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August 22, 2022

Via E-filing
Cynthia T. Brown
Chief of the Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. St. SW
Washington DC 20423

Re: STB Docket No. FD 36619
2nd & Main Response to Petition for Declaratory Order

Dear Chief Brown,

Please find attached for e-filing the 2nd & Main, LLC's Response to the City of North Chicago's Petition for a Declaratory Order.

If there are any questions regarding this e-filing, please contact me at the number or email shown above. At your convenience, please email me a file-stamped copy of this Response.

Sincerely yours,

John W. Quinn

JWQ/emh
Enclosure
Cc: Thomas DiCianni
Mary Jean Dolan

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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. FD 36619

2ND & MAIN, LLC'S RESPONSE TO THE CITY OF NORTH CHICAGO'S
PETITION FOR DECLARATORY ORDER

INTRODUCTION

In the 1960's the City of North Chicago ("North Chicago") ran a watermain across property (the "Property") that is now owned by 2nd & Main, LLC ("2nd & Main") without obtaining an easement. North Chicago has never had an easement or any other right to run a pipe across 2nd & Main's property. The Property has existing railroad tracks on it and 2nd & Main plans to further develop the Property with additional tracks and to use it for storage and other railroad operations.

To address this situation, North Chicago filed a condemnation action in the 19th Judicial Circuit Court of Illinois, seeking an easement to allow it to maintain an underground water line on the Property. Both the Circuit Court and the Appellate Court of the State of Illinois found that a condemnation action is preempted under the ICCTA to the extent that it interferes with current or future railroad operations. The Appellate Court then stayed Illinois Circuit Court

proceedings and referred the matter to the Surface Transportation Board, instructing North Chicago to petition the Board for a determination of what needs to be done to fortify the water line so that it will not interfere with 2nd & Main's future use of the Property for railroad operations.

BACKGROUND

2nd & Main LLC purchased the Property, which is located at 1940 Marquette St, in North Chicago, Illinois. That property had existing railroad tracks running across it and 2nd & Main plans to place additional tracks on the Property and connect it to existing rail lines, such that the Property can be used for storage and other railroad purposes. On March 5, 2017, 2nd & Main filed a Notice of Exemption under 49 C.F.R. § 1150.31 with the Surface Transportation Board. On March 22, 2017, the Surface Transportation Board issued its decision accepting the Notice for filing, and providing that the exemption will become effective on April 5, 2017. As of that date 2nd & Main became a STB-authorized common carrier by rail entitled to all of the privileges of that legal status including federal preemption.

More than 50 years ago, North Chicago installed a watermain running from east to west underneath the Property. North Chicago does not have an easement, nor a lease agreement or any other license allowing them to continue

using the Property for its watermain. The existing watermain interferes with 2nd & Main's plans to use the Property for railroad purposes.

On June 13, 2019, North Chicago filed a Complaint for Condemnation in the 19th Judicial Circuit Court of Illinois against 2nd & Main, seeking to obtain the necessary easement for the watermain. Because there is concurrent jurisdiction North Chicago could have filed a petition with the Surface Transportation Board or filed a suit for condemnation in Federal Court. By choosing to file in state court, it elected its remedy. In the state court action, 2nd & Main filed an affirmative matter alleging, among other things, that North Chicago's right to eminent domain is limited because the Interstate Commerce Commission Termination Act of 1995 ("ICCTA") gives the Surface Transportation Board the exclusive jurisdiction over railroad property. Thus, North Chicago is not permitted to interfere with 2nd & Main's railroad operations.

Thereafter, 2nd & Main filed a motion for partial summary judgement seeking a finding from the court that the condemnation action is exempt to the extent that the proposed easement would interfere with 2nd & Main's railroad operations. 2nd & Main argued that any easement granted by the Court must require that the watermain be reinforced, consistent with railroad standards, so that 2nd & Main could conduct its railroad operations above ground without potentially harming the watermain. The Circuit Court agreed with 2nd & Main

that the ICCTA preempted any condemnation action to the extent that it interfered with railroad operations holding that, without reinforcement, the existing pipe did interfere with railroad operations. North Chicago then filed an appeal in the 2nd District Appellate Court of Illinois.

In the Appellate Court, North Chicago argued that 2nd & Main's plans were too vague to preempt the condemnation action and that the existing watermain will not interfere with the use of the Property for railroad transportation. The Appellate Court disagreed and affirmed the Circuit Court's finding that the condemnation action was preempted. The Appellate Court did, however, vacate the remedy portion of the Circuit Court's order and instructed the Circuit Court to stay proceedings and directed North Chicago to petition the STB "to resolve the parameters of its jurisdiction and any relief compatible with the parties' interests."

A. The Surface Transportation Board should not revisit the underlying preemption decision.

Although the Appellate Court affirmed the Circuit Court's implicit finding of preemption, it specifically reversed and vacated only the portion of order granting relief by the Circuit Court. In its petition to this board North Chicago wrongly attempts to gain a second bite of the apple, arguing that the Board should revisit "the underlying preemption decision because that is inherently intertwined with the decision of what the proper remedy should be in this

unusual situation.” (Petition 9). This is wrong because the Appellate Court did not vacate the Circuit Court’s order in its entirety and transfer the entire case to the Surface Transport Board; rather, it vacated only the portion of the order related to relief and stayed the state court proceeding pending the resolution of this petition. North Chicago elected to file its case in the state court and in doing so, it is now bound by the determinations of the state court. The portion of the order which was not vacated by the Appellate Court remains the law of the case with respect to this proceeding.

1. The Circuit Court and the Appellate Court have already resolved the issue of preemption in favor of 2nd & Main.

North Chicago argues that because the Appellate Court ordered them to file a petition with the STB, that all the issues raised in the trial court are somehow back on the table. That is simply not the case. The Appellate Court determined that the STB had the expertise to advise the trial court on what was necessary to protect the water line that runs across 2nd & Main’s property. The Appellate Court has already made a ruling that: 1) 2nd & Main’s property is railroad property; 2) that 2nd & Main’s plans for the property are not (as the City contends) too vague for preemption; 3) that the water main interferes with use of the railroad and 4) to the extent plaintiff’s condemnation would interfere with defendant’s plans for railroad activity, it is preempted by the ICCTA. Thus, the

only question for the STB is what steps are necessary to protect the water main so that 2nd & Main can conduct railroad activity in the future.

Specifically, the Appellate Court found that there was no dispute that 2nd & Main's "property is designated railroad property, generally covered by the ICCTA, or that defendant's proposed alterations concern transportation as defined by the ICCTA." (Decision ¶ 26) The Appellate Court found that 2nd & Main's plans for the Property were not too vague for preemption (Decision ¶ 20) and agreed that "to the extent plaintiff's condemnation would interfere with defendant's plans for railroad activity, it was preempted by the ICCTA." (Decision ¶ 22)

With respect to 2nd & Main's plans, the Appellate Court stated that: "only a few years after purchasing the property, [2nd & Main] signaled its intent to commence increasing railroad operations by seeking an exemption with the Board and entering into a lease agreement with Hussey" (Decision ¶ 28) and that: "The record reflects that, in 2014, defendant purchased the property and then, in 2017, applied for and received an exemption from the Board. The application and exemption documents explained that defendant wished to acquire and operate a section of rail connecting the Union Pacific and Canadian National lines, and that, upon receipt of the exemption, Hussey would seek authorization to acquire defendant's line. Further, Dahl [2nd & Main's principal]

attested that the property was leased to Hussey, and defendant attached the lease agreement, which includes language reflecting plans for Hussey to acquire and operate the rail line, to provide rail service, to perform freight car switching on the property, and to use facilities on the property for freight car loading and unloading.” (Decision ¶27)

The Appellate order made clear that the Court found the City’s action was preempted stating: “As in Union Pacific, we agree that preemption applies where condemnation would unreasonably interfere with defendant's future use of the property for railroad purposes, which, here, includes the economic impact that defendant's loss of legal advantage would likely entail. In sum, based upon this record, the trial court did not err in finding that, as pleaded, plaintiff's proposed condemnation action is preempted.” (Decision ¶ 35) Moreover they made it clear that the watermain interferes with 2nd & Mains use of the Property for railroad purposes stating: “As such, there is no genuine dispute that the water main interferes with use of the railroad. We agree.” (Decision ¶ 36)

The Appellate Court set forth its concerns about what could happen in the future stating: “If plaintiff is allowed the easement without conditions, defendant loses certain enforceable property rights over that condemned portion. See, e.g., *Kaskaskia*, 2019 IL App (5th) 180403, ¶ 21 (an easement is a legal interest in the property of another). As far as we can tell, if defendant then wished to construct

additional rail lines or spurs, its options would be limited to: (1) not doing so, frustrating its desired operations as a railroad; (2) proceeding without regard to the existing water main, potentially crushing it and risking legal exposure (if, in light of the water main, it were even able to obtain the necessary plans, permits, etc., to construct); or (3) absorbing the costs of yet more litigation to obtain a court order requiring plaintiff, now the easement owner, to dig up and reinforce its water main.” (Decision ¶ 33)

With regard to North Chicago the Appellate Court was aware that: “construction to reinforce the water main might be expensive, but, presumably, so would removing or re-routing the water line around the property” (Decision ¶ 33) and stated that “questions about the appropriate construction standards themselves remain at issue.” (Decision ¶ 39). The only purpose of this referral is to address those standards and it is the only issue that should be addressed by the Board.

2. North Chicago elected its remedy when it filed its claim in the Circuit Court of Illinois.

The election-of-remedies principle is succinctly stated in *Election of Remedies: the California Basis*, 19 Hastings Law Journal 1233 (1968):

Election of remedies in an affirmative defense. To use the defense, the defendant must show that the plaintiff possesses two inconsistent and

concurrent remedies to a single cause of action (footnote omitted). If the plaintiff has chosen one of these remedies, he cannot bring a second action . . .

As applied to STB-regulated rail carriers such as 2nd & Main, concurrent remedies are set forth in 49 U.S.C. § 11704(c)(1), *viz.*:

A person may file a complaint with the Board (STB) under section 11701(b) of this title or bring a civil action under subsection (b) of this section to enforce liability against a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

Thus, there is concurrent jurisdiction in the STB and in the courts, including state courts, to apply substantive federal law in deciding issues of federal preemption. *See CSX Transp., Inc. -- Petition for Declaratory Order*, STB Docket No. 34662, slip op. at 8 (decision served May 3, 2005).

It having been established that as to federal preemption there is jurisdiction in both the STB and the courts, it follows that a person is required to elect in which of those forums it will pursue its cause of action. If a person elects to pursue its claim in court, the election-of-remedies principle precludes that person from subsequently seeking the same relief at the STB, which is precisely what North Chicago is attempting to do here.

North Chicago's contention is undermined by expressions of the United States Supreme Court, e.g., *United States v. ICC*, 337 U.S. 426 (1949) at 434 viz.:

... (A) shipper who elects to make complaint to the Commission or to bring suit in a court is thereafter precluded (by election of remedies) from initiating a "9 proceeding" in the other (now 49 U.S.C. § 11704(c)(1)).¹

It is immaterial whether a prohibited second legal action arises during the course of a proceeding on the first action, as in the present case, or in a newly initiated second proceeding, as long as the first proceeding has become final, as it has here, i.e., the trial court's first determination that the City's condemnation action is federally preempted. Accord: the United States Supreme Court's decision in *Pennsylvania R. Co. v. Sonman Shaft Coal Co.*, 242 U.S. 120 (1916) ("... Section 9 give(s) a person injured a right to make complaint to the Interstate Commerce Commission or to bring an action for damages in a federal court, but not to do both.")

In *ICC v. Baltimore & Annapolis R. Co.*, 398 F.Supp. 454 (D, Md., Balt. Div., 1975) a shipper's complaint for damages against a rail carrier had been denied by the Interstate Commerce Commission (ICC, predecessor of the STB), after which

¹ Reference to "a 9 proceeding" is to former 49 USC 9 a predecessor of 49 U.S.C. § 11704(c)(1).

the shipper attempted to recover the same damages in court. In denying that relief, Judge Blair explained as follows:

The election of remedies principle prevents a person from choosing one venue to pursue a claim, lose on an issue, and then try again in another venue. . . . To allow a plaintiff to shuttle back and forth between the ICC and the courts asserting new claims each time would be not only inequitable to the defendant, but contrary to the purposes of section 9 of the Interstate Commerce Act . . . In this case, Alco had the opportunity to assert all of its claims before the Commission but chose not to do so. Hence, Alco has elected its damage remedy before the Commission within the meaning of section 9. Accordingly, its claim is barred in this court. (citations omitted).

Consistent with this principle, the STB cannot rehear matters which have already been resolved by the Appellate Court. Both the trial court and the appellate court have determined that North Chicago's condemnation is federally preempted. The trial court's ruling on that issue has become final. It follows under time-honored election-of-remedies principles that the STB does not have jurisdiction to nullify or otherwise disturb the court's final determination that North Chicago's proposed condemnation is federally preempted. The STB should advise the Court accordingly.

B. Even if the Board does decide to reconsider the issues of preemption and interference, it is clear from the undisputed facts that the existence of the water main interferes with 2nd & Main's future use of the Property.

There is no dispute that 2nd & Main will be unable to place railroad tracks above the watermain on its land because the watermain pipe is not sufficiently reinforced. Even North Chicago's expert Devin Moose concedes that the existing water line is not sufficient for railroad purposes. Moose's report states, in pertinent part, "The area between the north property line and rail spur, although not suitable to house additional rail lines, could be utilized for other purposes." (City of North Chicago Appendix page C0352--Emphasis added). The Moose Report also states: "The existing rail spur could resume without additional improvement to the water main infrastructure. The northern portion of the Property, between the exiting rail spur and northern property boundary, could be used for a variety of purposes, including but not limited to housing shipping containers or other material storage." (City of North Chicago Appendix pages C0342-343). Reading between the lines, what Moose was really saying is that 2nd & Main can use the northern portion of the Property so long as railroad tracks are not put on the northern portion. The real conclusion of North Chicago's own expert is that because of the water main, the northern portion of the Property is "not suitable to house additional rail lines."

The cost of taking this property away from 2nd & Main is enormous. In the opinion of 2nd & Main's appraiser, Michael Kendzior, MAI, who, unlike the City's appraiser, specializes in the valuation of institution grade investment

properties including railroad rights-of-way, the highest and best use of the property would be if it were improved as a railroad terminal. In his opinion the presence of the existing water line diminishes the value of 2nd & Main's property by \$1,101,000. (See Appendix to 2nd & Main's response – Duff & Phelps Appraisal report page 3).

Any contention by North Chicago that the ICCTA only preempts condemnation actions when there is evidence that the condemnation will interfere with imminent, definite plans to expand railroad infrastructure runs counter to the 7th Circuit's decision in *Union Pacific Railroad Co. v. Chicago Transit Authority*, 647 F.3d (7th Cir. 2011) which emphasized several times in its holding that a condemnation action was preempted when the proposed taking would prevent the railroad from using the property in the future.

In *Union Pacific*, a railroad leased a portion of its property to the Chicago Transit Authority. As such, the railroad had no present plans to use that portion of the property in the future. The 7th Circuit noted that the "property is valuable railroad land owned by [the railroad] that [the railroad] could use for additional railroad lines if it was unoccupied." *Id.* At 681. The Court further explained that "[e]ven if the property was not being used and Union Pacific had no immediate plans to use the property, a taking of this property would still prevent Union Pacific from using it for railroad transportation in the future." *Id.* at 681.

In both *Union Pacific* and the present case, the plaintiff is already in possession of the property it seeks to condemn. In *Union Pacific*, the CTA sought to condemn a portion of railroad property that it was already leasing. Here, North Chicago is seeking an easement for its existing water main. In both cases, the plaintiff's existing use of the property it sought to condemn prevented the railroad entity from using the property itself. "The CTA's use of the [leased] Right of Way has a significant impact on railroad transportation: it prevents [the railroad] from using the property itself for additional tracks." *Id.* at 682. Similarly, the water main, being insufficiently reinforced, prevents 2nd & Main from installing new tracks above the water main.

C. Rail service must be provided to the Property by Union Pacific because it is a common carrier.

Relying on the affidavit of David C. Johnson, a professional engineer (and presumably not a lawyer) North Chicago contends that it is unlikely that the Union Pacific would provide rail service to the Property.¹ This is wrong as a matter of law. A common carrier such as Union Pacific is not permitted to justify a failure or refusal to provide service to 2nd & Main on economic or operational grounds. A common carrier cannot withhold services solely on the grounds that

¹ In Paragraph 8 of his Affidavit, referring to a parcel of property owned by Lumberyard Storage, Johnson also states that "it is unclear if 2nd & Main, LLC has trackage rights or an easement over this parcel". This is also incorrect because 2nd & Main has an agreement for use of the property (see North Chicago Appendix pages C0115 to C0128)

to continue to provide the service would be inconvenient or less profitable. *GS Roofing Products v. STB* 13 F.3d. 387 (8th Cir. 1998).

The Union Pacific would also violate its obligation as a common carrier if it were to refuse to transport 2nd & Main's traffic. By virtue of 49 C.F.R. § 10903(d) the Union Pacific is required to provide rail service over its lines unless and until the STB determines that the present or future public convenience and necessity permits the abandonment or discontinuance of rail service over such a line. (See *ICC v. Baltimore & Annapolis R. Co.*, 398 F.Supp. 454, 461 (D. Md., Balt. Div. 1975) and *Association of American Railroads v. I.C.C.*, 846 F.2d 1465, 1467 (D.C. Cir. 1988)

Absent STB authorization of abandonment or discontinuance of service, the Union Pacific would have an obligation to accept 2nd & Main's traffic. (See 49 U.S.C. § 10742). The statutory requirement of mandatory interchange has characterized American railroading for more than a century. Mandatory interchange allow freight to travel from Point A to Point B in one car obviating the need to move freight between cars. See *Southern Pacific Transp. Co. v. ICC* 69 F.3d 583 (DC Cir. 1995).

D. The Board should recommend that the entire water main beneath 2nd & Main's property be reinforced to railroad standards.

The water line runs all the way across the Property for approximately 435 feet. North Chicago's expert, David C. Johnson, concedes that the pipe needs to

be reinforced anywhere where future track will be laid. In his affidavit he proposes a set up for 2nd & Main's track, wherein "a maximum length of 127' of water main would require encasement based on AREMA standards." Beyond the confirmation that the track must be reinforced in areas where the property will be used for railroad purposes, his opinion is of little value because there is no evidence that 2nd & Main intends to follow this proposed plan.

Consistent with the *Union Pacific* case described above, 2nd & Main has the right to use the Property in its entirety for railroad purposes, and it is not certain what the layout will be in the near future and there is no telling what the planned use will be in the distant future. If North Chicago wishes to seize property of 2nd & Main, then it must allow for flexibility for 2nd & Main to shape its railroad as it sees fits. The only way to do this would be to reinforce the entirety of the water main.

In the opinion of 2nd & Main's engineer, Peter Kolb, under both the AREMA standards (Specifically AREMA Standard 5.1.2) and those of the UP, pipelines under railroad tracks and across railroad rights of way shall be encased in a larger pipe or conduit called the casing pipe. (See Appendix to 2nd & Main's response – Affidavit of Peter Kolb paragraph 6) In addition, under AREMA standards 5.1.2, if a pipeline is located within 25 feet of the centerline of any track

or where there is a danger of damage from any leakage to a building or other important structure the carrier pipe shall be encased. (See Appendix to 2nd & Main's response – Affidavit of Peter Kolb paragraph 7)

When constructing a water main under railroad property a casing pipe is first installed, then the water main is placed within the casing pipe and it is filled with sand between the casing pipe and the water main and sealed at each end. This is done to avoid putting the load of the railroad tracks directly on the water pipes and to protect the track in the event of a water pipe rupture and washout. (See Appendix to 2nd & Main's response – Affidavit of Peter Kolb paragraphs 8 and 9) Moreover, that is what was done when the water main was placed under the Railroad Property adjoining the 2nd & Main property as shown on the drawings of the water main located on the 2nd & Main property and the adjoining railroad property prepared by North Chicago's engineers Alvord, Burdick & Howson in 1961. (See Appendix to 2nd & Main's response – Affidavit of Peter Kolb paragraph 10 and City of North Chicago Appendix page C0129).

