comparables to the subject, their characteristics, and their lease dates.

O’Keefe answered questions concerning the land sales and explained the use of residential land comparables used within the appraisal. He testified to their sales dates in comparison to the valuation date of the appraisal.

In redirect, O’Keefe testified he made adjustment to all the comparables based on their size. He testified that improved sale #3 was not demolished at the time the appraisal was prepared and that the exhibits provided by the intervenor are dated June 2013 which is six years after the valuation date of the appraisal. He testified that batteries and generators are personal property.

O’Keefe testified that the location of a comparable and the subject are taken into consideration and the comparable is adjusted accordingly.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $1,379,495 was disclosed. This assessment reflects a fair market value of $3,831,931 or $48.87 per square foot of building area, land included, when the Cook County Real Property Assessment Classification Ordinance level of assessments of 36% for Class 5b, industrial property is applied.

In support of this market value, the board of review included the subject’s property record card and raw sales information on five properties suggested as comparable to the subject. These properties range in size from 38,000 to 115,386 square feet of building area. They sold between February 2001 and September 2008 for prices ranging from $520,000 to $1,400,000 or from $5.15 to $35.00 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 assessment.

In support of the intervenors' position, the intervenors submitted a summary appraisal of the subject prepared by Eric W. Dost with Dost Valuation Group with an effective date of January 1, 2007 and an estimated market value of $3,600,000. Dost testified he has been an appraiser for 27 years and is president of his appraisal company. He described his employment prior to Dost Valuation Group. He stated he is a licensed general real estate appraiser in five states including Illinois and holds the MAI designation from the Appraisal Institute. Dost testified he has appraised approximately 3,000 commercial and industrial properties with 300 to 400 of them industrial properties. He testified he has appraised 10 to 15 telecom switching stations or data center properties. Finally, he testified he has appeared as an expert witness before the Property Tax Appeal Board. The Board accepted Dost as an expert witness in the valuation of real estate and telecom and data center properties without objection from the remaining parties.

Dost testified he inspected the exterior and interior of the subject on May 3, 2010. He described the subject and its use as a telephone central office. He testified that typically industrial properties, like warehouse properties, do not have as much power or security features and frequently aren’t as heavy duty as telephone central offices. He opined that data center construction characteristics are similar to central offices. He testified that the market for data centers in the Chicago area is increasing since Hurricane Sandy.

Dost described the subject and its immediate area and neighborhood. He opined the subject's highest and best use as vacant is for multi-family residential use and as improved is is existing use. Dost utilized the three traditional approaches to value to estimate a market value for the subject as of January 1, 2007 of $3,600,000.

Under the cost approach to value, Dost testified he analyzed four land sales. He described the sales which sold from May 2005 to June 2007 for prices ranging from $27.54 to $38.46 per square foot. Dost testified he made adjustments to arrive at an estimate of value for the land at $20.00 per square foot or $680,000, rounded.

Using Marshall Valuation Services, Dost estimated a cost new of $15,522,138. He testified he estimated physical depreciation at 60% based on the age/life method and, based on his inspection of the subject, 50% depreciation for functional obsolescence. He opined the subject is a special purpose facility and that the cost approach is relevant to the value. Based on all the factors, he estimated a value for the subject under the cost approach at $3,400,000, rounded.

Under the sales comparison approach, Dost opined that the subject was a somewhat special purpose facility with characteristics similar to a data center as well as other industrial buildings. He testified he searched the market for sales of data centers and industrial properties the market area. He opined that a standard manufacturing building typically does not have redundant HVAC, backup batteries, or a generator.

Dost described each of the four sales. The properties range in building size from 30,380 to 488,738 square feet and sold from November 2005 to September 2007 for prices ranging from $1,250,000 to $31,500,000, or from $22.73 to $99.33 per square foot of building area, including land. The properties ranged in age from 22 to 72 years and in land to building ratio from .30:1 to 4.47:1. Dost testified sales #1 and #4 are telecom data hosting type properties and that sales #2 and #3 are older, industrial buildings.

Dost testified he made adjustments to the comparables for pertinent factors such as lack of redundant HVAC, back up batteries, generators or security to estimate a value for the subject under the sales comparison approach between $40.00 per square foot of above grade and below grade building area for a final value under the sale comparison approach of $3,900,000, rounded.

Under the income approach to value, Dost testified he utilized five comparables with asking rates of $1.45 to $4.45 per square foot of rentable area as well as a review of rental data for a national portfolio of 37 data center properties. These properties had a majority of their gross rental rates between $20.00 and $30.00 per square foot of rentable area. Dost estimated the subject's rent at $4.50 per square foot of building area for a total of $441,437. He then deducted recoverable expenses at 8.5% for a potential gross income of $656,151. He testified he applied an 8.5% vacancy and collection factor for an effective gross income of $600,378.

