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STATE OF WISCONSIN
TAX APPEALS COMMISSION

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MADISON-KIPP CORPORATION
201 Waubesa Street
Madison, Wisconsin 53704

DOCKET NOs. 87-M-522
and 88-M-551

Petitioner,

DECISION AND ORDER

vs.

WISCONSIN DEPARTMENT OF REVENUE
P.O. Box 8933
Madison, Wisconsin 53708

STATE OF WISCONSIN
DEPARTMENT OF REVENUE

Respondent,

JUN 28 1991

* * * * *

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LEGAL DIVISION

ROBERT C. JUNCEAU, COMMISSIONER:

This matter having been heard by the Commission; petitioner having appeared by Thomas Terwilliger, Attorney and respondent by Veronica Folstad, Attorney; and having carefully considered the transcripts, exhibits and briefs of the parties, this Commission finds, decides and orders as follows:

FINDINGS OF FACT

1. This appeal arises from the determinations of the State Board of Assessors ("BOA") relating to the assessed valuations of petitioner's manufacturing parcel no. 76-13-251-R001030 as of January 1, 1987 and January 1, 1988. The BOA's assessments are as follows:

	<u>1-1-87</u>	<u>1-1-88</u>
LAND	\$277,900	\$277,900
IMPROVEMENTS	590,200	591,200
TOTAL	<u>\$868,100</u>	<u>\$869,100</u>

2. The BOA determinations resulted from petitioner's objections to the respondent's original assessments for 1987 and 1988. In both objections no dispute was raised as to the value of the land in this parcel, set at \$277,900.

3. Respondent presented testimony and written appraisal of a staff appraiser in support of its valuation for the two years at issue. His value estimate was \$870,600 (\$5.50/sq. ft. rounded) for each year. Petitioner offered the testimony and written appraisal of a fee appraiser whose opinion was that the subject's fair market value was \$320,000 in each year (roughly \$2.00/sq. ft.).

4. The subject industrial parcel is located in Madison, Wisconsin, north of Atwood Avenue and south of a railroad right-of-way set in a southwest-northeast direction, and between Waubesa Street on the west and Marquette Street on the east. The site is approximately 6.5 acres in area and is irregular in shape resembling the numeral "1". The topography is basically level and at grade with the abutting streets. It is located in an older residential/economical neighborhood. Adjacent to the site are a number of residential parcels both on the east side of Waubesa Street and the west side of Marquette Street, separated from the plant area by steel fencing. Approximately 45% of the site is occupied by building improvements. The major portion of the remaining area consists of asphalt paved parking areas. Access to the main parking is over an area leased from the railroad since the building on the north abuts the railroad right-of-way. There is a minimal amount of outdoor lighting and landscaping.

2025 RELEASE UNDER E.O. 14176

5. The major improvements consist of ten interconnected principal buildings dating from 1897 to 1977, with the majority having been built from 1917-1927. The newest additions were made in 1973 for a loading dock and in 1977 for an addition to the manufacturing area. The principal office was remodeled in 1980 and included new window units and ceiling tile. Total building area is approximately 158,585 sq. ft.

6. Ceiling heights vary from 12-14' in most areas except a high bay section of Building 8 which is 25'. The weighted average height of the facility is 16'. The exterior walls are constructed of brick with the exception of concrete block used in the newer areas. The older wall area has a large percentage of industrial steel sash windows. Buildings 1, 2 and 4 have timber frames; Building 3 has a concrete frame; Buildings 5, 6 and 8 have steel frames; and Buildings 7, 9 and 10 have load bearing walls. Bays average 25' x 25' except for the high bay section of Building 8 which has a 50' clear span. Lower level floors are concrete with upper level floors generally being wood plank on wood joists except for Building 3 which has a concrete second floor. Floor elevations vary from building to building necessitating ramp connections. Roofs are flat built-up types on predominantly wood decks. Lighting is a combination of mercury vapor and fluorescent. The plant areas are heated by gas unit heaters, excess process heat, radiant heat tubes and steam unit heaters. The plant is fully sprinklered with a wet pipe system.