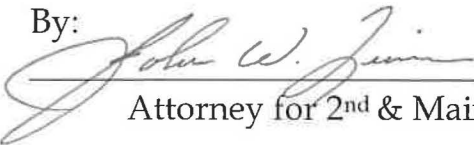
RELIEF REQUESTED

2nd & Main requests that the Board require that either: 1) North Chicago be required to remove the existing water line and install a new water line all the way across the 2nd & Main property (approximately 435 feet) pursuant to AREMA Guidelines, including a casing pipe which should be installed by boring

under the existing buildings and afterwards restoring the property to its original condition. (See Appendix to 2nd & Main's response – Affidavit of Peter Kolb paragraph 12) or 2) North Chicago should be required to remove and relocate its water line restoring the property to its original condition.

Respectfully submitted,

By:


Attorney for 2nd & Main

John W. Quinn
CHURCHILL, QUINN, HAMILTON & VAN DONESLAAR LTD.
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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. FD 36619

2ND & MAIN, LLC'S RESPONSE TO THE CITY OF NORTH CHICAGO'S
PETITION FOR DECLARATORY ORDER

APPENDIX TO PETITION FOR DELCARATORY JUDGMENT

1. Duff & Phelps Appraisal Report
2. Affidavit of Peter Kolb

APPRAISAL REPORT

Of the

**1940 Marquette Street
North Chicago, Illinois 60064**

Estimate of Market Value

As of

September 21, 2018

EXHIBIT

tables

1

Prepared for

**Phil Dahl, Member
2nd & Main LLC**

Prepared by

**Duff & Phelps, LLC
Real Estate Advisory Group**

October 26, 2018

Mr. Phil Dahl, Member
2nd & Main LLC
360 Lake Street
Antioch, Illinois 60002

Dear Mr. Dahl:

In accordance with your request, Duff & Phelps, LLC, has performed a valuation as of September 21, 2018, of certain real property exhibited to us as that owned by 2nd & Main LLC and consisting of parcel number 12-04-100-005, located at 1940 Marquette Street, North Chicago, Illinois.

This valuation summary represents an Appraisal Report as set forth under Standards Rule 2-2(a) of USPAP. The content of this report is based on the specific needs of the client. The purpose of this valuation is to express our opinion of the market value of the fee simple estate in the real property in its before and after conditions to provide an estimate of total just compensation for the 25-foot-wide easement with the midpoint being 35 feet south of the north border of the subject property.

Our opinions are intended to assist 2nd & Main LLC with easement negotiations and inverse condemnation proceedings related to the City of Chicago acquiring a 25-foot-wide easement with the midpoint being 35 feet south of the north border of the subject property for an existing pipeline. Our client of record is 2nd & Main LLC and is the sole intended users of this report. Duff & Phelps, LLC, has no duty to any other party regarding the analysis or conclusions herein. No third party shall have the right of reliance on this report, and neither receipt nor possession of this report by any third party shall create any express or implied third-party beneficiary rights. The conclusions herein are subject to the General Assumptions and Limiting Conditions.

The subject property comprises 108,900 total square feet of improved land utilized for lumber and railcar storage purposes. The subject improvements consist of one office building, four lumber storage buildings and three lumber storage sheds, totaling 40,428 square feet. The eight improvements are in poor condition. The subject is identified as having recognized environment conditions. Prior site investigations (Phase I & II ESI's) detected impacts to the soil and groundwater above Illinois Environmental Protection Agency (IEPA) remediation objectives. These impacts were detected along the north side of the property line. The property owner has indicated that as long as the sub soil and/or groundwater is not disturbed or exposed to the environment, the property does not pose a threat to human health or the environment. The property is part of a larger brownfield area including numerous properties within the City of North Chicago.

The site will be encumbered by a 25-foot-wide permanent pipeline easement encompassing 11,313 square feet. The permanent pipeline easement's midpoint is 35 feet south of the north border of the subject. The permanent pipeline easement will be 25 feet wide with the pipeline running through the middle of the easement. The easement will take over part of four of the lumber storage buildings and sheds; and thus, we have included replacement costs and demolition costs of the four improvements in our just compensation analysis. The easement separates 9,899 square feet of land along the north border of the property from the larger parcel. We have added additional damages for the loss of some property rights to the separated land. Please reference the exhibits for more information about the subject property and the proposed easement.

Additional details regarding the subject parcel follow:

Owner Information

Name	2 nd & Main LLC
Address	360 Lake Street, Antioch, Illinois

Taxpayer Information

Name	2 nd & Main LLC
Address	360 Lake Street, Antioch, Illinois
Present Use of Whole Property	Railroad Terminal
Present Use of Easement Areas	Railroad Terminal
Land Area	
Whole Property	108,900 square feet
25-Foot-Wide Easement	11,313 square feet
Effective Date of Appraisal	September 21, 2018
Inspection Date	September 21, 2018

Based on the information and analysis summarized in this report, it is our opinion that, as of September 21, 2018, the total estimated just compensation due to the imposition of the easement is reasonably represented in the amount of \$311,000, allocated as follows:

Value of 25-Foot-Wide Easement Land	\$61,000
Value of Replacement Costs Less Depreciation of Buildings 5, 6, 7 & 8	\$200,000
Damages for North Land Area	\$50,000
Equals Estimated Total Just Compensation	\$311,000

Furthermore, the pipeline easement will overlap onto four existing buildings. As such, the value of the easement considers the demolition costs of the four buildings. The value of the demolition costs is estimated to be \$127,000. Therefore, the total payment due to property owner is calculated to be \$438,000.

Value of Easement Land	\$61,000
Value of Replacement Costs Less Depreciation of Buildings 5, 6, 7 & 8	\$200,000
Damages for North Land Area	\$50,000
Payment of Demolition Costs	\$127,000
Equals Estimated Total Payment Due to Property Owner	\$438,000

Per the client's request, we have included our opinion of the total estimated just compensation due to the imposition of the easement assuming the buildings affected are compensated at replacement cost.

Value of 25-Foot-Wide Easement Land	\$61,000
Value of Replacement Costs of Buildings 5, 6, 7 & 8	\$990,000
Damages for North Land Area	\$50,000
Equals Estimated Total Just Compensation	\$1,101,000

The associated exposure time for the appraised property is estimated to be within 12 months as of the effective date of appraisal.

Respectfully submitted,

A handwritten signature in cursive script that reads "Duff & Phelps, LLC".

Duff & Phelps, LLC

THIS LETTER MUST REMAIN ATTACHED TO THE REPORT IN ITS ENTIRETY INCLUDING RELATED EXHIBITS IN ORDER FOR THE VALUE OPINION(S) SET FORTH TO BE CONSIDERED VALID.

TABLE OF CONTENTS

CERTIFICATION.....	6
GENERAL ASSUMPTIONS AND LIMITING CONDITIONS.....	7
EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS.....	9
INTRODUCTION.....	10
Definitions.....	10
Scope of Work.....	11
NEIGHBORHOOD DESCRIPTION.....	13
THE PROPERTY APPRAISED.....	16
Land.....	16
Land Improvements.....	16
Building Improvements.....	16
Tax Parcel Map.....	17
Assessed Value.....	17
Zoning.....	18
SALES HISTORY.....	18
HIGHEST AND BEST USE.....	19
Land as if Vacant.....	19
Property as Improved.....	20
VALUATION INTRODUCTION.....	21
VALUATION OF EASEMENT.....	22
Valuation Before Imposition of Easement (Before Value).....	22
Land Valuation.....	22
Cost Analysis.....	25
Additional Soft Costs.....	25
Entrepreneurial Incentive.....	25
Depreciation Analysis.....	25
Physical Deterioration.....	25
Functional Obsolescence.....	26
External Obsolescence.....	26
Indicated Value – Cost Approach.....	26
Concluded Before Value.....	26
THE TAKING.....	27
Description of the Taking.....	27
Easement Plat.....	28
Details of the Permanent Easement.....	29
VALUATION AFTER IMPOSITION OF EASEMENTS (AFTER VALUE).....	30
Effects and Net Results of the Take.....	30
CONCLUSION.....	33
EXHIBIT A – EASEMENT RIGHTS; AMMEDED COMPLAINT FOR INVERSE CONDEMNATION.....	34
EXHIBIT B – CITY OF NORTH CHICAGO TIF DISTRICT MAP.....	44
EXHIBIT C – REAL ESTATE TAX PARCEL MAP.....	45
EXHIBIT D – AERIAL.....	46
EXHIBIT E – INSPECTION PHOTOGRAPHS.....	48
EXHIBIT F – IMPROVEMENT DESCRIPTION.....	50
EXHIBIT G – IMPROVEMENT COST DETAILS.....	51
EXHIBIT H – FLOOR PLANS.....	60
EXHIBIT I – SURFACE TRANSPORTATION BOARD.....	70
EXHIBIT J – APPRAISER'S RESUME.....	75

CERTIFICATION

I certify that, to the best of my knowledge and belief,

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and is our personal, unbiased professional analyses, opinions and conclusions.
- We have no present or prospective interest in the properties that are the subject of this report and no personal interest with respect to the parties involved. We have no bias with respect to the properties that are the subject of this report or to the parties involved.
- We have performed no services, as an appraiser or in any other capacity, regarding the properties that are the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
- Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- Our analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP).
- I have made a personal inspection of the subject property on September 21, 2018.
- No one provided significant real property assistance to the person signing this certification.
- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, and the Principles of Appraisal Practice and Code of Ethics of the American Society of Appraisers.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- As of the date of this report Michael S. Kendzior, MAI has completed the continuing education program for Designated Members of the Appraisal Institute.



Michael S. Kendzior, MAI
Director, Duff & Phelps, LLC
Illinois Certified General Real Estate Appraiser
License #553.000249; Expiration: September 30, 2019

GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

Unless otherwise stated in the report, the following assumptions and limiting conditions apply to the service performed:

- 1) No investigation has been made of, and no responsibility is assumed for, the legal description or for legal matters including title or encumbrances. Title to the property is assumed to be good and marketable unless otherwise stated. The property is further assumed to be free and clear of liens, easements, encroachments and other encumbrances unless otherwise stated, and all improvements are assumed to lie within property boundaries.
- 2) Any third-party information utilized in our analysis was obtained from sources we believe to be reliable. However, no warranty is given as to the accuracy or completeness of such information and we have not verified it. Our acceptance and use of management's forecasts of financial results and asset usage do not ensure such estimates can be achieved, because industry or company factors may not occur as forecasted. Differences between forecasted and actual results may be material and depend on management's choices, plans, and assumptions.
- 3) This report and the associated opinions or conclusions are only for the specific purpose and use stated in the report, and they are invalid for any other purpose and use. We are committed to supporting our opinion and this report. However, we are not required to give testimony or attend hearings or depositions, unless compensation arrangements for such additional services have been made.
- 4) The opinions or conclusions stated in this report are based on facts and market conditions known as of the specific effective date stated in this report and are only valid as of that date. Events and conditions occurring after that date were not considered, and we have no obligation to update our report for such events or conditions.
- 5) No portion of this report may be published or given to any third parties without the prior written consent of Duff & Phelps, LLC. No third party shall have the right of reliance on this report, and neither receipt nor possession of this report by any third party shall create any express or implied third-party beneficiary rights.
- 6) Any property areas, sizes, dimensions, or descriptions in this report are included for identification purposes only and should not be used in a conveyance or other legal document. We did not verify the property areas, sizes, dimensions, or descriptions used in this analysis. Any plat in this report is intended only as a visual aid regarding the property and its environment and should not be considered a survey or scaled to size.
- 7) We assumed that the property has been competently owned and managed; all applicable federal, state, and local governmental regulations, including, but not limited to, zoning and use regulations and restrictions, have been complied with; and all required licenses and permits have been or can be obtained or renewed for the use that is relevant to this analysis. Further, we assumed that the improvements, as well as the utilization of the land and improvements, are within the boundaries of the property described and that no encroachment or trespass exists. We made no effort to determine any possible effects of future federal, state, or local legislation, including any environmental matters, on the subject business or property.
- 8) Duff & Phelps, LLC, is not an environmental consultant, and we take no responsibility for any actual or potential environmental liabilities. We assumed that all applicable environmental laws have been complied with. We made no environmental impact study, and the opinions or conclusions contained in this report exclude the impact of any potentially hazardous substances such as asbestos, urea-formaldehyde foam insulation, and environmental contamination. The existence of actual or potential environmental liabilities, and any associated

effect on value, would have to be determined through a professional environmental assessment.

We do not opine on, and are not responsible for, the structural integrity of the property, including conformity to specific code requirements, such as fire, building and safety, Americans with Disabilities Act, earthquake, and occupancy, or any physical defects not readily apparent during an inspection. We recommend the reader of this report consult a qualified structural engineer or industrial hygienist to evaluate any possible structural or environmental defects, if the existence of such defects is relevant and could have a material impact on the results of the analysis expressed in the report.

- 9) No soil analysis or geological studies were ordered or made in conjunction with the service performed, nor were any water, oil, gas, or other subsurface mineral and use rights or conditions investigated.
- 10) It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that affect value. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
- 11) The date of value to which the conclusions and opinions expressed in this report apply is set forth in the opinion letter at the front of this report. Our value opinion is based on the purchasing power of the United States' dollar as of this date.
- 12) This appraisal has been made in conformance with, and is subject to, the requirements of the *Uniform Standards of Professional Appraisal Practice*.
- 13) In accordance with our agreement, this report is limited to the value of the subject property. One or more additional issues may exist that could affect the Federal tax treatment of the subject property with respect to which we have prepared this report. This report does not consider or provide a conclusion with respect to any of those issues. With respect to any significant Federal tax issue outside the scope of this report, this report was not written, and cannot be used, by anyone for the purpose of avoiding Federal tax penalties.

EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS

When a value opinion is subject to an extraordinary assumption or hypothetical condition, the appraiser must state that condition so that its effect on the value opinion or conclusion is clear. An extraordinary assumption is an assumption that is directly related to a specific assignment, which if found to be false, could alter the appraiser's opinions or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject properties; or about conditions external to the property such as market conditions or trends; or about the integrity of data used in an analysis. An extraordinary assumption may be used in an assignment only if:

- It is required to properly develop credible opinions and conclusions;
- The appraiser has a reasonable basis for the extraordinary assumption;
- Use of the extraordinary assumption results in a credible analysis; and
- The appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

Hypothetical conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis. A hypothetical condition may be used in an assignment only if:

- Use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- Use of the hypothetical condition results in a credible analysis; and
- The appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

Hypothetical Conditions:

- We have made a hypothetical condition that the subject property is environmentally clean.

Extraordinary Assumptions:

- We have relied on information provided by the client as well as from public records as it relates to building sizes, land sizes, and other physical, financial, and economic characteristics. It is an extraordinary assumption of this appraisal that this information is accurate and was not misrepresented.
- We have made an extraordinary assumption that the water pipe does not exist when developing our land value conclusion.
- We have made an extraordinary assumption that the subject property is exempt from any zoning restrictions due to the subject property being recognized as a railroad terminal.

Any changes to the aforementioned extraordinary assumptions could have a material effect on the valuation

INTRODUCTION

In accordance with your request, Duff & Phelps, LLC has performed a valuation as of September 21, 2018, of certain real property exhibited to us as that owned by 2nd & Main LLC and consisting of parcel number 12-04-100-005, located at 1940 Marquette Street, North Chicago, Illinois.

This valuation report represents an Appraisal Report as set forth under Standards Rule 2-2(a) of the *Uniform Standards of Professional Appraisal Practice* (USPAP). The purpose of this valuation is to express our opinion of the market value of the fee simple estate in the real property in its before and after conditions to provide an estimate of total just compensation for the 25-foot-wide pipeline easement.

Our opinions are intended to assist 2nd & Main LLC with easement negotiations and inverse condemnation proceedings related to the City of Chicago acquiring a 25-foot-wide easement with the midpoint being 35 feet south of the north border of the subject property for an existing pipeline. Our client of record is 2nd & Main LLC and is the sole intended users of this report. Duff & Phelps, LLC, has no duty to any other party regarding the analysis or conclusions herein. No third party shall have the right of reliance on this report, and neither receipt nor possession of this report by any third party shall create any express or implied third-party beneficiary rights. The conclusions herein are subject to the General Assumptions and Limiting Conditions.

The subject property comprises 108,900 total square feet of improved land utilized for lumber and railcar storage purposes. The subject improvements consist of one office building, four lumber storage buildings and three lumber storage sheds, totaling 40,428 square feet. The eight improvements are in poor condition. The subject is identified as having recognized environment conditions. Prior site investigations (Phase I & II ESI's) detected impacts to the soil and groundwater above Illinois Environmental Protection Agency (IEPA) remediation objectives. These impacts were detected along the north side of the property line. The property owner has indicated that as long as the sub soil and/or groundwater is not disturbed or exposed to the environment, the property does not pose a threat to human health or the environment. The property is part of a larger brownfield area including numerous properties within the City of North Chicago.

The site will be encumbered by a 25-foot-wide permanent pipeline easement encompassing 11,313 square feet. The permanent pipeline easement's midpoint is 35 feet south of the north border of the subject. The permanent pipeline easement will be 25 feet wide with the pipeline running through the middle of the easement. The easement will take over part of four of the lumber storage buildings and sheds; and thus, we have included replacement costs and demolition costs of the four improvements in our just compensation analysis. The easement separates 9,899 square feet of land along the north border of the property from the larger parcel. We have added additional damages for the loss of some property rights to the separated land. Please reference the exhibits for more information about the subject property and the proposed easement.

Definitions

Definitions applicable to this analysis are presented as follows:

- *Market value* is defined as "the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress." (*The Dictionary of Real Estate Appraisal*, sixth edition, 2015, page 141)
- *Just compensation* is defined as "in condemnation, the amount of loss for which a property owner is compensated when his or her property is taken. Just compensation should put the owner in as good a position as he or she would be if the property had not been taken." (*The Dictionary of Real Estate Appraisal*, sixth edition, 2015, page 123)

- *Easement* is defined as "the right to use another's land for a stated purpose." (*The Dictionary of Real Estate Appraisal*, sixth edition, 2015, page 71)
- *Fee simple estate* is defined as an "absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat." (*The Dictionary of Real Estate Appraisal*, sixth edition, 2015, page 90)
- *Highest and best use* is defined as "the reasonably probable use of property that results in the highest value." (*The Dictionary of Real Estate Appraisal*, sixth edition, 2015, page 109)
- *Extraordinary assumption* is defined as "an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions." (USPAP, 2018-2019 edition, page 4)
- *Inverse Condemnation* is "a shorthand description of the manner in which a landowner recovers just compensation for a taking of his property when condemnation proceedings have not been instituted." (*Real Estate Valuation in Litigation*, Second Edition, chapter 17, page 371)
- *Damages* are defined as "in condemnation, the loss in value to the remainder in a partial taking of property. Generally, the difference between the value of the whole property before the taking and the value of the remainder after the taking is the measure of the value of the part taken and the damages to the remainder." (*The Dictionary of Real Estate Appraisal*, sixth edition, 2015, page 59)
- *Larger parcel* is defined as "in governmental land acquisitions and in valuation of charitable donations of partial interests in property such as easements, the tract or tracts of land that are under the beneficial control of a single individual or entity and have the same, or an integrated, highest and best use. Elements for consideration by the appraiser in making a determination in this regard are contiguity, or proximity, as it bears on the highest and best use of the property, unity of ownership, and unity of highest and best use. In most states, unity of ownership, contiguity, and unity of use are the three conditions that establish the larger parcel for the consideration of severance damages. In federal and some state cases, however, contiguity is sometimes subordinated to unitary use." (*The Dictionary of Real Estate Appraisal*, sixth edition, 2015, page 127)
- *Exposure time* is defined as the "estimated length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal." (USPAP, 2018-2019 edition, page 4)

Scope of Work

The intended use of this right of way appraisal is to assist 2nd & Main LLC with easement negotiations and inverse condemnation proceedings related to the City of Chicago acquiring a 25-foot-wide easement with the midpoint being 35 feet south of the north border of the subject property for an existing pipeline. The scope of our work is intended to provide an estimate of just compensation based on our opinion of market value of the fee simple estate in the identified real property on a before and after condition. We prepared this appraisal report to assist 2nd & Main LLC in formal negotiations and inverse condemnations proceedings with the City of North Chicago. This appraisal assignment is intended to comply with USPAP.