Dost testified he deducted $251,246 for operating expenses to arrive at a net operating income of $349,132. This value was then capitalized. Dost testified he reviewed investor surveys and applied the band of investment method to arrive at a capitalization rate of 9.5% which reflects a final estimate of value under the income approach $3,700,000, rounded.

In reconciling the approaches, Dost testified all three approaches are applicable because the subject is a somewhat special purpose building. He testified he placed some emphasis on each of the approaches to arrive at a market value for the subject property as of January 1, 2007 at $3,600,000. He testified his opinion would not be any different for January 1, 2008.

Under cross-examination by the appellant, Dost acknowledged he described the subject as a telephone central office or switching center, wire center or telephone exchanges. He described these centers as typically multi-story buildings constructed of concrete or masonry and usually windowless. Dost agreed he said telephone centers are similar to data centers, internet gateways, and/or telecom hotels, but testified he did not include any information about the power requirements of a data center. He acknowledged the report does not include any information in regards to the need for a freight elevator or the benefits of a one-story building. Dost testified that his statement that data centers and internet gateway properties are increasing in demand does not include telephone central offices.

Dost testified to the subject’s zoning and the permitted uses under that zoning. He testified the subject has a 3,000 amp service with a 48 volt DC battery backup and one electrical feed going into the property. He opined that this was why the subject also had a large diesel backup generator. Dost clarified that the appraisal indicates the subject is similar to a data center and not that the subject is a data center. He agreed that the subject’s highest and best use is not a data center. Dost testified the subject is somewhat a special purpose building, but acknowledged that there is a market for the subject.

Dost testified to each land sales’ zoning and their permitted uses. He acknowledged that the Marshall Valuation Service provides general cost information for small telephone service offices and included this information in the report. He testified that the report also discusses data center costs and opined that the data center cost range is consistent with the cost range for telephone services offices so he applied a base cost to the subject based on data centers. He acknowledged that there is a range for telephone services centers, but that he did not have detailed information on the costs included in that range.

Dost testified that he did not apply a deduction for external obsolescence, but did acknowledge there is a declining demand for landline telephone services. He testified he did apply a 50% deduction for the declining equipment based on functional obsolescence.

As to the improved sales, Dost testified as to the proximity of sales #1 and #4 to the subject and their access to interstate transportation. Dost testified sale #1 has four times the land as the subject and is only a one-story building. Dost acknowledged that improved sale #1 was leased to three tenants at the time of sale and that the tenant/buyer exercised an option. Dost testified he did not make an adjustment for condition of sale and opined one was not warranted.

Dost testified that improved sales #2 and #3 are multi-story buildings located in Chicago. He testified that improved sale #4 is significantly larger than the subject at 488,738 square feet of building area and 993,821 square feet of land. He testified this sale has four docks and is a one-story building. Dost acknowledged that the multi-story buildings located in Chicago have sale prices of $22.73 and $27.03 per square foot of building area while the one-story buildings located outside the City of Chicago have sale prices of $64.45 and $99.33 per square foot of building area. Dost agreed that the estimated unit of value he develop for the subject in the sales comparison approach is higher than the unit values for the two multi-story buildings located within Chicago.

In the income approach to value, Dost describe the grid listing the 37 data center used to arrive at the subject’s rental rate. He acknowledged this list does not include any telephone service centers and all but two of the properties are located outside Illinois. He testified he did not make any adjustments based on location. He testified he looked at the overall range and averages and opined it was meaningful data. Dost agreed the estimated rental rate for the subject was above the range of the five rental comparables he analyzed. He further testified as to these comparables.

As to the expenses in the income approach, Dost testified that because of the construction characteristics of the subject some of the expenses, such as cleaning expenses, but that the utility expenses are higher. He testified he reviewed expense data for office buildings to test for the reasonableness of the estimated expenses he arrived at for the subject.

In determining a capitalization rate, Dost opined the subject is most similar to an R&D property within the Korpacz survey and that is why he used this data. He testified Korpacz does have data on warehouse type, industrial properties.

On redirect, Dost testified he utilized the list of 37 data centers in the rental rate analysis as a test on reasonableness for arriving at an estimated rental rate for the subject because the subject has some attributes of a data center type property.

In response to questions by the Board, Dost testified that the large generator is personal property; he stated it is part of the facility. He testified he did not know if the generator is assessed as real estate and believed it was installed in 2005. He testified he included the value of the generator in the cost approach as part of the base cost for a data center.

Dost testified the security system includes cameras and similar items, but stated he was referring to the security of the building itself as a brick, windowless first floor. He testified he made adjustments to the sales comparables for the differences in the security, the redundant HVAC and the generator within the construction characteristics category.

In rebuttal, the appellant recalled Daniel Novak. Novak testified that a data center needs more than one power feed into the building for redundancy and reliability. He described the voltage needed and how this power is used within a data center. Novak testified that the power that comes into the subject is AC and is converted to DC for the battery and then converted back into AC by the generator. Novak further explained that the switch that moves the telephone services from one line to the other is a DC switch. He testified the subject only has one power feed and is not sufficient to run a data center.