7. Petitioner's appraiser identified 7 sales of industrial property in Wisconsin which, based on his adjustments

for material differences with the subject, were offered as evidence in support of his unit value estimate for the subject of \$2.00/sq. ft. These sales are summarized in Attachment A.

His adjustments compared to the subject were ((+) subj. better; (-) subj. inferior) in Attachment B.

8. Respondent's appraiser identified 3 sales of industrial property in Madison and surrounding areas which, based on his adjustments for material differences with the subject were offered as evidence in support of his unit value estimate for the subject of \$5.50/sq. ft. These sales are summarized in Attachment C. His adjustments compared to the subject are in Attachment D.

9. Two of the sales were used by both appraisers: D. B. Oak in Fort Atkinson, see Attachments A and C, sales P3 and R2 above; and the Magael sale at 100 S. Baldwin in Madison, see Attachments A and C, P4 and R1 above. Thus, it is undisputed that these two properties are reasonably comparable to the subject. However, there is no agreement between the parties as to the comparability of the remaining sales, P1, P2, P5, P6, P7 and R3.

10. The appraisers differed in their evaluations of the two commonly used comparables. Petitioner's appraiser adjusted each downward reflecting his perception of the overall inferiority of the subject to the comparables. Respondent's appraiser made net adjustments upward in the case of the Fort Atkinson sale reflecting his perception of the superiority of the subject, and minimally downward in the case of 100 South Baldwin in Madison, reflecting a perceived slight inferiority in the subject.

11. The disputed comparables are P1, 714 E. Keefe in Milwaukee; P2, 805 South 72nd in West Allis; P5, 200 E. Spring in Eau Claire; P6, 4430 N. 127th St. in Brookfield; P7, 1035 and 1118 N. St. Paul Ave. in Milwaukee; and R3, 1245 E. Washington in Madison.

12. Reasonable comparability depends on the degree of similarity between the properties in question. Factors to be considered are location, including distance from the assessed property, its business or residential advantages or disadvantages, its improvements, size and use. Rosen v. Milwaukee, 72 Wis. 2d 653, 665 (1976). Reasonably comparable properties are competitive properties with characteristics similar to the subject which have sold recently on the local market. Property Tax Assessment Manual for Wisconsin Assessors, p. 74.

13. At issue concerning the sales disputed as comparables are primarily the (1) nature of the improvements and (2) the location. All sales included the issue of the propriety of the appraiser's adjustments to the actual sale prices.

14. Sale P1, located on the north side of Milwaukee, is similar to the subject in land size, overall age, and gross square footage of improvements. At the time of sale both parties were aware of the need for serious roof repairs (\$130,000) and this was considered by the grantee in the price paid. If this were considered, in effect, part of the purchase price, the total consideration would be raised from \$725,000 as used by petitioner's appraiser, to \$855,000. This would reflect a unit sale price of \$6.05/sq. ft. instead of \$5.13.

15. Located in West Allis P2 was a foundry, originally constructed around the turn of the century with a major addition in 1972 just prior to the recession in the foundry business. After sale most of the older sections were torn down, leaving the office building, the newer sections of 67,000 sq. ft. and one older building. Due to the extensive demolition planned by the buyer the circumstances of the sale raise difficulties in evaluating the fairness of the sale price, and, hence, the suitability of the sale for comparison purposes.

16. P5, situated in Eau Claire, is similar to the subject in terms of overall size, land size, effective age and condition. However, with a ceiling height of 12' it is exclusively "low bay" and lacks the "high bay" area (25 ft.) found in building 8 and compares less favorably to the subject average height of 16' of the subject. It has 80,029 sq. ft. of ground floor area. The site topography is hilly and steep. Grantees spent \$300,000 since the purchase for cleaning and refurbishing on 1/3 of the area for their printing operation.

17. P6, located in Brookfield, is considerably newer in actual age than the subject, but its effective age is 46 years, roughly 20 years newer than the subject. It has some high bay areas 36 ft. high, and large overhead doors. It lacks truck level docks. At the time of sale the plant suffered from extensive deferred maintenance. The sale was by an insurer taking title from a defaulting manufacturer to protect its own financial interests. After a holding period the insurance company decided it could no longer afford to hold the property and sold it as

quickly as possible.