To estimate a value for the identified property in its entirety and the total just compensation due to imposition of the easement, we considered the following:

- Documents from 2nd & Main LLC, which include, but are not limited to, the amended complaint, topography maps, reconstruction costs, and a previous appraisal.
- Documents uncovered during our investigation, which include, but are not limited to, GIS maps, zoning maps, zoning ordinances, tax and assessment information, floodplain maps, topography maps, regional demographic data, and county comprehensive plans.
- Market data collected from sources deemed reliable including county records, other real estate professionals such as brokers and appraisers, information within our database, and other published sales data sources.
- An on-site inspection of the subject property while accompanied by the property owner.
- Comparable sales.
- As applicable, the location, size, frontage, access, topography, usable area, shape, zoning, use, available utilities, and other physical attributes of the subject property compared to properties within the marketplace.
- The highest and best use of the subject property as vacant and, when applicable, as improved.
- The cost and sales approach to value. Our conclusions rely on the approach or approaches judged to be most appropriate for the purpose and scope of our analysis, as well as the nature and reliability of the data available to us. The valuation methodology employed is described in a subsequent section of the report.
- The location of the easement on the subject property.
- The impact the easement may have on the surface, subsurface, and air rights of the underlying-property owner.
- The potential damages resulting from the imposition of the easement.

Furthermore, in determining the total just compensation for the imposition of the 25-foot-wide easement, we estimated the value of the rights of the underlying-property owner in the land subject to the easement. Unless otherwise stated, no consideration was given to any other easement rights as held by other easement owners.

NEIGHBORHOOD DESCRIPTION

The neighborhood surrounding the subject property comprises a mixture of industrial buildings and government buildings associated with the Naval Station Great Lakes. The parcels to the north and south of the subject property are vacant. The site to the north is contaminated. A railroad track borders the subject on the west side. Across Marquette Street to the east is an office building. Commercial uses are located within the county's municipal areas; the property is located approximately a half mile northwest of the Naval Station Great Lakes, 3 miles south of Waukegan, and 2.5 miles northwest of Rosalind Franklin University. There is a 33-acre property approximately a half mile southwest of the subject at Martin Luther King Jr. Drive and Sheridan Road that a developer is looking to build a hotel, movie theater and shopping complex. The surrounding neighborhood appears to be stable and is estimated to remain as such into the foreseeable future.



Subject Neighborhood Delineation

While a certain level of subjectivity exists in attempting to quantify the limits of a property's neighborhood, based upon our observations of road patterns and the competition, we believe the subject's neighborhood would extend for a 5-mile radius. This area is consistent with a typical industrial property radius.

Neighborhood & Property Use Characteristics

Location	☐ Urban	☒ Suburban	☐ Rural
Built Up	☒ Over 75%	☐ 25% to 75%	☐ Under 25%
Built Up ☐ Fully Dev.	☐ Rapid	☒ Steady	☐ Slow
Property Values	☐ Increasing	☒ Stable	☐ Declining
Demand/Supply	☐ Shortage	☒ In Balance	☐ Over Supply
Vacancy Trend	☐ Increasing	☒ Stable	☐ Declining
Change in Economic Base	☐ Likely	☒ Unlikely	☐ Taking Place

Land Use Trends

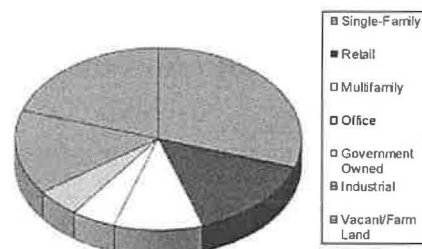
Present Land Use

30% Single Family
15% Retail
10% Multifamily
5% Office
5% Government Owned
15% Industrial
20% Vacant/Farm Land
100%

Change in Land Use

☐ Likely
☒ Not Likely
☐ Taking Place

Land Use



Adjacent property uses include:

North: Vacant Land
South: Vacant Land
East: Office
West: Railroad

Neighborhood Population

Claritas estimates the current population of the neighborhood the subject property to be 64,809 representing a 5.70% decrease since 2010. The total trade area of the subject is estimated to have a population of 133,500, which represents a 4.10% decrease since 2010.

	0.00 - 1.00 miles <i>Radius</i>	0.00 - 3.00 miles <i>Radius</i> <i>Primary Trade Area</i>	0.00 - 5.00 miles <i>Radius</i> <i>Total Trade Area</i>
Population			
2023 Projection	12,107	63,821	131,730
2018 Estimate	12,362	64,809	133,500
2010 Census	13,694	68,697	139,209
2000 Census	12,929	74,258	144,681
Percent Change: 2018 to 2023	-2.1%	-1.5%	-1.3%
Percent Change: 2010 to 2018	-9.7%	-5.7%	-4.1%
Percent Change: 2000 to 2010	5.9%	-7.5%	-3.8%

Neighborhood Households

Claritas shows that the number of households in the primary radius of the subject is 16,518, which is down 1.71% since 2010. Within the total trade area, the number of households is estimated to be 40,959, down 0.91% over the same period of time.

By the year 2023, Claritas estimates that the number of households in the primary trade area will decrease by 0.80% to 16,386 households. Additionally, households in the entire trade area are expected to decrease by 0.52% to 40,745 households over the next five years.

	0.00 - 1.00 miles <i>Radius</i>	0.00 - 3.00 miles <i>Radius</i> <i>Primary Trade Area</i>	0.00 - 5.00 miles <i>Radius</i> <i>Total Trade Area</i>
Households			
2023 Projection	2,003	16,386	40,745
2018 Estimate	2,067	16,518	40,959
2010 Census	2,247	16,805	41,336
2000 Census	3,022	18,319	43,695
Percent Change: 2018 to 2023	-3.10%	-0.80%	-0.52%
Percent Change: 2010 to 2018	-8.01%	-1.71%	-0.91%
Percent Change: 2000 to 2010	-25.64%	-8.27%	-5.40%

The number of households within primary trade area of the subject decreased 8.27% from 2000 to 2010; and since then it has decreased by 1.71%.

Neighborhood Income

According to Claritas, the primary trade area of the subject property has an estimated median household income of \$43,213 and an average household income of \$65,992. Claritas reports that the total trade area has a median household income of \$55,137, and an average household income of \$90,773. With 16,518 households currently in the total trade area of the subject property, local effective buying income is estimated to be about \$1,090,058,664±.

	0.00 - 1.00 miles <i>Radius</i>	<i>#</i>	0.00 - 3.00 miles <i>Radius</i>	<i>#</i>	0.00 - 5.00 miles <i>Radius</i>	<i>#</i>
2018 Est. Households by HH Income	2,066		16,518		40,958	
Income < \$15,000	410	19.8%	2,582	15.6%	4,439	10.8%
Income \$15,000 - \$24,999	304	14.7%	2,150	13.0%	4,452	10.9%
Income \$25,000 - \$34,999	360	17.4%	2,166	13.1%	4,371	10.7%
Income \$35,000 - \$49,999	330	16.0%	2,318	14.0%	5,537	13.5%
Income \$50,000 - \$74,999	347	16.8%	2,811	17.0%	7,110	17.4%
Income \$75,000 - \$99,999	133	6.4%	1,625	9.8%	4,359	10.6%
Income \$100,000 - \$124,999	101	4.9%	1,047	6.3%	2,960	7.2%
Income \$125,000 - \$149,999	52	2.5%	622	3.8%	1,936	4.7%
Income \$150,000 - \$199,999	24	1.2%	493	3.0%	2,065	5.0%
Income \$200,000 - \$249,999	3	0.1%	221	1.3%	999	2.4%
Income \$250,000 - \$499,999	0	0.0%	285	1.7%	1,444	3.5%
Income \$500,000+	2	0.1%	198	1.2%	1,286	3.1%
2018 Est. Average Household Income	\$44,249		\$65,992		\$90,773	
2018 Est. Median Household Income	\$33,758		\$43,213		\$55,137	

The demographics in the subject neighborhood are adequate for an industrial property. Since the current use as an industrial facility does not provide services to the local community like retail, meeting a target demographic within the primary trade area are not essential. Demographics for industrial properties are mainly analyzed to assess the cost to pay the employment base that would work at the facility. Further, the most important attribute of a distribution location is its access to major thoroughfares or transportation. As previously mentioned, the subject borders a railroad on the west side. This location lends itself well to an industrial use.

THE PROPERTY APPRAISED

The subject property comprises 108,900 total square feet of improved land utilized for lumber and railcar storage purposes. The subject improvements consist of one office building, four lumber storage buildings and three lumber storage sheds, totaling 40,428 square feet. The eight improvements are in poor condition. The site will be encumbered by a 25-foot-wide permanent pipeline easement encompassing 11,313 square feet. The permanent pipeline easement's midpoint is 35 feet south of the north border of the subject. The permanent pipeline easement will be 25 feet wide with the pipeline running through the middle of the easement. The easement will take over part of four of the lumber storage buildings and sheds; and thus, we have included replacement costs and demolition costs of the four improvements in our just compensation analysis. The easement separates 9,899 square feet of land along the north border of the property from the larger parcel. We have added additional damages for the loss of some property rights to the separated land.

The property appraised is further described in the following sections.

Land

The land is briefly described as follows:

Land Area (Larger Parcel)	108,900 square feet
Frontage	Approximately 220 feet of street frontage along the west side of Marquette Street
Shape	The site is generally rectangular.
Topography	Generally level
Zoning	M3 – Intensive Industrial District
Flood Map(s) and Date(s)	17097C0180K September 18, 2013
Flood Zone	Zone X, areas of minimal flooding located outside the 500-year floodplain
Development Incentives	Subject located in a TIF District as well as a State of Illinois Enterprise Zone

Land Improvements

Land improvements include asphalt paving, concrete curbing, metal fencing and railroad spurs.

Building Improvements

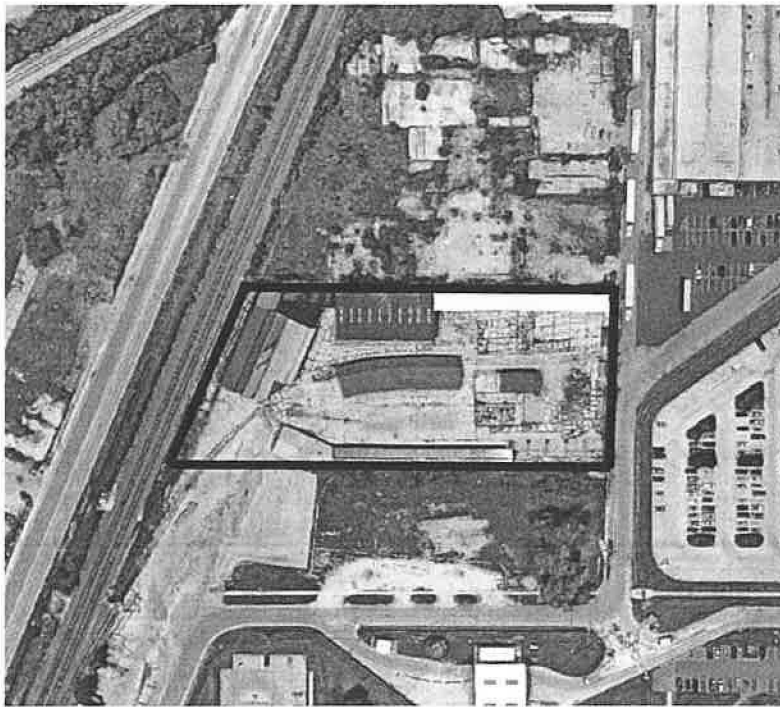
Building improvements on the subject property include one office building, four lumber storage buildings and three lumber storage sheds as detailed below.

Building #	Size (SF)	Description
1	2,115	Office
2	4,015	Lumber Storage Shed
3	5,202	Lumber Storage Shed
4	1,179	Lumber Storage Building
5	4,423	Lumber Storage Shed
6	8,140	Lumber Storage Building
7	3,000	Lumber Storage Building
8	12,354	Lumber Storage Building

*Lumber storage buildings are enclosed structures, while lumber storage sheds are three walled or open end sheds.

Tax Parcel Map

A tax parcel map follows:



Assessed Value

According to the county treasurer's office, the current tax figures are as follows:

2018 Tax Assessment

Parcel Number	Land	Building	Market Value	Assessed Value	Tax Rate	Total Taxes
12-04-100-005	\$66,834	\$3,519	\$70,353	\$23,451	16.88%	\$3,959
Total	\$66,834	\$3,519	\$70,353	\$23,451	16.88%	\$3,959

Current taxpayer information follows:

Name 2nd & Main LLC
Address 360 Lake Street, Antioch, Illinois 60002

Zoning

The appraised property is zoned M3 – Intensive Industrial District by the City of North Chicago. The zoning is described as follows:

Zoning	
Item	Description
Zoning	M3 - Intensive Industrial District
Zoning Jurisdiction	City of North Chicago
Permitted Uses	Various industrial uses
Zoning Density/FAR	N/a
Maximum Building Height	50 ft
Front Setback Distance	25 ft
Side Yard Distance	15 ft
Rear Setback Distance	15 ft
Parking Requirements	One (1) Space per employee
Minimum Lot Area	20,000 sq ft
Conformity of Current Use	The subject is legal and non-conforming use.
Zoning Change	A zoning change is unlikely.
Zoning Comments	This zoning district allows for a variety of industrial uses.

Zoning Analysis and Conclusion

The subject property lies within the zoning jurisdiction of the City of North Chicago. However, the client has indicated that the subject is exempt from the zoning requirements since it is classified as a railroad terminal. We have made the extraordinary assumption that subject property is exempt from zoning requirements due to the railroad terminal designation. It is recommended that local planning and zoning personnel be contacted regarding more specific information that may be applicable to the subject. We note that this appraisal is not intended to be a detailed determination of compliance, as that determination is beyond the scope of this real estate appraisal assignment.

SALES HISTORY

The subject property was acquired by the current owner under a bank foreclosure transaction in June 2014. The subject property was purchased along with five neighboring parcels for \$100,000 as part two transactions. According to the assessor, the parcel that is the subject of this report sold for \$62,000. To the best of our knowledge, the subject is not currently listed or under contract for sale.

HIGHEST AND BEST USE

The term "highest and best use" was defined in the Introduction section of this report.

In estimating highest and best use, there are four stages of analysis, as follows:

- **Physically Possible Uses**
Determine which uses are physically possible for the subject
- **Legally Permissible Uses**
Determine which uses are legally permitted for the subject
- **Financially Feasible Uses**
Determine which physically possible and legally permissible uses will produce a net return to the subject
- **Most Productive Use**
Determine which use, among the feasible uses, is the most productive use of the subject

Land as if Vacant

The highest and best use of land as if vacant is the use among all reasonable, alternative uses that yields the highest present land value, after payments are made for labor, capital, and coordination. The use of a property is based on the assumption that the land is vacant or can be made vacant by demolishing any improvements. Highest and best use of the land as if vacant was determined as follows:

- **Physically Possible**
The subject site is 108,900 square feet, subject to nearly level topography with adequate drainage, and mostly rectangular with approximately 220 feet of street frontage along the west side of Marquette Street. With respect to physical constraints, a wide range of improvements may be constructed on the site.
- **Legally Permissible**
The subject is zoned M3 – Intensive Industrial District by the City of North Chicago. However, the subject property has been recognized as a railroad terminal and is exempt from zoning requirements. Based on a review of the legally permissible uses, railroad terminal uses are considered to be possible uses for the subject.
- **Financially Feasible**
A proposed use of a property is determined to be financially feasible if it has a reasonable chance of satisfying objectives set forth by users. In short, for a use to be financially feasible, the market must exhibit appropriate support for the use. The neighborhood surrounding the subject property comprises a mixture of industrial and government land uses. Given the physical and legal possibilities for the subject and considering the surrounding land uses, the most financially feasible use of the subject site as vacant is for railroad terminal use, as allowed by the Surface Transportation Board.
- **Maximally Productive**
Maximum productivity is obtained from that use among those financially feasible that provides the highest present worth to the property. Considering surrounding land usages and an analysis of the physically possible, legally permitted, and financially feasible uses of the property, the maximally productive use of the subject site as vacant is for railroad terminal use, as allowed by the Surface Transportation Board.

In determining the physically possible and legally permissible highest and best uses of the subject property, we considered the subject's railroad terminal designation, shape and topography suitability, soil, and drainage adequacy. Based on an analysis of the above criteria and considering surrounding land uses, the most financially feasible and maximally productive use of the property as vacant is for railroad terminal purposes with railroad terminal development, as allowed by the Surface Transportation Board and market conditions. Buyers for the property would include local owner/users. The ideal improvement would comprise of railroad terminal improvements, built with quality of construction and materials that are suitable in the marketplace.

Property as Improved

The highest and best use of a property as improved is the use that should be made of the property as it exists. An existing property should be renovated or retained as-is so long as it continues to contribute to the total market value of the property, or until the return from a new improvement would more than offset the cost of demolishing the existing building and constructing a new one. Highest and best use of the property as improved was determined as follows:

- **Physically Possible**

The subject site is improved with approximately 40,428 square feet of lumber and railcar storage buildings and sheds. Further, land improvements comprise electrical lateral on poles, asphalt paving, concrete curbing, and railroad spurs. The land improvements are in poor condition. The building improvements appear to be in poor physical condition and don't have many years of remaining economic life; however, the physical improvements still contribute to the value of the property and will not likely be removed in the near future.

- **Legally Permissible**

The subject is zoned M3 – Intensive Industrial District by the City of North Chicago. However, the subject property has been recognized as a railroad terminal by the Surface Transportation Board and is exempt from zoning requirements. Based on a review of the legally permissible uses, the current improvements on the subject site are permitted.

- **Financially Feasible**

Although the building improvements appear to be in poor physical condition and don't have many years of remaining economic life, the physical improvements still contribute to the value of the property and will not be removed in the near future. As such continued use as an improved railroad terminal property is considered a financially feasible use of the property.

- **Maximally Productive**

From the preceding discussion of highest and best use, it is concluded that from those physically possible, legally permissible, and financially feasible uses, an improved railroad terminal property will provide the maximum productivity and, thus, is the subject's highest and best use as improved.

Based on an analysis of the above criteria, the highest and best use of the subject property as improved is a railroad terminal.

VALUATION INTRODUCTION

In any determination of value for real estate, data is sought in the local market on such factors as sales of similar properties and tracts of vacant land, current prices for construction materials and labor, rentals of similar properties and their operating expenses, and current rates of return on investments and properties. From this data, values may be developed for the land and the property as a whole.

In completing this appraisal of the real property, we considered all three traditional approaches to value: the cost, sales comparison, and income capitalization approaches. The theory of these traditional approaches is outlined as follows:

- **Cost Approach**

In the cost approach, value is established based on the cost of reproducing or replacing the property, less depreciation from physical deterioration, functional obsolescence, and economic/external obsolescence.

The cost approach generally provides a meaningful indication of the value of land improvements, special buildings, and special structures associated with a viable business or justified by economic demand. The adjusted indicated cost of the improvements is added to the separately estimated market value of the land.

- **Sales Comparison Approach**

In the sales comparison approach, the value of the subject property is estimated through an analysis of recent sales of comparable real property. Similar properties that have recently sold or are offered for sale in the current market are analyzed and compared with the property being appraised, with adjustments being made for differences in such factors as interest conveyed; cash equivalency; time of sale; location, type, and condition of the improvements; and prospective use. This approach is typically the most widely accepted for the valuation of land and existing improved properties where sufficient market data is available.