Under cross-examination, Novak acknowledged that one feed is sufficient to operate the subject as needed. He testified that 3,000 amp of power would be the minimum needed to operate the subject. He acknowledged that the subject has some attributes similar to a data center, such as hosting other companies' servers.

In response to questions by the Board, Novak testified that the batteries are located in the basement along with the generator. He testified that most of the batteries come in strings of between 192 to 388 batteries per string to feed the phone switch. He stated these batteries way 580 pounds and they are movable. Novak testified that the generator is about the size of a truck trailer and is bolted to the floor, but is removable. He testified the generator has been replaced two or three times. Novak testified that to move the generator, you may have to take it apart to remove it from the building. Novak had no knowledge as to whether the generator has ever been assessed as real property.

The appellant also recalled Patrick Henkel in rebuttal. Henkel testified that the subject's security system is a swipe card entry system. He testified that the subject's windows have been bricked up due to broken windows and ease of maintenance. He testified that the City of Chicago often cites the appellant for the disrepair of the facades and a number of citations are window related. Henkel reiterated that the co-location tenants that use the second floor of the subject do not pay rent and described the services they provide as similar to the appellant's.

On cross-examination, Henkel acknowledged that bricked up windows serve as a security feature. He testified that the collocation tenants have servers located on the second floor.

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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (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.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, the Board examined the appellant's and intervenor's appraisal reports and testimony, the board of review's submission, and the testimony of the appellant's remaining witnesses.

The Board finds the board of review's witness was not present or called as a witness to testify about their qualifications, identify their work, testify about the contents of the evidence, the conclusions or be cross-examined by the appellant, intervenors and the Property Tax Appeal Board. Without the ability to observe the demeanor of these individuals during the course of testimony, the Property Tax Appeal Board gives the memorandum and raw sales evidence from the board of review no weight.

The Board then reviewed the two appraisals and testimony from all the witnesses to determine the best evidence of the subject's market value.

In the cost approach, the Board finds the appellant's appraisal incorrectly included entrepreneurial profit when the subject is an owner occupied building that only conforms to zoning because of its use as a utility building. The intervenor's appraisal incorrectly included the cost of the batteries and generator. The Board finds that these items are not fixtures, but removable and have been removed from the building on a periodic basis. In addition, the Board finds the property record card for the subject does not list these items as part of the real estate or that they are included in the assessment. Therefore, this approach was given diminished weight.

In the income approach, the PTAB finds appellant's appraiser used a capitalization rate higher than that shown by the data. In addition, the appraiser reviewed a survey by CoStar Comps of 13 buildings, but admitted in cross examination, that he did not know the details of the sales or the characteristics of these buildings nor was the data verified. The intervenor's appraiser used asking rates on all his rental comparables as well as reviewed a national portfolio of data centers leased by one company. Therefore, the PTAB finds both appraisers had flawed income approaches and the income approach is not a reliable indicator of value.

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). In addition, both appraisers gave the greatest consideration to the sales comparison approach when concluding a final value for the subject. Therefore, the PTAB will give this approach the most weight.

The Board finds the intervenor's appraiser, Dost, incorrectly made adjustments to the sales comparables for the generator and the batteries, which are not part of the real estate. Therefore, the Board finds the intervenor's adjustments unreliable. Dost's improved sale #1 is a leased fee property and this tenant exercised their option to purchase the subject, essentially buying out the lease which is a different property right than the subject. Moreover, the Board finds his improved sale #4 is over four times the size of the subject's building and over 29 times the size of the subject's land. In addition, the comparable is one-story. The Board finds that based on the size of this property laid out on one floor, this comparable is too dissimilar to the subject to reliably be adjusted. Therefore, the PTAB gives these comparables diminished weight.

As to O'Keefe's improved sales, the Board gives diminished weight to sale #3 as this property was demolished after the sale.

The remaining sales were given significant weight by the Board and have unadjusted sales prices ranging from $19.47 to $27.59 per square foot of building area, including land. The subject property's assessed value equates to a market value of $48.87 per square foot of building area, including land, which is above the unadjusted range of comparables. After considering all the evidence including the experts' testimony and submitted documentation as well as the adjustments necessary to the unadjusted sales values, the PTAB finds that the subject property had a market value of $27.25 per square foot of above grade building area, including land, or $2,055,000, rounded. The Board finds that a portion of the basement was finished; however, there is no decisive testimony as to what portion was finished and used by the appellant. In addition, a tenant of appraisal theory is to use above grade building square footage. Since market value has been determined, the Cook County Real Property Assessment Classification Ordinance level of assessments of 36% for Class 5b industrial property shall apply 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

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: January 24, 2014

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.