18. P7 in Milwaukee is a 2-3 story plant. The improvements consist of older brick buildings. The site is located in a deteriorating area of the city. Of the total square footage of 188,419 sq. ft., 28,114 sq. ft. were unusable basement area. Usable space was 160,305 sq. ft. Total ground floor area was 65,367 sq. ft. or 41% of the total area.

19. R-3, located in Madison is an old building of 226,605 sq. ft., in poor condition, located at 1245 E. Washington Ave. However, it contains 24% office space. East Washington in that area is primarily commercial.

20. Sale P1 is reasonably comparable to the subject. The Milwaukee area is a similar location to the Madison area. P2 is not reasonably comparable due to the extensive demolition planned and undertaken by the buyer, which in particular destroys the reliability of the sale price/sq. ft. P5 is reasonably comparable to the subject. The Eau Claire area is reasonably comparable to the Madison area. P6 is a much newer facility with extensive deferred maintenance. The sale is difficult to evaluate because of the circumstances of the sale, the condition of the improvements and adverse factors in the general market such as no truck level docks, excessively high ceiling (36') and large overhead doors. P7 is a fundamentally different type of facility--completely multi-story--and is not reasonably comparable to the subject. R3 is reasonably comparable to the subject but requires difficult adjustments for its extensive office area and its commercial location.

21. Summarizing, reasonably comparable sales are found

in P1, P3, P4, P5 and R3. The range for these sales, unadjusted, is \$3.61 - \$7.06/sq. ft. As adjusted by our two appraisers the sales range from \$1.81-\$5.05/sq. ft.

22. Both appraisers made adjustments to the unit sale price of the comparables selected to reflect significant differences in the sales major characteristics when compared with the subject. In the case of the two commonly used sales petitioner's appraiser made net adjustments of -45% to P3 and -40% to P4. Respondent's appraiser gave a +37% adjustment to P3 and a +16% adjustment to P4. The adjustments were as follows:

Petitioner's Adjustments

	<u>P3</u>	<u>P4</u>
Age, Condition and Quality	0%	-20%
Office Area and Quality	+5%	0%
Land Area or Value	-20%	-10%
Plant Layout and Adaptability	-20%	-20%
Plant Size	0%	+10%
Other Factors	<u>-10%</u>	<u>0%</u>
Total Adjustments	-45%	-40%

Respondent's Adjustments

	<u>P3</u>	<u>P4</u>
Age	0%	-4%
Story Height	0%	+2%
Percent Office	+2%	-2%
Percent Sprinklered	+10%	0%
Location/Neighborhood	0%	+5%
Condition of the Industry	+15%	0%
Size (Improvements)	0%	+10%
Land/Bldg. Ratio	0%	-5%
Office Quality	<u>+10%</u>	<u>+10%</u>
Total Adjustments	+37%	+16%

23. As respects P3 petitioner's appraiser made a +5% adjustment for office area and quality. Respondent's appraiser's corresponding adjustment was +12% (office quality +10% plus percent office +2%). This would support an adjustment of +10%. Petitioner's -20% adjustment for land value is based on the parcel's proximity to East Washington Avenue, a major thoroughfare. His -20% adjustment for plant layout and adaptability is based on the sale property's more desirable building configuration. He made an additional adjustment of -10% in the category of "other adjustments" to reflect the purchaser's greater than normal motivation to purchase properties in this area for future use. All of these adjustments are appropriate, and no issue has been raised concerning the magnitude of the adjustments. Respondent's additional adjustments were for percent sprinklered (i.e. fire protection) (+10%) and condition of the foundry industry (+15%).