- **Income Capitalization Approach**

In the income capitalization approach, value is developed on the basis of capitalization of the net earnings that would be generated if a specific stream of income can be attributed to an asset or a group of assets. This approach is most applicable to investment and general-use properties where there is an established and identifiable rental market.

In the land valuation, we applied the sales comparison approach to value as it was considered to be the most pertinent and appropriate in the valuation of the appraised property. Valuation by the sales comparison approach involved a comparison of sales of properties that exhibited characteristics similar to the subject. We utilized the cost approach to value the improvements on site. We have excluded the sales comparison approach as there are not enough comparable railroad terminals to analyze. We have excluded the income capitalization approach due to the improvements having a limited remaining useful life.

The valuation of the subject property is outlined in the subsequent report sections.

VALUATION OF EASEMENT

Valuation Before Imposition of Easement (Before Value)

Land Valuation

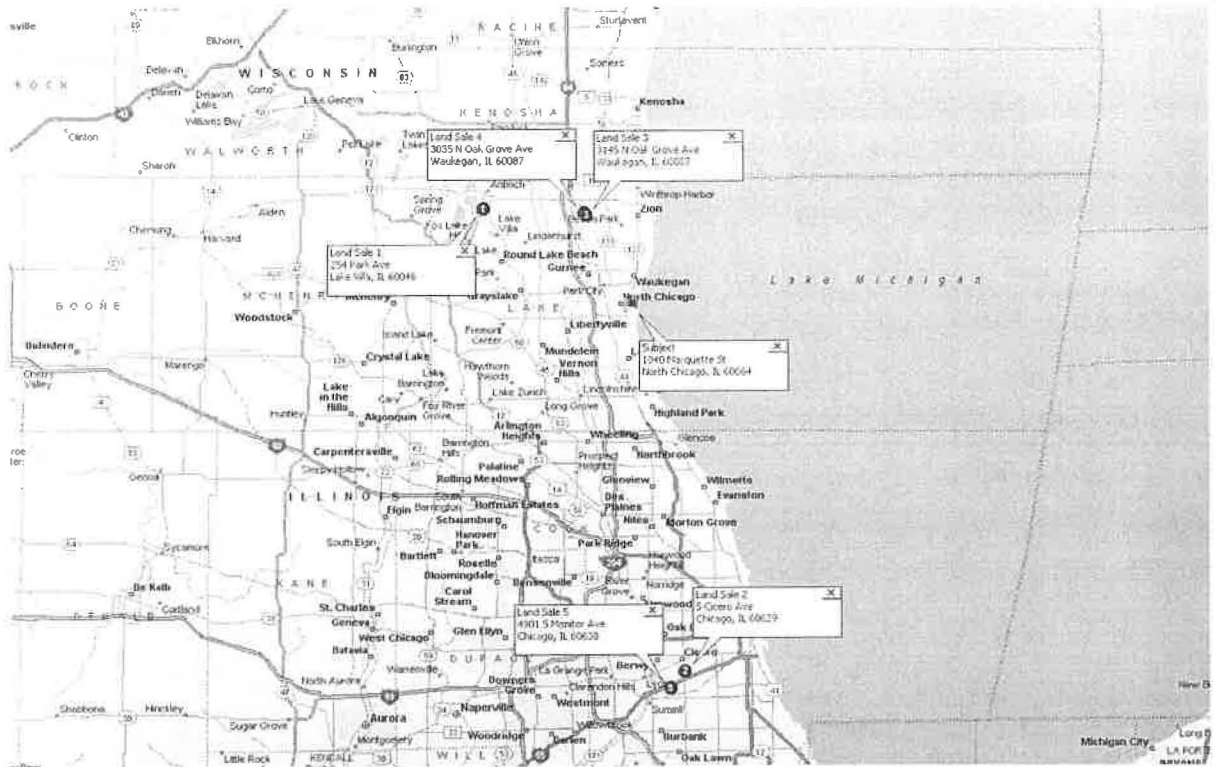
Land is valued as if vacant and available for development to its highest and best use. Similar land that has recently sold is investigated, and a comparative analysis is made of factors influencing value. The market value of the appraised land is determined by direct analysis of sales of similar types of vacant land in the local market. A comparative analysis was then made of factors influencing value. Since a sale seldom possesses all of the various characteristics of an appraised property, some judgment must be made in arriving at a final estimate.

Selection of Comparable Land Sales

Under the sales comparison approach, the estimated market value of the appraised 108,900 square feet of land was determined by direct analysis of sales of similar types of vacant land in the local market. Our market investigation revealed various land comparables that exhibit the general range of unit prices within which the local market is operating. The most pertinent land comparables found as a result of our field investigation are summarized as follows:

Comparable	Address	City	State	Status	Price	Land SF	Price PSF	Date
Subject	1940 Marquette Street	North Chicago	IL			108,900		
1	254 Park Ave	Lake Villa	IL	Sold	\$104,000	43,560	\$2.39	9/19/2018
2	3737 S Cicero Ave	Chicago	IL	Sold	\$3,049,500	304,920	\$10.00	8/22/2018
3	3145 N Oak Grove Ave	Waukegan	IL	Sold	\$775,000	138,966	\$5.58	7/17/2018
4	3035 N Oak Grove Ave	Waukegan	IL	Sold	\$255,000	62,726	\$4.07	3/24/2017
5	4901 S Monitor Ave	Forest View	IL	Sold	\$2,830,000	383,328	\$7.43	12/8/2015

A map showing the locations of the land comparables follows:



Adjustments to Comparable Land Sales

The adjustments made to each land comparable are presented in the following grid:

Land Sales Comparison Grid As of September 21, 2018						
Property Information	Subject	Comp 1	Comp 2	Comp 3	Comp 4	Comp 5
Address	1940 Marquette Street North Chicago IL	254 Park Ave. Lake Villa IL	3737 S. Forest Ave. Chicago IL	3115 N. Oak Grove Ave. Waukegan IL	3035 N. Oak Grove Ave. Waukegan IL	4901 S. Algonquin Ave. Forest View IL
Transaction Information						
Date	September 18	September 18	August 18	July 18	March 17	December 15
Property Rights	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Price		\$104,000	\$3,049,500	\$775,000	\$255,000	\$2,850,000
Land SF	108,900	43,560	301,920	138,966	62,726	383,328
Company		N/A	CTGO Petroleum Corporation	Dewco Realty, Inc.	Woodhouse LLC	RFM Properties LLP
Company		N/A	Hamilton Partners	Kanter	N/A	Four Site Monitor, LLC
Price per Unit		\$2.39	\$10.00	\$5.58	\$4.07	\$7.43
Property Information						
Shape / Topography	Rectangular / Generally Level	Rectangular / Level	Irregular / Level	Rectangular / Level	Rectangular / Level	Irregular / Level
Zoning	M3 - Intensive Industrial District	I-4	Industrial	I-1, Industrial	Industrial	I-3
Proposed Use	Railroad Terminal	Industrial	Industrial	Industrial	Industrial	Industrial
Transaction Adjustments						
Property Rights		=	=	=	=	=
Financing		=	=	=	=	=
Conditions of Sale		=	=	=	+	+
Market Conditions		=	=	=	=	=
Property Adjustments						
Location	Average	+	-	=	=	
Land SF	108,900	=	+	=	-	-
Shape / Topography	Rectangular / Generally	=	+	=	=	+
Zoning	Intensive Industrial Dist	=	=	=	=	=
Railroad Access	Yes	+	+	+	+	+
Access / Frontage	Average	=	=	=	=	=
Proposed Use	Railroad Terminal	=	=	=	=	=
Net Property Adjustments		+	+	-	+	+
Property Adjustments		Positive	Positive	Positive	Positive	Positive

In estimating the market value for the subject property in its entirety before imposition of the easement, we considered the following:

- The size, shape, zoning, available utilities, and other physical attributes of the subject property compared to properties within the marketplace
- Recent land development trends within the local neighborhood and surrounding area
- The fact that the subject property is situated outside the 500-year floodplain
- The subject property's frontage along the west side of Marquette Street and the existing access to the subject property
- Recent trends in industrial land values
- Any and all setback requirements as set forth by local zoning code

Overall Comparability

A summary grid of the overall comparability of the selected sales is below:

Ranges & Reconciled Values	
Unadjusted Low:	\$2.39
Unadjusted High:	\$10.00
Unadjusted Average:	\$5.89
Reconciled Value/Unit Value:	\$6.00
Subject Size:	108,200
Type of Unit Value:	Square Foot
Indicated Value:	\$653,400
Reconciled Final Value:	\$650,000

Based on our analyses, it is our opinion that, as of September 21, 2018, the estimated market value of the subject property is reasonably represented in the amount of \$6.00 per square foot, or \$650,000.

Cost Analysis

The next step in the cost approach is to estimate the replacement cost of the buildings and site improvements. The replacement cost estimates are based on *Marshall Valuation Service*.

As defined by the Appraisal Institute in *The Appraisal of Real Estate*, 14th edition, "replacement cost" is:

The cost to construct, at current prices, a building with utility equivalent to the building being appraised, using modern materials and current standards, design, and layout.

Additional Soft Costs

Additional Soft costs, or indirect costs, are expenditures for items other than labor and materials that are not necessary for the construction, but are typically part of the construction contract. Additional Soft costs may include administrative costs, professional fees, financing costs and the interest paid on construction loans, taxes, builders insurance, marketing, sales, and lease-up costs. Additional soft costs typically range from 10% to 20% of construction costs and are estimated be 10% of construction costs, which we find to be reasonable.

Entrepreneurial Incentive

Entrepreneurial incentive is the compensation a person receives for his or her contribution to a project and risk and is reflected as the difference between the total cost of a property and its market value. This factor reflects the profit necessary for the developer to undertake the management, responsibility and risks of construction associated with the subject property. Typically, entrepreneurial incentive runs 5% to 20%. We have computed entrepreneurial incentive at 10% of construction and soft costs, which we find to be reasonable.

Depreciation Analysis

Depreciation is the difference between the contributory value of an improvement and its cost at the time of appraisal. There are three general areas of depreciation: physical deterioration, functional obsolescence and external obsolescence. Depreciation may be curable or incurable. Curable depreciation refers to items of physical deterioration or functional obsolescence that are economically feasible to cure (i.e., the cost to cure is equal to or less than the anticipated increase in value of the property). Incurable depreciation generally refers to physical deterioration or functional obsolescence that cost more to cure than the anticipated increase in value of the property.

Physical Deterioration

Physical deterioration is depreciation that results from aging and use. This type of depreciation may be curable or incurable. Curable physical depreciation applies to items that in need of immediate repair on the effective date of the appraisal, known as deferred maintenance. Incurable physical depreciation cannot be practically or economically corrected.

Functional Obsolescence

Functional obsolescence is caused by a flaw in the structure, materials, or design of the improvements when compared with the highest and best use and most cost-effective functional design requirements at the time of appraisal. Functional obsolescence may be curable or incurable is caused by a deficiency or super-adequacy. We have no cause to believe there is material functional obsolescence at the subject properties.

External Obsolescence

External obsolescence is a loss in value caused by factors outside a property and is often incurable. External obsolescence may be caused by economic or locational factors and can be temporary (e.g. an oversupplied market) or permanent (e.g. proximity to an environmental disaster). This type of depreciation is rarely curable.

The replacement cost new less depreciation values for buildings and site improvements for the subject properties can be found in the Exhibit D.

Indicated Value – Cost Approach

Based on the preceding analysis, the cost approach indicates a retrospective fair market value for the appraised property of \$1,000,000, distributed as follows:

Description	Replacement Cost (\$)	Less Depreciation	Replacement Cost Less Depr. (\$)
Buildings	\$1,430,000	\$1,150,000	\$280,000
Land Improvements	\$440,000	\$370,000	\$70,000
Total Improvements	\$1,870,000	\$1,520,000	\$350,000
Land Value	\$650,000	N/a	\$650,000
Value Indicated by the Cost Approach	\$2,520,000		\$1,000,000

Concluded Before Value

Given the data provided above, a total value of \$1,000,000, or \$24.74 per square foot, is believed reasonable for the entire property before imposition of the easements, as summarized below:

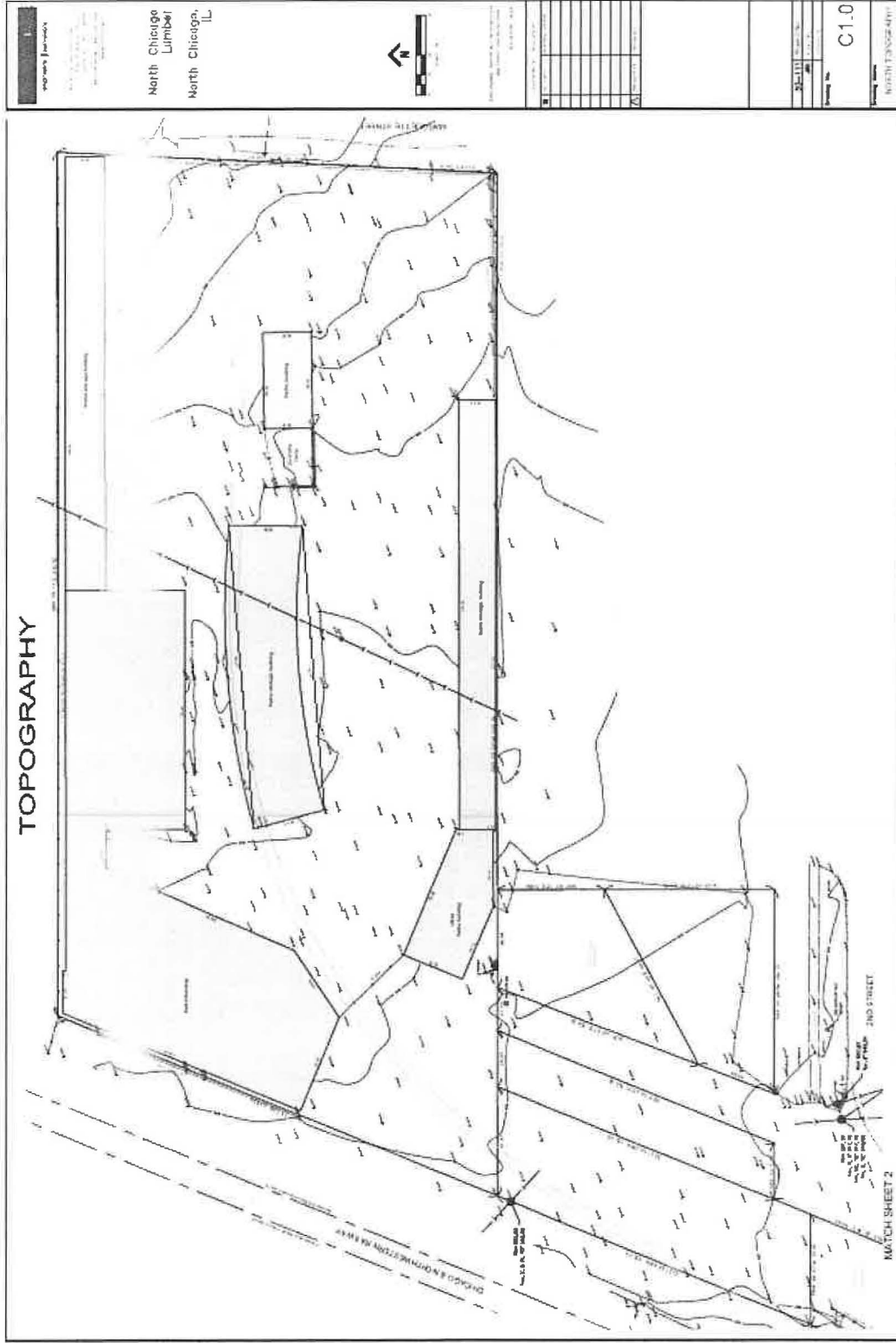
Land (Before Value)	\$650,000
Improvements (Before Value)	\$350,000
Total Before Value	\$1,000,000

THE TAKING

Description of the Taking

The subject property will be encumbered by a 25-foot-wide permanent pipeline easement encompassing 11,313 square feet. The permanent pipeline easement's midpoint is 35 feet south of the north border of the subject. The permanent pipeline easement will be 25 feet wide with the pipeline running through the middle of the easement. The topography of the subject land is generally level throughout the easements. All of the area within the easement currently comprises railroad terminal square footage. A topography map showing the location of the easement highlighted in yellow follows:

Easement Plat



Details of the Permanent Easement

Rights	Own, control, and maintain 24-inch water main pipe.
Width	25 feet
Square Footage of Easement Area	11,313 square feet

VALUATION AFTER IMPOSITION OF EASEMENTS (AFTER VALUE)

The subject property comprises 108,900 total square feet of improved land utilized for lumber and railcar storage purposes. The site will be encumbered by a 25-foot-wide permanent pipeline easement encompassing 11,313 square feet. The permanent pipeline easement's midpoint is 35 feet south of the north border of the subject. The permanent pipeline easement will be 25 feet wide with the pipeline running through the middle of the easement. The easement will take over part of four of the lumber storage buildings and sheds; and thus, we have included replacement costs and demolition costs of the four improvements in our just compensation analysis. The easement separates 9,899 square feet of land along the north border of the property from the larger parcel. We have added additional damages for the loss of some property rights to the separated land. The topography of the subject land is generally level throughout the easement and damaged area. All of the area within the easement and damaged area currently comprises of railroad terminal land.

Effects and Net Results of the Take

In considering the effect of the new easement on the value of the subject property, it is useful to consider how the easement affects the use of the property and the rights that the easement transfers to the City of North Chicago. The benefits of real property ownership are derived from a "bundle of rights" that an owner possesses. When ownership rights are inhibited (by an easement or similar encumbrance), a change in property value could result. Similarly, a property can only achieve its highest value if it can legally perform its most useful function.

To estimate the percentage of property rights affected within the new easement area, we consider a number of factors including, but not limited to, present use of the easement area, future use of the easement area, building and zoning restrictions, access considerations, market perception as reported by participants, and the remaining use and utility of the property within the easement area. We determined the following factors to be the most applicable:

- Construction/building restrictions
- Encumbered utilization
- Other factors unique to the subject site

The square footage within the new pipeline easement area is used for railroad terminal purposes which is exempt from the M3 – Intensive Industrial District zoning requirements and will likely remain as such for the foreseeable future. The 25-foot wide easement area with the midpoint being 35 feet south of the north border of the subject property prevents railroad terminal development. As a result, we have estimated the percentage of property rights to be acquired to be 90% within the 11,313 square feet of new easement area.

The likely buyer of the subject property would consider the effect of the new easement and pipeline on the property's value. For the subject property, we believe that the percentage of property rights affected by the new easement adequately quantify the reduction in value of the property as a whole. Thus, we estimate that the new easement reduces the subject property's value by \$61,000, shown as follows:

	Square Feet		\$/SF		Est. Taking		Easement Taking
Pipeline Easement Area	11,313	×	\$6.00	×	90%	=	\$61,088
Total Permanent Easement							\$61,000

Two of the peer-published studies we considered regarding the percentage of property rights acquired within the new easement area are: (1) Donnie Sherwood's "The Valuation of Easements" *Right of Way Magazine* (November/December 2014); and (2) William R. Lang, MAI, and Brett A. Smith "Valuing a Gas

Pipeline Easement – A History and Synthesis of Methodology" *Right of Way Magazine* (September/October 1998)

Mr. Sherwood states that the percentage of property rights affected by an easement can vary from 0% to 100%, depending on the impact the easement has on surface rights. For easements where both the landowner and the easement holder can use the easement area, but where it has anywhere from major to a severe impact on surface use of the easement area, Mr. Sherwood views the easement as transferring 50% to 100% of the property rights. In this case, we concluded the impact would transfer 90% of the property rights.

Percent of Fee	Surface Impact	Potential Types of Easements
90-100%	Severe impact on surface use	Railroad, exclusive access, irrigation, flowage, overhead electric
75-89%	Major impact on surface use	Railroad, flowage, drainage, pipeline overhead electrical
51-74%	Some impact on surface use	Pipeline, scenic
50%	Balanced impact on surface use	Water, sewer, cable, telecommunications
26-49%	Location along property line or across non-useable area	Water, sewer, cable
11-25%	Subsurface or air rights with minimal effect on use or utility	Water, sewer, air rights
0-10%	Nominal effect on use or utility	Small subsurface easements

Mr. Sherwood states "the impact the easement has on the use and utility of the real property is what counts."