The adjustment for percent sprinklered is not uncommon and has been seen in appraisals presented in assessment contests before this Commission. A 5% to 10% adjustment is commonly made. There was no evidence contradicting this adjustment. The +15% adjustment for condition of the foundry industry was challenged on the basis that the property had not been used as a foundry for many years. Petitioner's appraiser had made a +30% adjustment on sale P2 to reflect "the depressed state of the foundry [sic] industry at the time of this sale, and the buyer's desire to dispose of this property." The mutually acknowledged adverse condition of the foundry industry does not significantly affect sale P3 because of its earlier conversion to other use and, more importantly, its location. The sale price based on the above findings would be adjusted as follows:

<u>Sale P3</u>		
Actual Sale Price Per Square Foot		\$4.27
Adjustments:		
Office Area and Quality	+10%	
Land Area or Value	-20%	
Plant Layout and Adapability	-20%	
Purchaser Motivation	-10%	
Percent Sprinklered	+10%	
Net Adjustment (% and \$)	-30%	<u>-1.28</u>
Adjusted Selling Price		\$2.99

24. Petitioner's appraiser gave Sale P4 a -20% adjustment for age, condition and quality, -10% for land area or value, -20% for plant layout and adaptability and a +10% for plant size, for

a net adjustment of -40%. Respondent's appraiser made the following adjustments: age -4%, story height +2%, percent office -2%, location/neighborhood +5%, size of improvements +10%, land/building ratio -5%, and office quality +10%, for a total adjustment of +16%.

Each appraiser made a +10% plant size adjustment, making that adjustment undisputed. Petitioner's appraiser made a -10% adjustment for land area which at 13.86 a. was approximately twice that of the subject. This adjustment is similar to respondent's -5% for land/building ratio. A -10% adjustment is warranted. Likewise, the -20% for the sale property's superior layout and adaptability is justified by the comparatively undesirable configuration of the subject land parcel as well as the buildings on them. The -10% for land area is based on the presence of room for expansion--almost completely absent in the subject.

A major point of contention is petitioner's appraiser's -20% adjustment for age, condition and quality of the sale. In the narrative portion of his appraisal report the reported adjustment is -10%. The only corresponding adjustment made by respondent's appraiser is -4% for age, based on an average age of 60 years set forth in his appraisal report. He relied on a department Sales Data Worksheet he prepared which gave the effective age as 60 years, compared with 64 for the subject, upon which he based the -4% (1%/yr.) adjustment. Petitioner, relying on earlier sales data worksheets available to the public, demonstrated that originally this sale was given an effective age of 39 years. Condition was rated as "fair" by petitioner's appraiser based

on the earlier data worksheets. Respondent's appraiser rated condition as "poor" based on the latest worksheet. The subject's condition was likewise rated as "poor." Based on conflicting evidence we find that a -10% adjustment for age and condition is proper. The remaining adjustments by respondent for story height, percent office, location/neighborhood, and office quality are uncontested and reasonable. Based on these findings Sale P4 is adjusted as follows:

<u>Sale P4</u>		
Actual Sale Price		\$3.68
Adjustments:		
Plant Size	+10%	
Land Area	-10%	
Plant Layout and Adaptability	-20%	
Age and Condition	-10%	
Story Height	+ 2%	
Percent Office	- 2%	
Location/Neighborhood	+ 5%	
Office Quality	<u>+10%</u>	
Net Adjustment (% and \$)	-15%	<u>-.56</u>
Adjusted Sales Price		\$3.12

25. Sale P1, located in Milwaukee, sold at \$5.13/sq. ft. However, the added cost of necessary roof repairs contemplated by the buyer at time of sale would raise the consideration to \$6.05/sq. ft. Given petitioner's appraiser's net -50% adjustment to the higher figure yields an adjusted sale price of \$3.03/sq. ft.

26. Sale P5 in Eau Claire sold for \$3.61/sq. ft. It

was situated on a sloping terrain. The ground floor area is deceptive inasmuch as due to the slope of the parcel the first floor is ground floor in the lower elevation, and the second floor is at grade with the higher elevation. In view of this plus less desirable ceiling heights, and lack of parking, we reject petitioner's appraiser's -20% adjustment for layout and adaptability and find it similar overall to the subject. On the basis of the extensive cleaning and refurbishing required of this, a former foundry, we find that the adjustment of -20% for age, condition and quality is excessive and should be reduced to -10%. Accordingly, the net adjustment is -20%, resulting in an adjusted sale price of \$2.89/sq.ft.

27. Sale R3, the Marquip sale on East Washington in Madison is comparable in age (69 yrs.), condition (poor), size (226,605 sq. ft.), and ceiling heights (18' avg.). It bears other features and problems similar to the subject. However, its location on a major thoroughfare is very much superior to the subject's. In addition, at 24% the office space is much greater than the subject's. Office space is more highly finished and, hence, more costly to build or buy. The sale had in excess of 50,000 sq. ft. of office space. Respondent's adjustments were +4% for age, -4% for story height, -10% for percent office, +5% for percent sprinklered and +10% for overall size, for a net adjustment of +5%. We find that the adjustment for age is unwarranted because it is virtually the same (64 yrs. vs. 69 yrs.). The -10% for office space is inadequate and we find the proper adjustment to be -25%. Although respondent's appraiser did not

adjust for location/neighborhood, theoretically accounted for in the land value subtracted out, on a land and improvement combined basis an adjustment of -20% is warranted. Thus, the net adjustment is as follows:

<u>Sale R3</u>	
Unadjusted Sale Price	\$7.06
Adjustments:	
Story Height	- 4%
Percent Office	-25%
Percent Sprinklered	+ 5%
Location Neighborhood	-25%
Size	<u>+10%</u>
Net Adjustment	-39%
Adjusted Sale Price	\$4.31

28. Summarizing, the adjusted sale prices we have found are as follows:

P1	\$3.03/sq. ft.
P3	2.99/sq. ft.
P4	3.12/sq. ft.
P5	2.89/sq. ft.
R3	4.31/sq. ft.

Sales P1, P3, P4 and P5 as adjusted indicate that the full value for which the subject would ordinarily sell is \$3.00/sq. ft. X 158,585 sq. ft., for a total value of \$475,000, rounded.

ULTIMATE FINDING

Based on the foregoing, we find that the subject's fair market value is \$475,000, of which \$277,900 is land value.

APPLICABLE STATUTE

1987-88 Wis. Stats. §:

70.32 "Real estate, how valued. (1) Real property shall be valued by the assessor in the manner specified in the Wisconsin property assessment manual provided under s.73.03(2a) from actual view or from the best information that the assessor can practicably obtain, at the full value which could ordinarily be obtained therefor at private sale. * * *"

CONCLUSIONS OF LAW

1. Real property is to be valued by the assessor at the full value which could ordinarily be obtained for it at private sale. §70.32(1), Stats. The burden of proving that an assessor's valuation is incorrect is on the party challenging it. State ex rel. Ft. How. Paper v. Lake Dist. Bd., 82 Wis. 2d 491, 508 (1978). The assessor's valuation must stand unless shown to be incorrect by reasonably direct and unambiguous evidence. State ex rel. IBM Corp. v. Bd. of Rev., 231 Wis. 303 (1939).

2. Petitioner has met its burden and shown by reasonably direct and unambiguous evidence that the State Board of Assessor's determination exceeded the full value which could ordinarily be obtained for the subject at private sale. Accordingly, the value must be reduced as provided in the Ultimate Finding, above.

Therefore,

IT IS ORDERED

That the State Board of Assessor's Notices of Determination respecting the January 1, 1987 and January 1, 1988 assessed values of petitioner's property are modified in accordance with the findings and conclusions above and affirmed as modified.

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Rulings on Petitioner's Post-Hearing Motions

In the course of the evidentiary hearing, several rulings on motions were made unfavorably to petitioner, to which petitioner took exception. Quite properly petitioner has moved for reconsideration of those rulings by the full Commission.

In the first instance the Commission ruled that petitioner could not challenge the land value having failed to do so in either the objection to the original assessment filed with the Board of Assessors, or in the petition for review filed with this Commission. Inability to challenge the land value does not preclude petitioner from contesting the overall value of the subject. Nor does it, as respondent appears to presume, restrict the challenge to improvements value, alone. In any event, the full Commission sees no good cause for granting the motion on this point because we have derived an overall value which considers land and improvements together even though land value must remain as determined by the assessor and the BOA. The motion is denied.