As previously stated, the pipeline is underground within the easement area. The easement prevents the area from being utilized for railroad terminal purposes. Therefore, given the severe impact on the utility of the easement area, it is reasonable to conclude that the effect of the new pipeline easement on the encumbered rights would fall within the 50% to 100% (severe impact on use or utility) range. Therefore, we concluded the impact would transfer 90% of the property rights.

There are four buildings within the easement area. We have calculated the replacement cost and replacement cost less depreciation below.

Replacement Cost of Buildings 5, 6, 7 & 8	\$990,000
Less Depreciation	\$790,000
Equals Replacement Cost Less Depreciation of Buildings 5, 6, 7 & 8	\$200,000

Based upon our knowledge, experience, review of peer-published studies regarding the impact of pipeline easements on property values, and those factors previously mentioned, we do believe additional damages are warranted due to imposition of the easement. Since the easement runs east-west through the entire parcel, the easement denies access to the north area of the parcel, thus preventing use as a railroad terminal. The easement separates 9,899 square feet of land along the north border of the property from the larger parcel. The separation causes a major impact on the property rights. In this case, we concluded the impact would transfer 85% of the property rights. We concluded the property owner retains a few more property rights with the damaged north area than the easement since the area can still be utilized to create a buffer with trees and shrubs. We estimate the damages reduce the subject property's value by \$50,000, shown as follows:

	Square Feet		\$/SF		Est. Taking		Easement Taking
North Area Damages	9,899	×	\$6.00	×	85%	=	\$50,484
Total Damages							\$50,000

Accordingly, the value of the subject property after imposition of the easements is estimated to be \$689,000, calculated as follows:

Estimated Value Before Imposition of Easement	\$1,000,000
Less Pipeline Easement Taking	\$61,000
Less Replacement Costs Less Depreciation of Buildings 5, 6, 7 & 8	\$200,000
Less Damages to North Land Area	\$50,000
Equals Estimated Value After Imposition of Easement	\$689,000

CONCLUSION

Based on the information and analysis summarized in this report, it is our opinion that, as of September 21, 2018, the total estimated just compensation due to the imposition of the permanent easement is reasonably represented in the amount of \$311,000, allocated as follows:

Value of 25-Foot-Wide Easement Land	\$61,000
Value of Replacement Costs Less Depreciation of Buildings 5, 6, 7 & 8	\$200,000
Damages for North Land Area	\$50,000
Equals Estimated Total Just Compensation	\$311,000

Furthermore, the pipeline easement will overlap onto four existing buildings. As such, the value of the easement considers the demolition costs of the four buildings. The value of the demolition costs is estimated to be \$127,000. Therefore, the total payment due to property owner is calculated to be \$438,000.

Value of Easement Land	\$61,000
Value of Replacement Costs Less Depreciation of Buildings 5, 6, 7 & 8	\$200,000
Damages for North Land Area	\$50,000
Payment of Demolition Costs	\$127,000
Equals Estimated Total Payment Due to Property Owner	\$438,000

Per the client's request, we have included our opinion of the total estimated just compensation due to the imposition of the easement assuming the buildings affected are compensated at replacement cost.

Value of 25-Foot-Wide Easement Land	\$61,000
Value of Replacement Costs of Buildings 5, 6, 7 & 8	\$990,000
Damages for North Land Area	\$50,000
Equals Estimated Total Just Compensation	\$1,101,000

EXHIBIT A – EASEMENT RIGHTS; AMMEDED COMPLAINT FOR INVERSE CONDEMNATION

FILED
3/2/2018 11:05 AM
ERIN CARTWRIGHT WEINSTEIN
Clerk of the Circuit Court
Lake County, Illinois

IN THE NINETEENTH JUDICIAL CIRCUIT COURT OF
LAKE COUNTY ILLINOIS—CHANCERY DIVISION

2 nd & MAIN, LLC,	)	
	)	
Plaintiff,	)	17 MR 1149
	)	
v.	)	
	)	
THE CITY OF NORTH CHICAGO,	)	JURY TRIAL DEMANDED
	)	
Defendant.	)	

AMENDED COMPLAINT

COUNT I FOR INVERSE CONDEMNATION
(MANDAMUS)

NOW COMES the Plaintiff, 2nd & MAIN, LLC, by and through its attorneys,
CHURCHILL, QUINN, RICHTMAN & HAMILTON, LTD., for its Complaint for Inverse
Condemnation against the CITY OF NORTH CHICAGO and states as follows:

1. On June 25, 2014 by deed recorded on August 11, 2014 as document number 7122386,
2nd & MAIN, LLC, became the owner of certain real estate (hereafter the "Property")

located in North Chicago and described as follows:

A Part of the North Half of the Northwest Quarter of Section 4,
Township 44 North, Range 12, East of the Third Principal
Meridian, described as follows: Beginning at a point on the
Easterly Right of Way Line of the Chicago and North Western
Railway Company, which point is 772.10 feet measured along said
Right of Way Line Southerly of the intersection of said Right of
Way Line with the Southerly Right of Way Line of the Elgin,
Joliet and Eastern Railway Company; running thence East on a
Line parallel with the South Line of said Northwest Quarter of the
said Section 4, a distance of 515.8 feet the West Line of Marquette
Street; thence Northerly along the West Line of Marquette Street,
approximately 220 feet to the Southeast Corner of the former J.W.
Aulson and Sons Corporation Property, more particularly
described by Warranty Deed dated April 20, 1921 and Recorded

April 26, 1921, as Document 201389; thence West 435 feet on the South Line of said Former J. W. Aulson and Sons Corporation Property to said Easterly Right of Way of said Chicago and North Western Railway Company; running thence in a Southerly direction along said Easterly Right of Way Line to the point of beginning, in Lake County, Illinois.

2. The City of North Chicago was incorporated as a city in 1901.
3. After 1901 North Chicago or its agents without obtaining an easement or other right to the property, installed a 24" water main pipe on the Property.

That pipe is highlighted in yellow and shown on the attached Exhibit A.

4. North Chicago has at all times relevant owned, controlled and maintained this pipe.
5. On April 10, 2014, before purchasing the Property, 2nd & Main requested through counsel that North Chicago obtain a "legal, recordable easement that will protect both parties should we close". A copy of that request is attached as Exhibit B.
6. That same day, North Chicago's counsel, Charles W. Smith, responded that "the City is willing to extend such an easement...". A copy of that response is attached as Exhibit C.
7. There are environmental issues on the property so any work or removal of the pipe would raise significant environmental concerns, but based on the assurance of North Chicago's counsel, 2nd & Main closed on the purchase of the property.
8. Despite the assurance no easement was ever obtained by North Chicago.
9. The existence of this pipe constitutes a taking of a portion of the Property by North Chicago from 2nd & Main.
10. North Chicago has never brought condemnation proceedings or otherwise obtained an easement for the above described taking of the Property.

11. Section 15 of the Constitution of the State of Illinois provides that “[p]rivate property shall not be taken or damaged for public use without just compensation as provided by law.”

12. The taking of said portion of the Property without formal proceedings amounts to an inverse condemnation whereby North Chicago is lawfully required to initiate condemnation proceedings for the physical taking of said property and 2nd & Main is entitled judgment in an amount representing just compensation for the taking. [See

Rosenthal v. City of Crystal Lake, 171 Ill.App. 3d 428, 525 N.E. 2d 1176, 1181 (2nd Dist. 1988)]

13. Pursuant to 735 ILCS 30/10-5-65, 2nd & Main is entitled to recover funds reimbursing 2nd & Main for its “reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees actually incurred by the property owner in those proceedings.”

WHEREFORE the Plaintiff, 2nd & Main, LLC hereby request that this Court issue a writ of mandamus requiring the City of North Chicago to institute condemnation proceedings and for just compensation, including its attorney fees and expenses, in an amount to be determined at trial, and for any other relief the Court deems just.

COUNT II –TRESPASS

1. The Plaintiff, 2nd & MAIN, LLC, owns and possesses the following real estate (hereafter the “Property”) located in North Chicago and described as follows:

A Part of the North Half of the Northwest Quarter of Section 4, Township 44 North, Range 12, East of the Third Principal Meridian, described as follows: Beginning at a point on the Easterly Right of Way Line of the Chicago and North Western Railway Company, which point is 772.10 feet measured along said

Right of Way Line Southerly of the intersection of said Right of Way Line with the Southerly Right of Way Line of the Elgin, Joliet and Eastern Railway Company; running thence East on a Line parallel with the South Line of said Northwest Quarter of the said Section 4, a distance of 515.8 feet the West Line of Marquette Street; thence Northerly along the West Line of Marquette Street, approximately 220 feet to the Southeast Corner of the former J.W. Aulson and Sons Corporation Property, more particularly described by Warranty Deed dated April 20, 1921 and Recorded April 26, 1921, as Document 201389; thence West 435 feet on the South Line of said Former J. W. Aulson and Sons Corporation Property to said Easterly Right of Way of said Chicago and North Western Railway Company; running thence in a Southerly direction along said Easterly Right of Way Line to the point of beginning, in Lake County, Illinois.

2. The City of North Chicago was incorporated as a city in 1901.
3. After 1901, North Chicago or its agents, without obtaining an easement or other right to the property, installed a 24" water main pipe on the Property. That pipe is highlighted in yellow and shown on the attached Exhibit A.
4. North Chicago has at all times relevant owned, controlled and maintained this pipe on 2nd & Main's property and if a trespass is continuing any person in possession of the land at any time during its continuance may maintain an action for trespass. [See *Rosenthal v. City of Crystal Lake*, 171 Ill.App. 3d 428, 525 N.E. 2d 1176, 1181 (2nd Dist. 1988)]
5. By reason of the above actions North Chicago has wrongfully interfered with 2nd & Main's actual possessory rights in the Property and, as a result, 2nd & Main has and continues to suffer damages.

WHEREFORE the Plaintiff, 2nd & Main, LLC prays that a judgment be entered against North Chicago for damages in excess of \$50,000, attorney's fees and costs of suit.

COUNT III –EJECTMENT PLEAD IN THE ALTERNATIVE

1. 1. On June 25, 2014 by deed recorded on August 11, 2014 as document number 7122386, 2nd & MAIN, LLC, became the owner of certain real estate (hereafter the “Property”) located in North Chicago and described as follows:

A Part of the North Half of the Northwest Quarter of Section 4, Township 44 North, Range 12, East of the Third Principal Meridian, described as follows: Beginning at a point on the Easterly Right of Way Line of the Chicago and North Western Railway Company, which point is 772.10 feet measured along said Right of Way Line Southerly of the intersection of said Right of Way Line with the Southerly Right of Way Line of the Elgin, Joliet and Eastern Railway Company; running thence East on a Line parallel with the South Line of said Northwest Quarter of the said Section 4, a distance of 515.8 feet the West Line of Marquette Street; thence Northerly along the West Line of Marquette Street, approximately 220 feet to the Southeast Corner of the former J.W. Aulson and Sons Corporation Property, more particularly described by Warranty Deed dated April 20, 1921 and Recorded April 26, 1921, as Document 201389; thence West 435 feet on the South Line of said Former J. W. Aulson and Sons Corporation Property to said Easterly Right of Way of said Chicago and North Western Railway Company; running thence in a Southerly direction along said Easterly Right of Way Line to the point of beginning, in Lake County, Illinois.

2. The City of North Chicago was incorporated as a city in 1901.
3. After 1901, while the predecessors of Plaintiff were in title and possession of the Property, North Chicago or its agents, without obtaining an easement or other right to the property, installed a 24" water main pipe on the Property. That pipe is highlighted in yellow and shown on the attached Exhibit A.
4. Ejection is proper even where entry by Defendant is made prior to Plaintiff's acquisition of the property. [See *Rosenthal v. City of Crystal Lake*, 171 Ill.App. 3d 428, 525 N.E. 2d 1176, 1179 (2nd Dist. 1988)]
5. North Chicago has at all times relevant owned, controlled and maintained this pipe.

6. The Defendants unlawfully withheld possession of said premises from 2nd & Main.

WHEREFORE the Plaintiff, 2nd & Main, LLC hereby request judgment for possession of said premises and for its damages in an amount necessary to remove the water main pipe and restore its property as well as for costs of suit.

COUNT IV-INJUNCTION PLEAD IN THE ALTERNATIVE

1. The Plaintiff, 2nd & MAIN, LLC, owns and possesses the following real estate (hereafter the "Property") located in North Chicago and described as follows:

A Part of the North Half of the Northwest Quarter of Section 4, Township 44 North, Range 12, East of the Third Principal Meridian, described as follows: Beginning at a point on the Easterly Right of Way Line of the Chicago and North Western Railway Company, which point is 772.10 feet measured along said Right of Way Line Southerly of the intersection of said Right of Way Line with the Southerly Right of Way Line of the Elgin, Joliet and Eastern Railway Company; running thence East on a Line parallel with the South Line of said Northwest Quarter of the said Section 4, a distance of 515.8 feet the West Line of Marquette Street; thence Northerly along the West Line of Marquette Street, approximately 220 feet to the Southeast Corner of the former J.W. Aulson and Sons Corporation Property, more particularly described by Warranty Deed dated April 20, 1921 and Recorded April 26, 1921, as Document 201389; thence West 435 feet on the South Line of said Former J. W. Aulson and Sons Corporation Property to said Easterly Right of Way of said Chicago and North Western Railway Company; running thence in a Southerly direction along said Easterly Right of Way Line to the point of beginning, in Lake County, Illinois.

2. The City of North Chicago was incorporated as a city in 1901.

3. After 1901, while the predecessors of Plaintiff were in title and possession of the

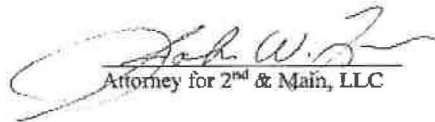
Property, North Chicago or its agents, without obtaining an easement or other right to the property, installed a 24" water main pipe on the Property. That pipe is highlighted in yellow and shown on the attached Exhibit A.

4. North Chicago has at all times relevant owned, controlled and maintained this pipe.
5. The Defendants unlawfully withheld possession of said premises on which the water main pipe is located from 2nd & Main.
6. The Plaintiffs have no adequate remedy at law.

WHEREFORE the Plaintiff, 2nd & Main, LLC hereby requests an order:

- a) Enjoining and restraining the City of North Chicago from maintaining the 24" water main pipe on the Property.
- b) Directing and mandating the Defendant City of North Chicago to remove the 24" water main pipe from the Plaintiff's property.
- c) For such other and further relief as the Court deems just and proper.

Respectfully submitted:



Attorney for 2nd & Main, LLC

John W. Quinn
Churchill, Quinn, Richtman & Hamilton Ltd.
2 South Whitney St.
Grayslake, IL 60030
Phone: 847-223-1500
2270706
jquinn@grayslakelaw.com

(1) Grayslake, IL 2nd & Main, LLC (Plaintiff) v. City of North Chicago (Defendant) (Copyright) 2014

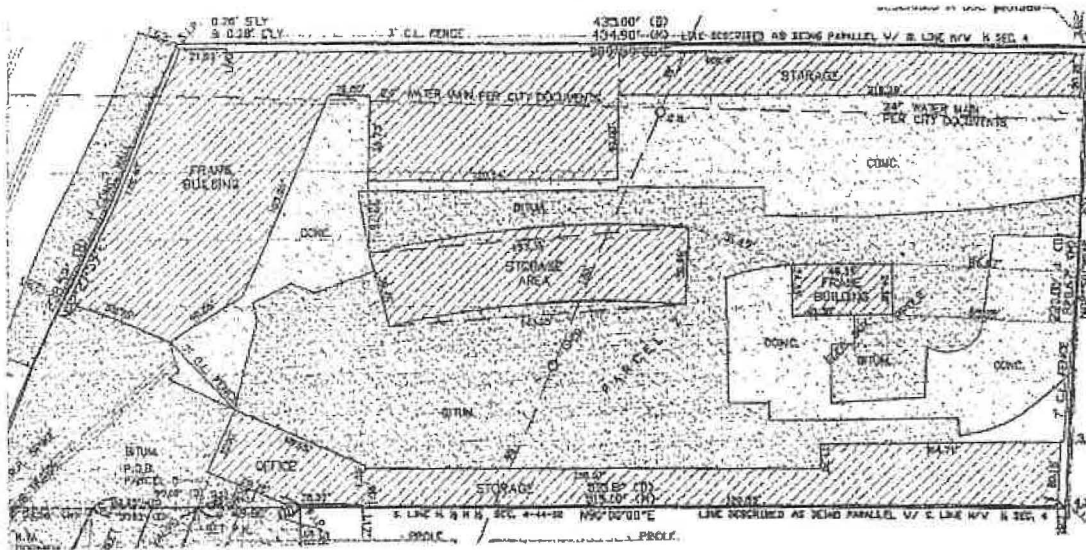


EXHIBIT A

MICHAEL W. GANTAR, LTD.
ATTORNEY AT LAW
382 LAKE STREET
P.O. BOX 595
ANTIOCH, ILLINOIS 60002

(847) 395-1400
mwg@csmithlaw.com

FAX: (847) 395-4810
Licensed in IL & WI

April 10, 2014

Chuck.smith@csmithlaw.com
Mr. Chuck W. Smith
Smith & LaLuzerne
One N. County Street
Waukegan, Illinois 60085

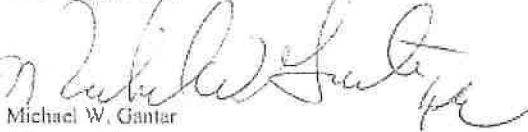
Re: Norland North Chicago LLC to Lumberyard Storage LLC and 2nd & Main LLC

Dear Chuck:

As you may know, I represent the contract purchaser with a transaction with Norstates Bank, the title holder to the old lumber yard on Sheridan Road in North Chicago. One of the stumbling blocks in closing this transaction is the issue of possible unrecorded easements for its water mains and sanitary sewers. I am enclosing herewith the title commitment issued by Chicago Title and would direct your attention to exception number 28. It is my understanding that this matter may be addressed at the board meeting on the 28th and my client and I are seeking a legal, recordable easement that will protect both parties should we close. More specifically, I believe the easement must identify the location of the city's lines, how my client or future owners will be protected should the city need to come onto the land to maintain, repair or install new lines, and the actual dimensions of the easement as needed by the city. I have been told the person with first-hand knowledge of this problem is the surveyor, Frank Furlan, of Northern Illinois Survey, Inc. who can be reached at (847) 662-4568. I would request that you raise this issue with the city at the next general meeting and advise me as soon as possible as to their decision with the hope that we can complete this closing sometime in May.

I wish to thank you in advance for your assistance in this matter.

Very truly yours,



Michael W. Gantar
Attorney at Law

MWG:kh

Enclosure

cc: Phil Dahl
Lisa Spellman, lsPELLMAN@polsinelli.com
Jennifer Worstell, jworstell@polsinelli.com

EXHIBIT B

SMITH, LaLUZERNE & HARTMAN, LTD.

A Professional Corporation

Attorneys at Law

One North County Street

Waukegan, Illinois 60085-4303

Telephone 847/775-7700

Facsimile 847/682-6834

Charles W. Smith

Lawrence R. LaLuzerne

James C. Hartman

Joel D. Gingisa

Brian G. Smith

email: chuck.smith@cmllhlaw.com

April 10, 2014

Michael W. Gantar

Attorney at Law

P.O. Box 585

Antioch IL 60002

via mwg@gd-law.com

**Re: Norland North Chicago LLC to Lumberyard Storage
LLC and 2nd & Main LLC**

Dear Mike:

I am in receipt of your April 10, 2014 letter regarding the request for a recorded easement for North Chicago's water main running through the property of the old Hines lumber yard. The City is willing to extend such an easement and I will work with Frank Furlin to get a legal description of the easement and hopefully take it before City Council on April 21.