A second petitioner's motion is that the Commission improperly quashed a subpoena for testimony of Ms. Rachel Young, an employee of respondent, concerning the preparation of two of the three sales data worksheets on Sale P4, the Fort Atkinson sale, discussed in Finding No. 24, above. She was not listed as a potential witness in the case. Petitioner contends unanticipated testimony by respondent's appraiser concerning Young's role in preparing the two earlier worksheets was good cause for allowing her to be called for rebuttal. A finding that the appraiser changed his earlier determination of effective age

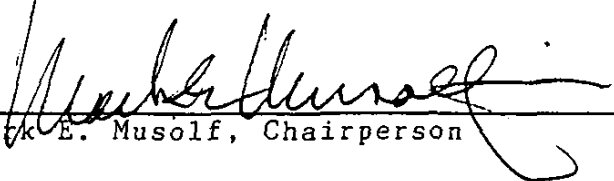
and condition of the sale property would, however, not alter this Commission's view of that sale or the subject's overall value. Good cause has not been shown for reopening the hearing to take Young's testimony.

Finally, petitioner moves for further hearing concerning the value of the underlying land of the comparables selected by respondent. This issue as it bears upon the subject's value was subsumed under the discussion of the first motion above. No good cause has been shown in the interests of justice or otherwise to grant such motion, and it is hereby denied.

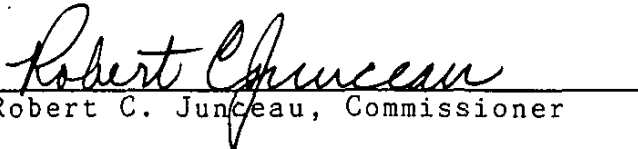
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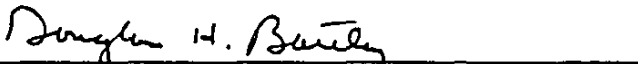
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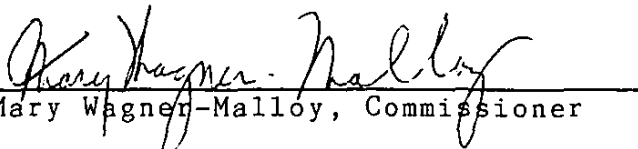
WISCONSIN TAX APPEALS COMMISSION


Mark E. Musolf, Chairperson


Thomas R. Timken, Commissioner


Robert C. Junceau, Commissioner


Douglass H. Bartley, Commissioner


Mary Wagner-Malloy, Commissioner

Attachment: "NOTICE OF APPEAL INFORMATION"

PETITIONER'S SALES

Attachment A

<u>Sale No.</u>	<u>Location</u>	<u>Land Size</u>	<u>Age</u>	<u>Improvements Gross Sq. Ft.</u>	<u>Date Of Sale</u>	<u>Sale Price per Sq. Ft.</u>	<u>Adjusted Sale Price Per Sq. Ft.</u>
P1 (#102)	714 E. Keefe Ave. Milwaukee	7.197 a	1916- 1973	141,408	12/84	\$5.13	\$2.57
P2 (#109)	805 S. 72nd West Allis	9.21 a	1910- 1972	181,631	02/85	1.34	1.74
P3 (#428)	100 S. Baldwin Madison	6.42 a	1919	155,050	09/84	4.27	2.34
P4 (#516)	709 Oak St. Ft. Atkinson	13.86 a	1947	208,024	12/85	3.68	2.21
P5 (#549)	200 E. Spring Eau Claire	3.85 a	1948	131,670	02/86	3.61	1.81
P6 (#608)	4430 N. 127th St. Brookfield	3.63 a	1974	120,760	08/87	5.38	1.61
P7 (#614)	1035 & 1118 W. St. Paul Ave. Milwaukee	1.99 a	1929	188,419	09/85	1.86	2.05
Subject	201 Waubesa Madison	6.5 a	1897- 1977	158,569	01/87 01/88	2.00 (estimate of value)	---