Should any questions exist, please feel free to contact me.

Sincerely,

SMITH, LaLUZERNE & HARTMAN, LTD.



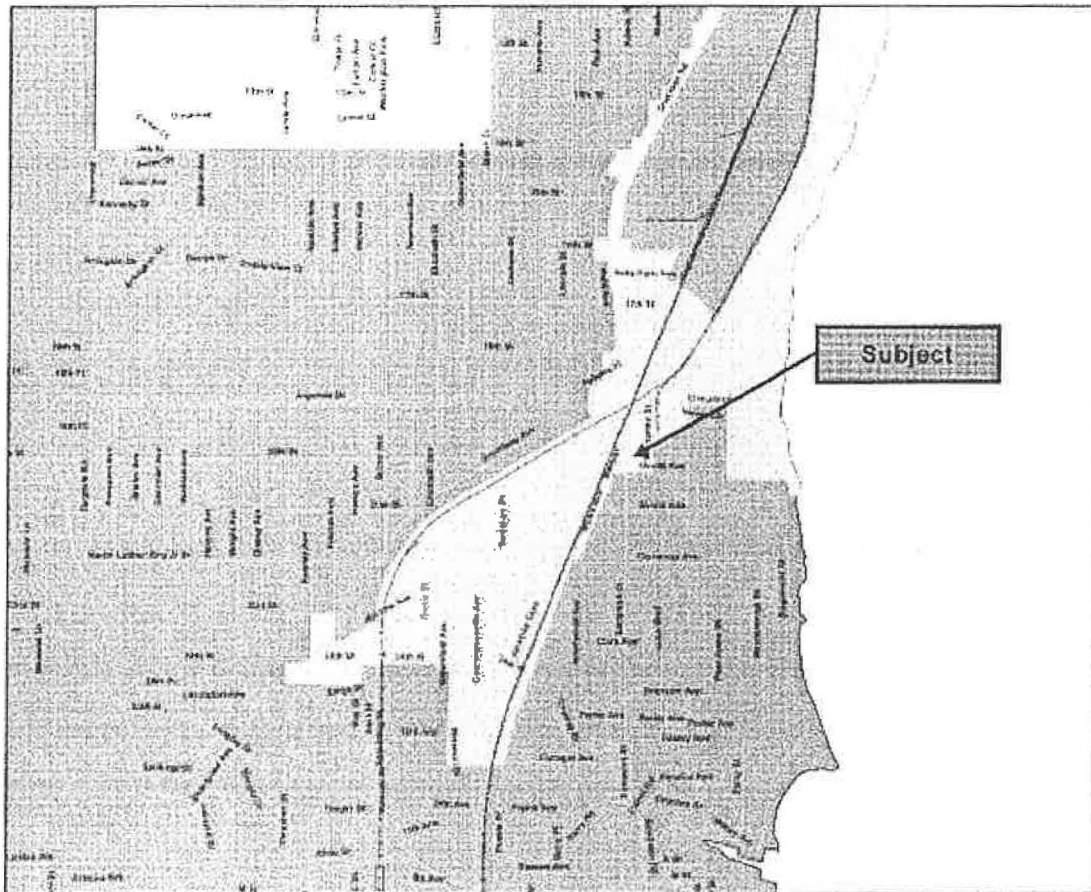
Charles W. Smith

CWS:sd

EXHIBIT C

EXHIBIT B – City of North Chicago TIF District Map

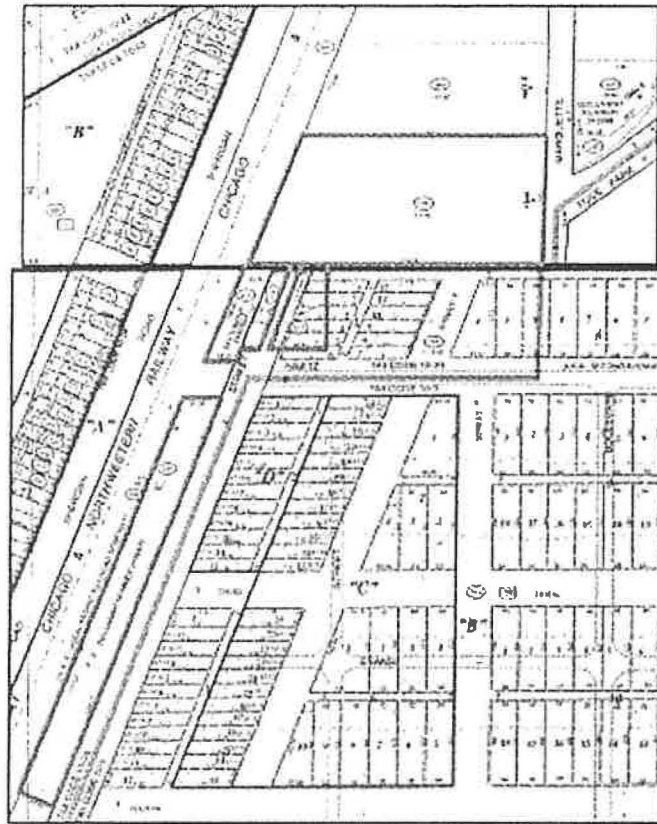
City of North Chicago TIF District Map



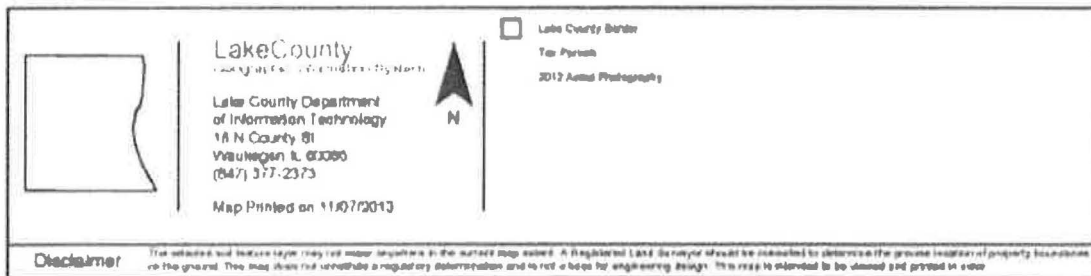
Legend

- +--- Railroad
- Road
- TIF Area
- City Limit

EXHIBIT C – REAL ESTATE TAX PARCEL MAP



Lake County, Illinois



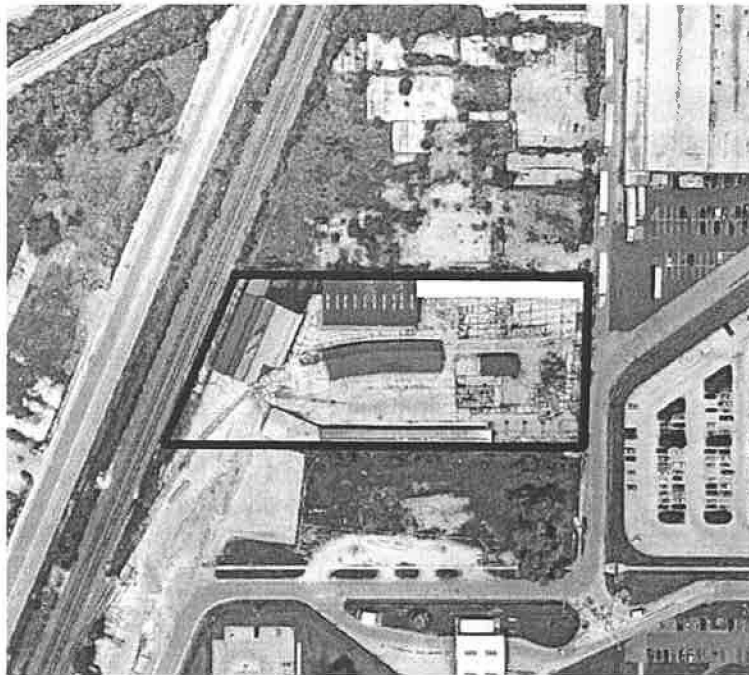


EXHIBIT E – INSPECTION PHOTOGRAPHS



Buildings 2 & 3



Buildings 1 & 2



Building 6



Buildings 1 & 2



Building 5



Buildings 3, 6 & 8



Building 3



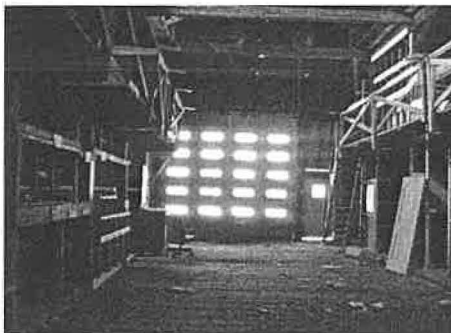
South View from Subject



Buildings 1 & 8



Buildings 3, 4 & 6



Building 3



Building 4

EXHIBIT F – IMPROVEMENT DESCRIPTION

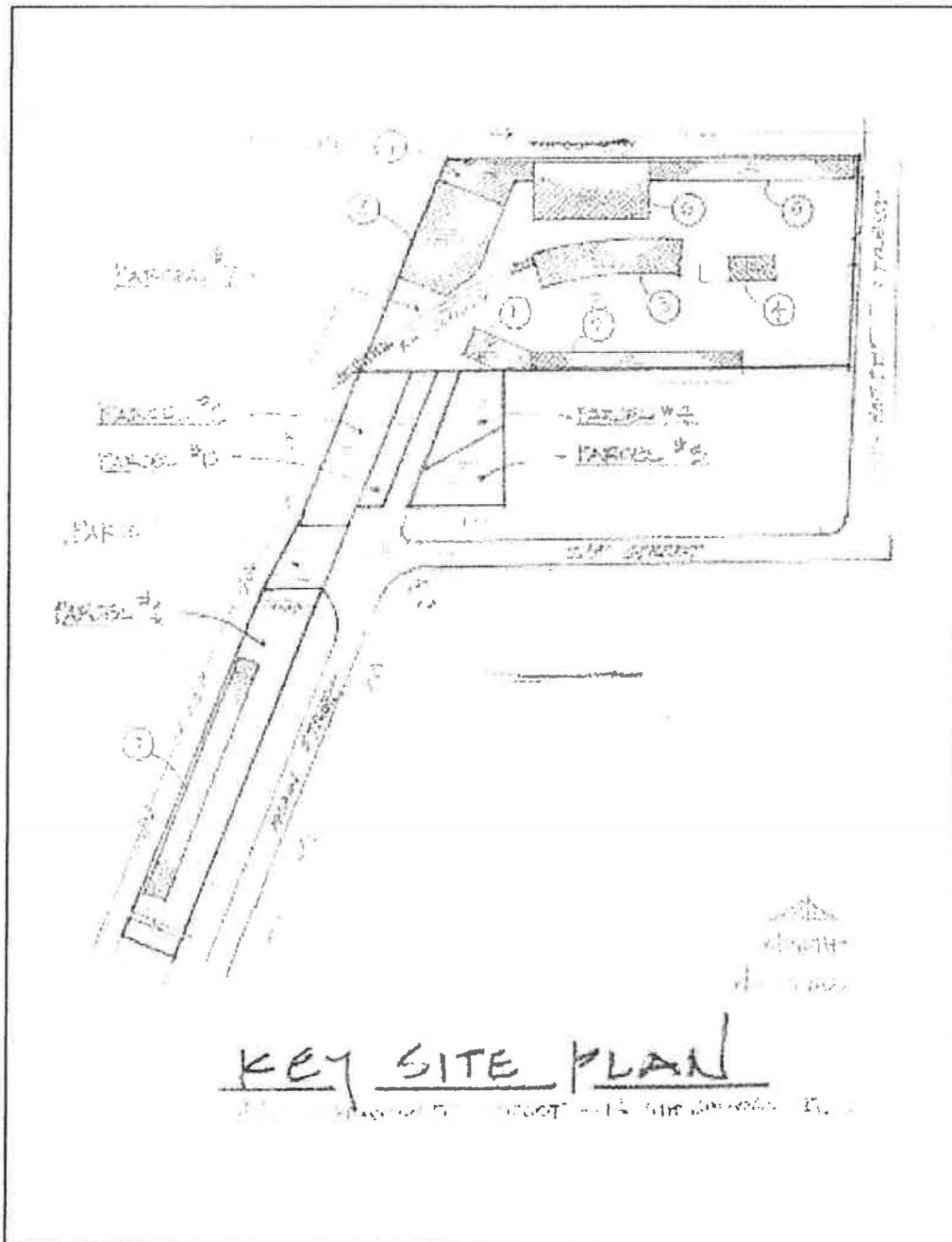


EXHIBIT G – IMPROVEMENT COST DETAILS

Economic Age and Life	
Actual Age	N/a
Effective Age	20
Normal Useful Life	25
Remaining Useful Life	5
Accrued Physical Depreciation	80%
Base Building Information - 1	
M&S Section/Page/Class	15/17/D
Building Component	Office Building
Base Square Foot Cost	\$71.50
Square Foot Refinements	
Electrical	\$0.00
Sprinklers	\$0.00
Subtotal	\$71.50
Height and Size Refinements	
Number of Stories Multiplier	1.000
Height/Story Multiplier	0.900
Perimeter Multiplier	1.072
Subtotal	\$68.98
Cost Multipliers	
Current Cost Multiplier	1.040
Local Cost Multiplier	1.220
Final Square Foot Cost	<u>\$87.53</u>
Gross Building Area	2,115
Base Building Cost	\$185,117
Indirect Costs	
Soft Costs	\$18,512
Entrepreneurial Incentive	<u>\$18,512</u>
Subtotal	\$37,023
Indicated Building Replacement Cost	<u>\$222,141</u>

<i>Base Building Information - 2</i>	
M&S Section / Page / Class	17 / 17 / D
Building Component	Lumber Storage Shed
Base Square Foot Cost	\$13.05
<i>Square Foot Refinements</i>	
Electrical	\$0.84
Sprinklers	\$0.00
Subtotal	\$13.89
<i>Height and Size Refinements</i>	
Number of Stories Multiplier	1.000
Height/Story Multiplier	1.077
Perimeter Multiplier	0.945
Subtotal	\$14.14
<i>Cost Multipliers</i>	
Current Cost Multiplier	1.030
Local Cost Multiplier	1.220
Final Square Foot Cost	\$17.76
Gross Building Area	4,015
<i>Base Building Cost</i>	\$71,323
<i>Indirect Costs</i>	
Soft Costs	\$7,132
Entrepreneurial Incentive	\$7,132
Subtotal	\$14,265
Indicated Building Replacement Cost	\$85,588

Base Building Information - 3

M&S Section Page/ Class	17/17/D
Building Component	Lumber Storage Shed
Base Square Foot Cost	<u>\$13.05</u>

Square Foot Refinements

Electrical	\$0.00
Sprinklers	\$0.00
Subtotal	<u>\$13.05</u>

Height and Size Refinements

Number of Stories Multiplier	1.000
Height/Story Multiplier	1.038
Perimeter Multiplier	0.938
Subtotal	<u>\$12.71</u>

Cost Multipliers

Current Cost Multiplier	1.030
Local Cost Multiplier	<u>1.220</u>

Final Square Foot Cost\$15.97

Gross Building Area	5,202
---------------------	-------

Base Building Cost**\$83,057****Indirect Costs**

Soft Costs	\$8,306
Entrepreneurial Incentive	<u>\$8,306</u>
Subtotal	<u>\$16,611</u>

Indicated Building Replacement Cost\$99,669

Base Building Information - 4

M&S Section / Page / Class	17 / 17 / D
Building Component	Lumber Storage Building
Base Square Foot Cost	<u>\$16.60</u>

Square Foot Refinements

Electrical	\$0.84
Spinklers	<u>\$0.00</u>
Subtotal	<u>\$17.44</u>

Height and Size Refinements

Number of Stories Multiplier	1.000
Height/Story Multiplier	1.038
Perimeter Multiplier	<u>1.144</u>
Subtotal	<u>\$20.71</u>

Cost Multipliers

Current Cost Multiplier	1.030
Local Cost Multiplier	<u>1.220</u>

Final Square Foot Cost \$26.02

Gross Building Area	1,179
---------------------	-------

Base Building Cost \$30,682**Indirect Costs**

Soft Costs	\$3,068
Entrepreneurial Incentive	<u>\$3,068</u>
Subtotal	<u>\$6,136</u>

Indicated Building Replacement Cost \$36,818

<i>Base Building Information - 5</i>	
M&S Section Page/Class	17/17/D
Building Component	Lumber Storage Shed
Base Square Foot Cost	<u>\$19.10</u>
<i>Square Foot Refinements</i>	
Electrical	\$0.00
Spinklers	\$0.00
Subtotal	<u>\$19.10</u>
<i>Height and Size Refinements</i>	
Number of Stories Multiplier	1.000
Height/Story Multiplier	1.115
Perimeter Multiplier	<u>0.945</u>
Subtotal	<u>\$20.13</u>
<i>Cost Multipliers</i>	
Current Cost Multiplier	1.030
Local Cost Multiplier	<u>1.220</u>
Final Square Foot Cost	<u><u>\$25.29</u></u>
Gross Building Area	4,423
<i>Base Building Cost</i>	\$111,855
<i>Indirect Costs</i>	
Soft Costs	\$11,185
Entrepreneurial Incentive	<u>\$11,185</u>
Subtotal	<u>\$22,371</u>
Indicated Building Replacement Cost	<u>\$134,226</u>

Base Building Information - 6

M&S Section Page, Class	17/17/S
Building Component	Lumber Storage Building
Base Square Foot Cost	<u>\$22.85</u>

Square Foot Refinements

Electrical	\$0.40
Sprinklers	<u>\$0.00</u>
Subtotal	<u>\$23.25</u>

Height and Size Refinements

Number of Stories Multiplier	1.000
Height/Story Multiplier	1.154
Perimeter Multiplier	<u>0.894</u>
Subtotal	<u>\$23.99</u>

Cost Multipliers

Current Cost Multiplier	1.050
Local Cost Multiplier	<u>1.230</u>

Final Square Foot Cost\$30.98

Gross Building Area	8,140
---------------------	-------

Base Building Cost

\$252,165

Indirect Costs

Soft Costs	\$25,217
Entrepreneurial Incentive	<u>\$25,217</u>
Subtotal	<u>\$50,433</u>

Indicated Building Replacement Cost\$302,598

<i>Base Building Information - 7</i>	
M&S Section / Page / Class	17 / 17 / D
Building Component	Lumber Storage Building
Base Square Foot Cost	\$23.55
<i>Square Foot Refinements</i>	
Electrical	\$0.40
Spinklers	\$0.00
Subtotal	\$23.95
<i>Height and Size Refinements</i>	
Number of Stories Multiplier	1.000
Height/Story Multiplier	1.038
Perimeter Multiplier	0.955
Subtotal	\$23.74
<i>Cost Multipliers</i>	
Current Cost Multiplier	1.030
Local Cost Multiplier	1.220
Final Square Foot Cost	\$29.83
Gross Building Area	3,000
<i>Base Building Cost</i>	\$89,500
<i>Indirect Costs</i>	
Soft Costs	\$8,950
Entrepreneurial Incentive	\$8,950
Subtotal	\$17,900
Indicated Building Replacement Cost	\$107,400

Base Building Information - 8

M&S Section / Page / Class	17 / 17 / D
Building Component	Lumber Storage Building
Base Square Foot Cost	<u>\$23.55</u>

Square Foot Refinements

Electrical	\$0.40
Sprinklers	\$0.00
Subtotal	<u>\$23.95</u>

Height and Size Refinements

Number of Stories Multiplier	1.000
Height / Story Multiplier	1.154
Perimeter Multiplier	0.867
Subtotal	<u>\$23.96</u>

Cost Multipliers

Current Cost Multiplier	1.030
Local Cost Multiplier	<u>1.220</u>

Final Square Foot Cost\$30.11

Gross Building Area	12,354
---------------------	--------

Base Building Cost**\$371,993****Indirect Costs**

Soft Costs	\$37,199
Entrepreneurial Incentive	<u>\$37,199</u>
Subtotal	<u>\$74,399</u>

Indicated Building Replacement Cost\$446,392

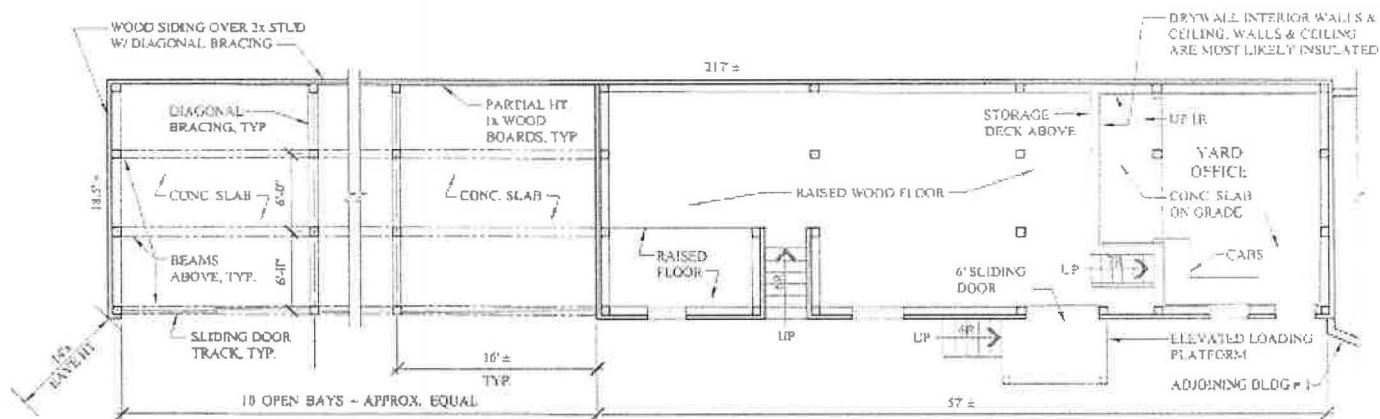
Site Improvements								
Item Description	Cost per Unit	Unit Size	Unit Type	Local Multiplier	Current Multiplier	Direct Cost	Indirect Costs	Replacement Cost
Asphalt Paving	\$3.23	65,048	sf	1.22	1.02	\$261,456	\$52,291	\$313,748
Concrete Curbing	\$15.48	765	lf	1.22	1.01	\$14,590	\$2,918	\$17,508
Metal Chain Link Fencing	\$19.70	565	sf	1.22	1.01	\$13,715	\$2,743	\$16,458
Railroad Spurs	\$419.48	150	sf	1.22	1.01	\$77,532	\$15,506	\$93,038
Total								\$440,751

Site Improvements Depreciation Table						
Item Description	Normal Life	Effective Age	RUL	% Depreciated	Depreciated Replacement Cost	
Asphalt Paving	11	10	1	91%	\$28,523	
Concrete Curbing	21	19	2	90%	\$1,667	
Metal Chain Link Fencing	17	11	6	65%	\$5,809	
Railroad Spurs	30	20	10	67%	\$31,013	
Total			Average	78%	\$67,011	

Cost Approach Conclusion		
Replacement Cost of Building(s)		\$1,434,832
Less Depreciation:		
Physical Depreciation	80%	\$1,147,866
Functional Obsolescence	0%	\$0
External Obsolescence	0%	\$0
Total Depreciation	80%	\$1,147,866
Depreciated Replacement Cost of Building(s)		\$286,966
Depreciated Replacement Cost of Site Improvements		\$67,011
Land Value		\$650,000
Total Indicated Value		\$1,003,978
ROUNDED		\$1,000,000

BUILDING #1 - OFFICE

SCALE= 1/8" 1'-0"



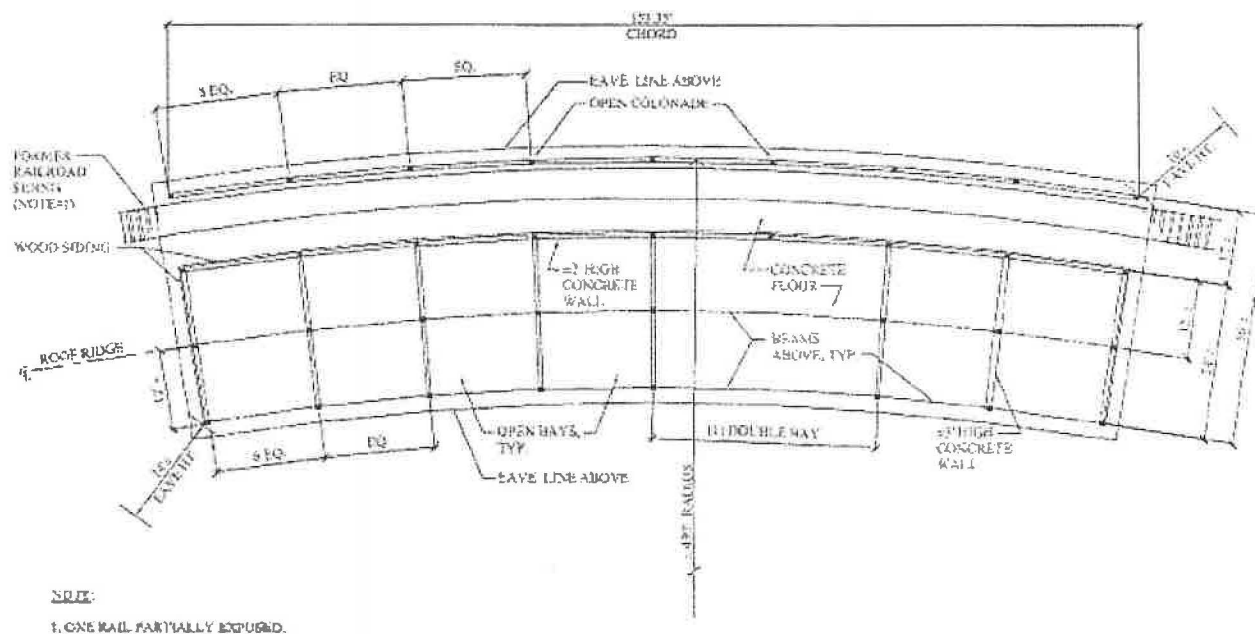
FLOOR PLAN

(GROUND FLOOR AREA = 4,015 S.F.)

BUILDING #2 - OPEN SHED

1940 MARQUETTE - NORTH CHICAGO, IL

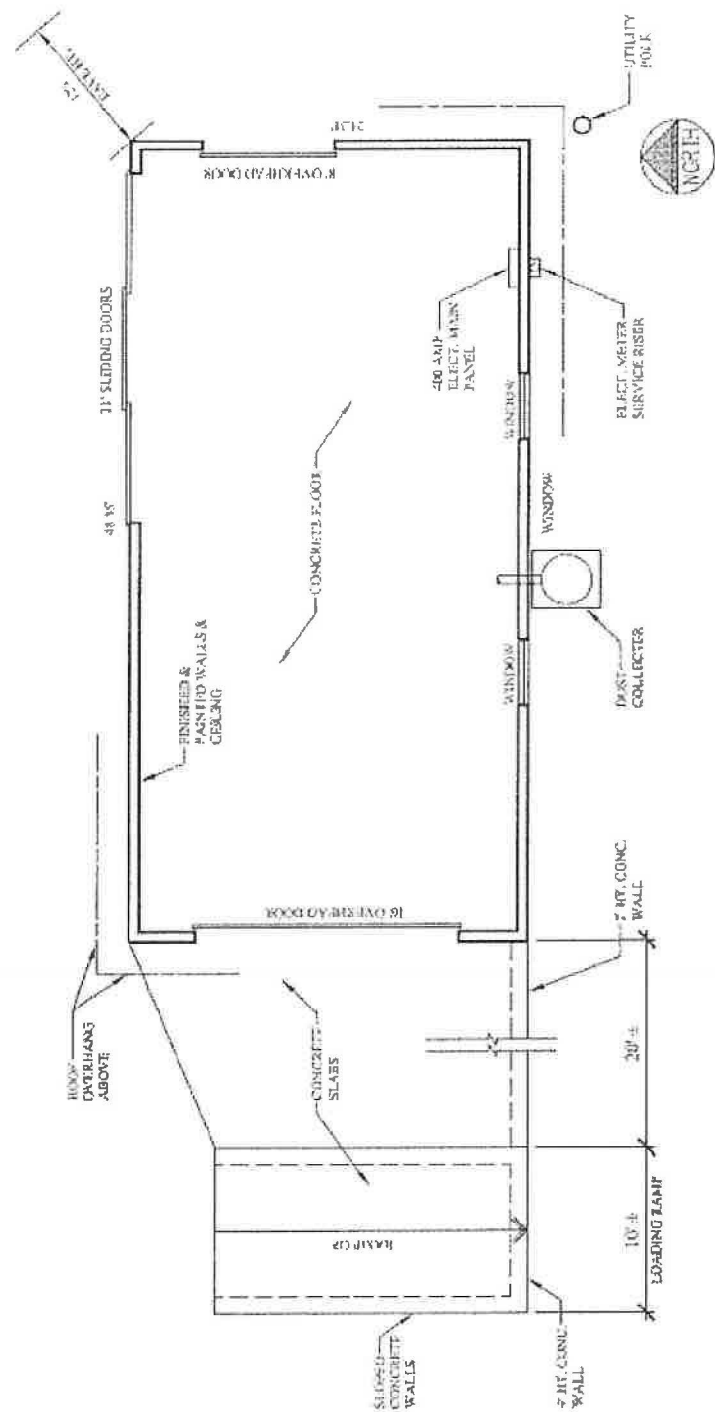
SCALE = 1" 10'-0"



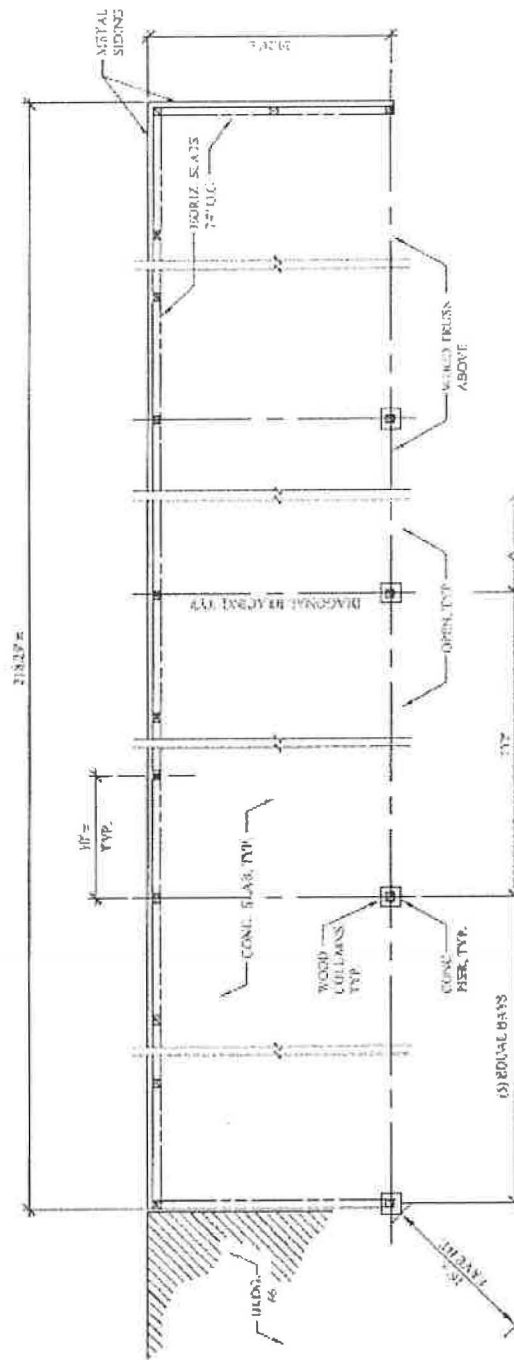
FLOOR PLAN (TOTAL FLOOR AREA = 5,202 S.F.±)
1940 MARQUETTE - NORTH CHICAGO, IL

BUILDING #3 - TRAIN SHED
SCALE = 1" = 20'-0"

NORTH CANOPY = 1,678 S.F.±
SOUTH SHED = 3,526 S.F.±



FLOOR PLAN (FLOOR AREA = 1,179 S.F.) BUILDING #4 - SAW SHOP
1940 MARQUETTE - NORTH CHICAGO, IL SCALE = 1/8" 1'-0"

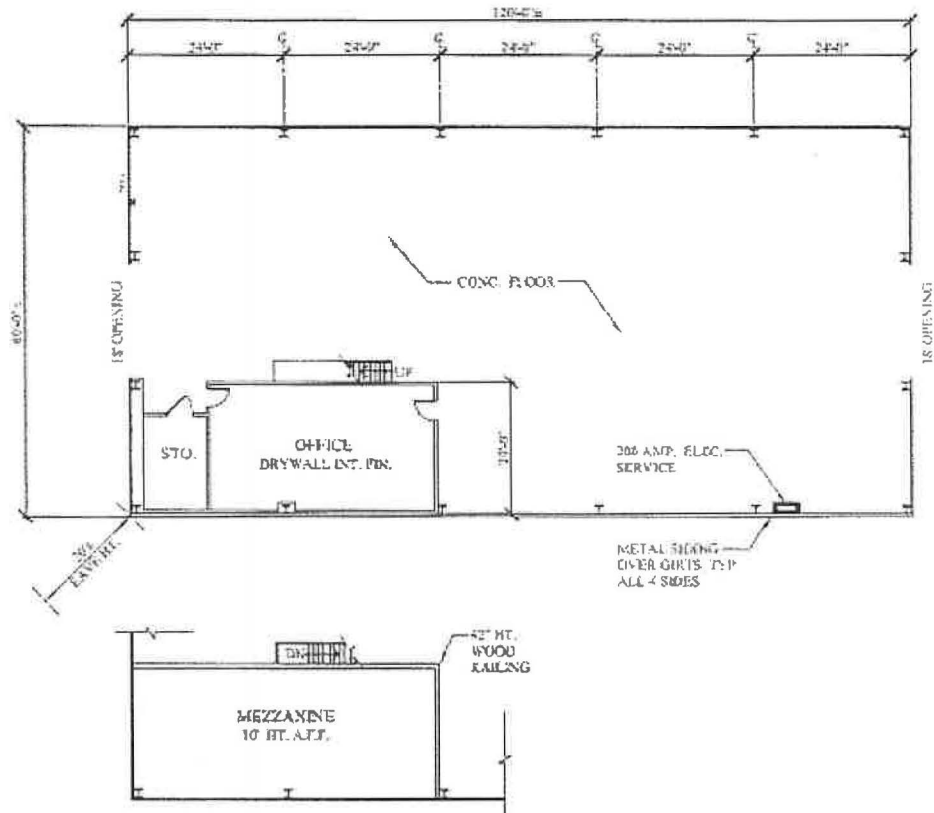


FLOOR PLAN (FLOOR AREA = 4,423 S.F.) BUILDING #5 - OPEN SHED NORTH

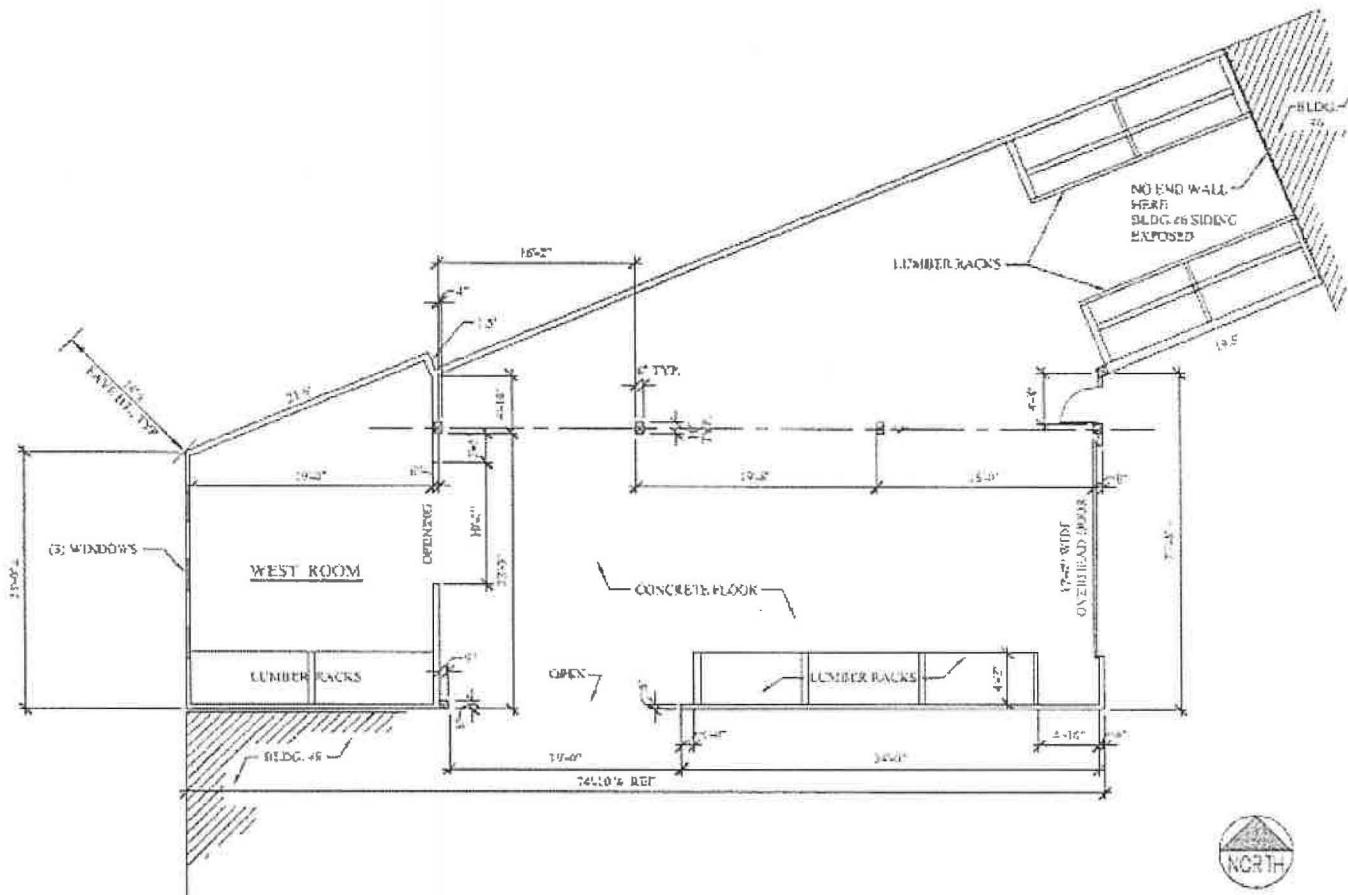
(FLOOR AREA = 4,423 S.F.)