PETITIONER'S SALE PRICE ADJUSTMENTS

<u>Sale Number:</u>	<u>P1</u>	<u>P2</u>	<u>P3</u>	<u>P4</u>	<u>P5</u>	<u>P6</u>	<u>P7</u>
Gross Unit Sale Price:	\$5.13	\$1.34	\$4.27	\$3.68	\$3.61	\$5.38	\$1.86
Adjustments:							
Age, Condition & Quality	-20%	0%	0%	-20%	-20%	-30%	0%
Office Area & Quality	0%	0%	+5%	0%	0%	0%	-5%
Land Area or Value	-10%	-5%	-20%	-10%	0%	-10%	10%
Plant Layout & Adaptability	-20%	0%	-20%	-20%	-20%	-20%	0%
Plant Size	0%	5%	0%	10%	-10%	-10%	5%
Other Factors	0%	30%	-10%	0%	0%	0%	0%
Total Adjustments:	-50%	30%	-45%	-40%	-50%	-70%	10%
Indicated Value Per Sq. Ft.	\$2.57	\$1.74	\$2.34	\$2.21	\$1.81	\$1.61	\$2.05

RESPONDENT'S SALES

<u>Sale No.</u>	<u>Location</u>	<u>Land Size</u>	<u>Average Age</u>	<u>Improvements Gross Sq. Ft.</u>	<u>Date Of Sale</u>	<u>Sale Price Per Sq. Ft.</u>	<u>Adjusted Sale Price Per Sq. Ft.</u>
R1	700 Oak St. Ft. Atkinson	18.9 a.	60 yrs.	203,976	06/04/85	\$3.76	\$4.38*
R2	100 S. Baldwin Madison	6.42 a.	65 yrs.	154,910	09/28/84	4.27	5.86
R3	1245 E. Washington Madison	7.19 a.	69 yrs	226,605	09/30/87	7.06	5.05
Subject	201 Waubesa St. Madison	6.5 a	64 yrs.	158,585	01/01/87 01/01/88	5.50 (estimate of value)	---

* Respondent's appraiser derived and used adjusted improvement value of \$3.93, \$3.23 and \$4.05/sq. ft. For sake of more fluid comparison only the adjusted sale price includes land values allocated out by the appraiser.

RESPONDENT'S SALE PRICE ADJUSTMENTS

	<u>R1</u>	<u>R2</u>	<u>R3</u>
Price per Sq. Ft. (Improvements Only)	\$3.39	\$2.36	\$3.86
Adjustments			
Age	-4	0	+4
Condition	0	0	0
Story Height	+2	0	-4
Percent Office	-2	+2	-10
Number of Stories	0	0	0
Percent Sprinklered	0	+10	+5
Frame	0	0	0
Wall Type	0	0	0
Location/Neighborhood	+5	0	0
Condition of the Industry	0	+15	0
Size (Improvements)	+10	0	+10
Land/Bldg. Ratio	-5	0	0
Office Quality	+10	+10	0
Net Adjustment %	+16	+37	+5
Net Adjustment \$	\$.54	\$.87	\$.19
Adjusted Sale Price Per Square Foot (Improvements Only)	\$3.93	\$3.23	\$4.05

O P I N I O N

JUNCEAU, COMISSIONER, JOINED BY MUSOLF, CHAIRPERSON, and TIMKEN,
BARTLEY and WAGNER-MALLOY, COMMISSIONERS:

Wisconsin requires that real estate be assessed at the full value which could ordinarily be obtained at private sale. §70.32(1), Stats. Absent the recent sale of the subject the best evidence of such value is derived from the recent sales of reasonably comparable property. It is undisputed that at least two of the comparables relied on by the appraisers for the respective parties are valid indicators of value. The discrepancy between appraisers' conclusions lay in the differing views as to the adjustments necessary to complete the comparison of the comparable's sale price versus the subject's putative full sale value. Differences arise in category, degree and direction of these adjustments.

We are unable to fully embrace the value conclusion of either appraiser. Our job here is to evaluate comparables, not appraisals. We have found five sales reasonably comparable. Adjustments have in some cases been accepted; in others they have been rejected where, in our perception, they were not justified or supported by the evidence as a whole. In some cases we modified the size of the adjustment based on factual considerations.

This case involves the disputed valuation of a large, old industrial facility located in an old residential/commercial neighborhood on Madison's east side. The two commonly used comparables, P3 and P4, provide the best evidence of the subject's value because of similar age, condition and locational features.

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The actual unit sale prices of these two sales were \$4.27 and \$3.68, respectively. As adjusted in the findings they result in sale prices compared to the subject of \$2.99 and \$3.12 respectively. The next closest comparable is P1 in Milwaukee, which had an actual sale price (consideration) of \$6.05/sq. ft. and, as adjusted, a sale price of \$3.03/sq. ft. Thereafter, the Eau Claire sale, at \$3.61/sq. ft. unadjusted and \$2.89/sq. ft. adjusted is reasonably similar. Adjusted, those four sales provide a range from \$2.89 - \$3.12/sq. ft. R3, the Marquip sale, is comparable but a less reliable indicator due to its prime commercial location and large area of office space. Overall, these support our determination of value at adjusted sale prices \$3.00/sq. ft. This value is also within the range of expert opinion of value -- \$2.00/sq. ft. to \$5.50/sq. ft.

The comparison of appraisals has been complicated by respondent's use of "improvement values." This requires an allocation out of the total sale price of comparables the estimated value of the land. The remaining sale price is then allocated to improvements. These improvement values of each comparable are then adjusted and utilized to derive an improvement value for the subject, to which the subject's land value is added.

This approach is problematic, however, in a number of ways. Errors in the valuation of the land will necessarily result in using an erroneous improvement sale price, and also an erroneous adjusted sale price. The value of sales data lay, in large part, in the relative certainty of the sale price. Respondent's approach immediately destroys this very important element of objectivity.

We presume this improvement allocation approach represents an attempt to implement the Wisconsin assessment system of valuing land and improvements separately and is, no doubt, a well intended application of the law. However, we believe it to be unwarranted and based on an excessively literal application of the separate valuation system. The objective of §70.32(1) is to establish assessment at full value which could ordinarily be obtained at private sale. While it is conceivable that industrial improvements could sell independently of land, such as where the land is leased, in most instances improved industrial property sells as a totality of land and improvements. To bifurcate the sale for administrative convenience (of which we are not, in any event, convinced here) injects additional subjectivity into an already excessively subjective evaluation process.

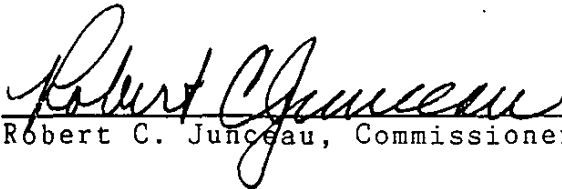
We are cognizant of the decision in State ex rel. Gisholt Mach. Co. v. Norsman, 168 Wis. 442 (1918) which seemingly mandates property tax assessors to value land and improvements separately. However, Norsman was decided long before the long line of cases emphasizing use of the market approach overall valuation, beginning with State ex rel. Hennessey v. Milwaukee, 241 Wis. 548, 549 (1942); see also State ex rel. Markarian v. Cudahy, 45 Wis. 2d 683, 685 (1970).

Thus, even though we have denied petitioner the opportunity to challenge the subject's land value we never intended to allow a determination of improvement value which, when added to land, would exceed fair market value as a whole.

We believe that in this case neither appraisal was totally reliable. Therefore, we identified the appropriate sales. We then determined from the evidence which adjustments were appropriate. Our experience has been that assessment valuation cases more often turn on factual rather than legal considerations. Therefore, the resolution of the valuation question depends, in large part, on the particular facts and circumstances of the case.

Here, we conclude under §70.32(1), Stats., that the full value for which the subject would ordinarily sell was \$3.00 sq. ft. x 158,585 sq. ft., or \$475,000 rounded.

Submitted by:


Robert C. Junceau, Commissioner