1940 MARQUETTE - NORTH CHICAGO, IL

SCALE= 3'32" 1'-0"



GROUND FLOOR = 7,200 S.F.±
MEZZANINE = 840 S.F.±
FLOOR PLAN (TOTAL FLOOR AREA = 8,140 S.F.±) BUILDING #6 - OPEN METAL BLDG.
1940 MARQUETTE - NORTH CHICAGO, IL
SCALE= 1" 20'-0"

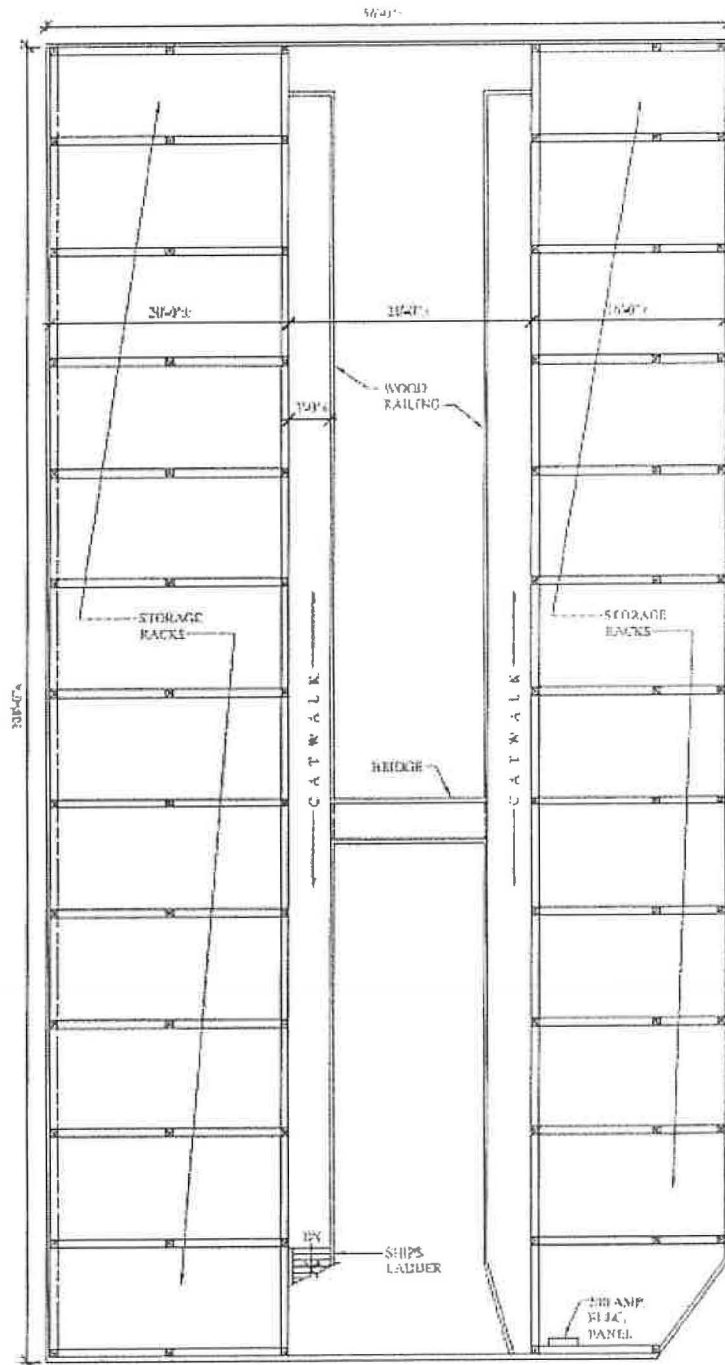


FLOOR PLAN (FLOOR AREA = 3,000 S.F.) **BUILDING #7 - LUMBER STORAGE NORTH**

1940 MARQUETTE - NORTH CHICAGO, IL

SCALE= 3/32" 1'-0"

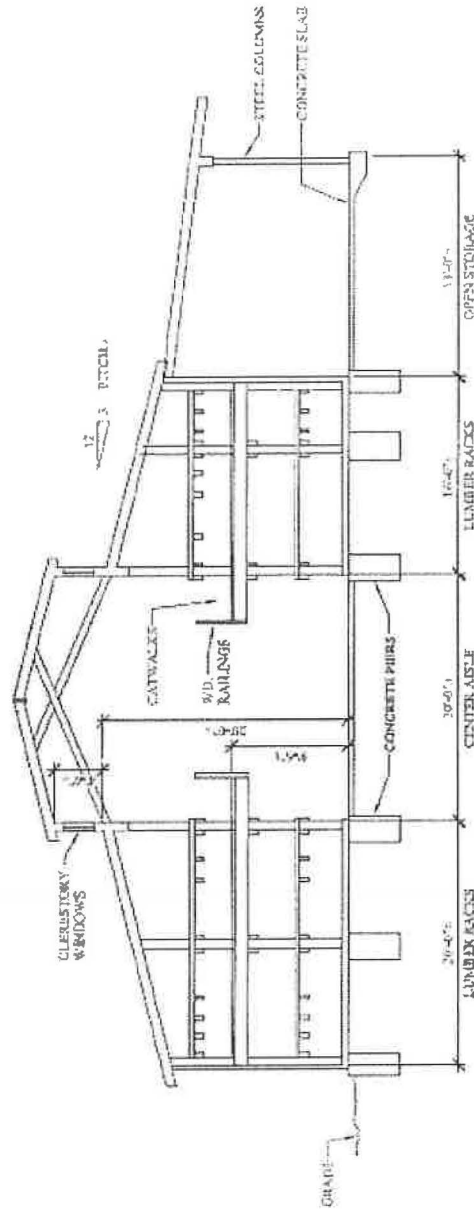




SCALE= 3/32" 1'-0"

(FLOOR AREA = 4,718 S.F.)
BUILDING #8
MEZZANINE LEVEL

1940 MARQUETTE
NORTH CHICAGO, IL



SECTION

BUILDING #8

1940 MARQUETTE - NORTH CHICAGO, IL

SCALE= 3/32" 1'-0"

EXHIBIT I – SURFACE TRANSPORTATION BOARD

45729

SERVICE DATE – MARCH 22, 2017

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36106]

2nd & Main, LLC—Acquisition and Operation Exemption—Norland North Chicago, LLC

2nd & Main, LLC (2ML), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from Norland North Chicago, LLC (Norland) and operate approximately 540 feet of rail line between a point of connection on its north end to a main track of the Elgin, Joliet & Eastern Railway Company (now Canadian National Railway Company) and a point of connection on its southwest end to a main track of the Chicago & North Western Railway Company (now Union Pacific Railroad Company), in North Chicago, in Lake County, Ill. (the Line). According to 2ML, there are no milepost designations on the Line.

The verified notice indicates that the transaction will be consummated shortly after April 5, 2017, the effective date of the exemption (30 days after the notice of exemption was filed).¹

2ML certifies that its projected annual revenues as a result of this transaction will not result in its becoming a Class II or Class I rail carrier and will not exceed \$5 million.

¹ 2ML's notice is related to a notice of exemption filed in Hussey Terminal Railroad Company—Acquisition & Operation Exemption—2nd & Main, LLC, Docket No. FD 36103, in which Hussey Terminal Railroad Company seeks Board authority to acquire the Line from 2ML. That notice is contingent upon this notice becoming effective.

Docket No. FD 36106

2ML states that there are no interchange commitments.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than March 29, 2017 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36106, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle St., Suite 1666, Chicago, IL 60604-1228.

Board decisions and notices are available on our website at "WWW.STB.GOV."

Decided: March 17, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

45769

SERVICE DATE - MAY 2, 2017

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36103]

Hussey Terminal Railroad Company---Acquisition and Operation Exemption ---2nd & Main, LLC

Hussey Terminal Railroad Company (HTRC), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from 2nd & Main, LLC (2ML), and operate approximately 540 feet of rail line in North Chicago, in Lake County, Ill. (the Line).¹ According to HTRC, there are no milepost designations on the Line.

The Line extends between a point of connection on its north end to a main line of Elgin, Joliet & Eastern Railway Company (presently, Canadian National Railway Company (CN)), and a point of connection on its southwest end to a main line of Chicago & North Western Railway Company (presently, Union Pacific Railroad Company (UP)).

In an agreement dated January 4, 1916, Michael H. Hussey and Margaret Hussey conveyed to North Chicago Lumber and Coal Co. (NCLC) and North Chicago Foundry Company (NCFC) the right, easement, and privilege to use the Line for any purpose and in any manner necessary or convenient to their businesses.

¹ 2ML obtained an exemption to acquire the Line in 2nd & Main, LLC---Acquisition & Operation Exemption---Norland North Chicago, LLC, FD 36106 (STB served March 22, 2017). HTRC's notice of exemption in this case was held in abeyance by a decision served on March 23, 2017, so that 2ML's exemption to acquire the Line in Docket No. FD 36106 could become effective first.

Docket No. FD 36103

2ML is a successor-in-interest of NCLC. 2ML's shipping facility is located near the Line's point of connection to UP. According to HTRC, a portion of the Line north and east of 2ML's facility has been removed and/or blocked by a building constructed by a third party, and is not possible at this time for HTRC to operate to the point of connection with CN. It is the intention of 2ML and HTRC to take steps to restore rail operations to the CN connection. HTRC indicates that sufficient trackage is in place between 2ML's facility and the point of connection with UP to enable rail shipments to travel over the trackage. 2ML and HTRC state it is their intention to rehabilitate the trackage as necessary and interchange shipments with UP.

HTRC certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million. HTRC further certifies that there are no interchange commitments.

The transaction may be consummated on or after May 16, 2017, the effective date of the exemption. If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than May 9, 2017 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36103, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle St., Suite 1666, Chicago, IL 60604-1228.

Docket No. FD 36103

Board decisions and notices are available on our website at WWW.STB.GOV.

Decided: April 27, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

EXHIBIT J – APPRAISER'S RESUME

Michael Kendzior, MAI

Director, Valuation Advisory Services



Duff & Phelps, LLC
Chicago
+1 312 597 4719
Mike.Kendzior@duffandphelps.com

Michael Kendzior is a director in the Chicago office and part of the Real Estate service line. He has 35 years of experience in real estate valuation.

Michael is primarily focused on real estate valuation and consulting for institutional owners/operators of real estate. He specializes in the valuation of institutional grade investment property including hotels, retail developments, office buildings, mixed-use facilities, railroad rights-of-way, residential developments and industrial property. His appraisals and consultations have been used in connection with real estate portfolio valuations, financing, feasibility studies, mergers and acquisitions, bankruptcy proceedings, workout and repositioning strategies and insurable value studies.

Michael has developed a comprehensive knowledge of the real estate industry with broad experience in such areas as lease reviews, mergers and acquisitions, real estate valuation, lease and operational reviews, liquidation and purchase of assets, location studies, due diligence and market reviews. Michael has also provided expert testimony for a law firm in the State of Indiana for an appraisal of a 570,856 square foot facility in Indianapolis, Indiana. Testimony was provided for the law firm of Dykema Gossett in the State of Michigan tax dispute involving Automotive Components Holdings, LLC and Ford Motor Company for property located in the Township of Ypsilanti, Michigan. His most recent testimony was in the State of Ohio for a tax dispute involving Eddie Bauer Distribution Center located in Groveport, Ohio.

Prior to Duff & Phelps, Michael was a director at Standard and Poor's and Principal with Arthur Andersen, LLP.

Michael received his B.S. in architectural engineering from the Milwaukee School of Engineering. He has also received the MAI designation with the Appraisal Institute (designation #10073) and is a Certified General Real Estate Appraiser in several states.

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. FD 36619

2ND & MAIN, LLC'S RESPONSE TO THE CITY OF NORTH CHICAGO'S
PETITION FOR DECLARATORY ORDER

AFFIDAVIT OF PETER E. KOLB

Under penalty of perjury pursuant to 735 ILCS 5/1-109, the affiant states as follows:

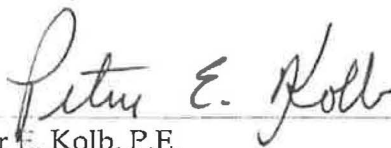
1. The affiant is above the age of 18 and if called as a witness to this cause of action will testify to the matters set forth in this Affidavit on his personal knowledge and to a reasonable degree of engineering and scientific certainty.
2. I received a B.S. in Civil Engineering from the University of Illinois in 1977. I am a licensed engineer in Illinois.
3. I functioned as the Chief Engineer for planning, design, and coordination of all capital improvement projects for Lake County, Illinois Public Works Department from 1992 to 2004.
4. I was the Director of Public Works for Lake County, Illinois from 2004 to 2016. A copy of my resume is attached as Exhibit A.
5. For purposes of my opinion in this affidavit, I have relied on my education , training and my years of experience as a Civil Engineer. In addition I have reviewed the applicable standards of the American Railway Engineering and Maintenance-of-Way Association ("AREMA"), the Permit requirements for Pipeline Crossings of the Union Pacific Railroad ("the UP") and the drawings of



the water main located on the 2nd & Main property and the adjoining railroad property prepared by North Chicago's engineers Alvord, Burdick & Howson in 1961.

6. Under both the AREMA standards and those of the UP pipelines under railroad tracks and across railroad rights of way shall be encased in a larger pipe or conduit called the casing pipe. (AREMA Standard 5.1.2)
7. In addition, under AREMA standards, if a pipeline is located within 25 feet of the centerline of any track or where there is a danger of damage from any leakage to a building or other important structure the carrier pipe shall be encased. (AREMA standard 5.1.2).
8. Simply put, when constructing a water main under railroad property a casing pipe is first installed, then the water main is placed within the casing pipe and it is filled with sand between the casing pipe and the water main, and sealed at each end.
9. This is done to avoid putting the load of the railroad tracks directly on the water pipes and to protect the track in the event of a water pipe rupture and washout.
10. That is what was done when the water main was placed under the Railroad Property adjoining the 2nd & Main property as it is shown on the drawings of the water main located on the 2nd & Main property and the adjoining railroad property prepared by North Chicago's engineers Alvord, Burdick & Howson in 1961.

11. In addition, under AREMA standards, pipelines are to be install under tracks by boring or jacking, if practicable. (AREMA standard 5.3.2(b)
- 12 In my opinion, a new water line should be installed all the way across the 2nd & Main property (approximately 435 feet) pursuant to AREMA Guidelines including a casing pipe and should be installed by boring under the existing buildings. An example of a Casing Pipe is shown on the attached Exhibit B.
13. Further Affiant sayeth not.


Peter E. Kolb, P.E.

John W. Quinn
Attorney number 22709706
Churchill, Quinn, Richtman & Hamilton Ltd.
2 South Whitney St.
Grayslake, IL 60030
Phone: 847-223-1500
jquinn@grayslakelaw.com

PETER E. KOLB, P.E.

Education

- B.S., Civil Engineering, University of Illinois, 1977

Professional Registration

- Professional Engineer: California, Illinois

Professional Associations

- American Water Works Association, Illinois Section
- Fox Valley Operator's Association

Project Highlights

Peter has been managing the following projects since joining ATI in December 2016.

*Central Lake County Joint Action Water Agency, Illinois
Lake Michigan Water Conversion*

Project manager for design and construction coordination to extend the CLCJAWA water distribution system to provide Lake Michigan water to the Villages of Lake Villa and Lindenhurst and Lake County's Grandwood Park and Fox Lake Hills water systems.

Lake County, Illinois

Vernon Hills Water System Electrical Evaluation

Project manager for preparation of an electrical system evaluation for the Vernon Hills Water System.

Teal Lane Lift Station Sewer Rerouting

Project manager for the study of alternatives to reroute sanitary sewer flows from the Teal Lane Lift Station through the Village of Buffalo Grove sanitary sewer system.

Water Main and Sanitary Sewer Infrastructure Assessment

Project manager for the Assessment Study and resulting Five Year Capital Improvements Plan for the County's 305 miles of water and 388 miles of sewer assets.

Wells Abandonment Study

Project manager for preparation of a study to evaluate and recommend abandonment of well facilities in the Fox Lake Hills and Grandwood Park water systems after connection to the Central Lake County Joint Action Water Agency (CLCJAWA) water distribution systems.

*Lake in the Hills Sanitary District, Illinois
District Engineer*

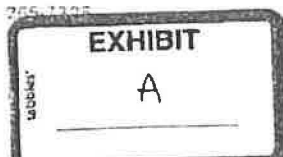
District engineer working closely with the District Manager and Board to manage projects, maintain quality, oversee project timelines, and engage with stakeholders. Recent projects include a 1,700 foot roadway replacement, Beach Lift Station rehabilitation, electrical system evaluation, washwater pump replacement, and a sewer bypass.

*Lakes Region Sanitary District (LRSD), Illinois
Interim District Manager*

Peter has been working closely with both the LRSD and Lake County Boards on the process of dissolving the LRSD. More specifically, he is managing the day-to-day functions of the District, including coordination of legislative changes/provisions that will allow the District to dissolve itself and enter into an agreement for transfer of all funds, assets, staff and service commitments to Lake County.

*Village of Lake Villa, Illinois
Monaville Road Lift Station Improvements*

Project manager for the design and construction of improvements to the aging lift station. The new station has a capacity of 2,445 gpm to handle 20-year peak hour design flows.



PETER E. KOLB, P.E.

Villages of Morton Grove and Niles, Illinois Water Supply Conversion

Project manager for the Village's water supply conversions from the City of Chicago to the City of Evanston. Project involves 33,000 feet of 20-inch and 30-inch water transmission main, two pumping stations, a 7 million gallon reservoir, a crossing of the North Branch of the Chicago River, and a crossing of Interstate I-94

Wheaton Sanitary District, Illinois Preliminary Treatment Building Air Handling

Project manager for the study, design, and construction of air handling improvements.

LCPWD Director of Public Works, 2004-2016

Regional Biosolids Facility

Client manager for planning and design of the \$30 million expansion of the Des Plaines River WRF. Project included a new biosolids dryer facility, modification of the existing activated sludge facilities for enhanced BPR, and conversion of aerobic digesters into fermentation basins.

General

- Directed operations, administration, and management of all County water supply facilities and sanitary sewage facilities.
- Managed 96 full time personnel working in six operational areas that provide water and sewer services to 25,000 retail accounts and wholesale sewer service to 18 municipalities.
- Oversaw the operation and maintenance of 12 separate water supply and distribution systems, 3 water reclamation facilities, and 5 regional wastewater interceptor systems.
- Responsible for preparation and management of the Department's \$40 million annual operating budget, long-range capital improvement program, and rates and fees. Also prepared all Public Works Committee agenda items, resolutions and ordinances.
- Acted as the County liaison for all water supply and sanitary sewer issues with municipalities and sanitary districts and negotiated agreements on behalf of the County for contractual services.

- Implemented an Automated Meter Reading Program that installed 21,000 water meters in all retail accounts to provide wireless automated readings, usage tracking, and leak detection capability for customers
- Completed a \$7.5 million upgrade of the Excess Flow Facilities in Round Lake Beach to mitigate unauthorized discharges during wet weather events.
- Spearheaded the creation of SSA #16 to fund the construction of a \$46 million expansion of the Central Lake County Joint Action Water Agency system to bring Lake Michigan water to 4 communities.
- Managed the design and construction of \$32 million in improvements to the Des Plaines River Water Reclamation Facility incorporating enhanced biological nutrient removal and biosolids drying facilities.
- Led the creation of the Des Plaines River Watershed Workgroup, a coalition of Lake County agencies created to collect and analyze data and develop strategies to improve water quality in the Des Plaines River.

Chief Engineer, 1992-2004

- Functioned as Chief Engineer for planning, design, and coordination of all capital improvement projects for the County's Public Works Department.
- Responsible for supervision of engineering personnel within the Engineering Division, review and approval of subdivision submittals, survey parties and contract administration.
- Developed and implemented Department goals, acted as County representative on water and wastewater related issues, and provided professional decisions on engineering and administrative problems
- Managed several major projects:
 - Water System Improvements Pekara Drive Reservoir (\$1.1 million)
 - Mill Creek Wastewater Treatment Plant Construction (\$11.5 million)
 - Northeast Lake Interceptor Sewer Construction (\$13.5 million)

Roadway and Ballast

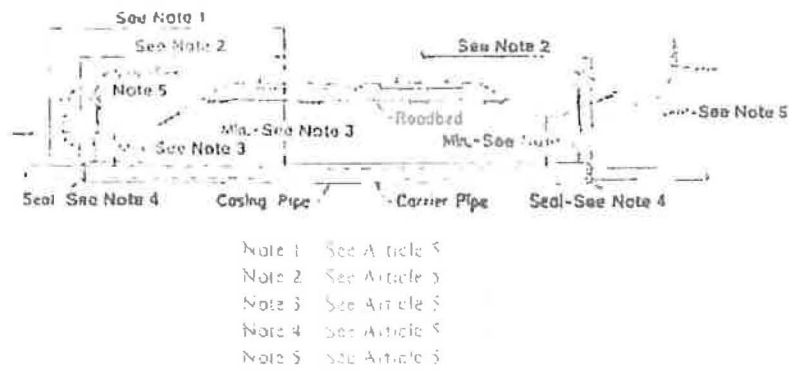


Figure 1-5-1. Casing Pipe Installation

