

NO. 128731

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**IN THE  
SUPREME COURT OF ILLINOIS**

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SHAWNEE COMMUNITY UNIT	)	
SCHOOL DISTRICT NO. 84	)	Appeal from the Appellate Court
	)	Fifth Judicial District
Petitioner-Appellants,	)	Case No. 5-19-0266
	)	
	)	Appeal from the Property Tax Appeal Bd.
	)	Docket Nos. 14-03445.001-I-3 through
vs.	)	14-03445.009-I-3 and
	)	15-00452.001-I-3 through
ILLINOIS PROPERTY TAX APPEAL	)	15-00452.010-I-3
BOARD and GRAND TOWER	)	Trial Judge Hon. Edwin E. Boggess, ALJ
ENERGY CENTER, LLC	)	Notice of Appeal Date: July 1, 2019
	)	Judgment Date: June 18, 2019
Respondent-Appellees.	)	

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**AMENDED ABBREVIATED SUPPLEMENTARY APPENDIX**

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**AMENDED  
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APPENDIX**

**SUPPLEMENTARY  
APPENDIX A**

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**REPORT OF THE TASK FORCE  
ON  
REFORM OF THE COOK COUNTY  
PROPERTY TAX APPEALS PROCESS**

**AS REVISED AND ADOPTED  
BY THE  
REAL ESTATE TAX COMMITTEE  
OF THE  
CHICAGO BAR ASSOCIATION**

**PROPOSED AMENDMENTS  
TO THE PROPERTY TAX CODE  
AND  
COMMENTARY**

**Report of the Civic Federation Task Force  
Dated February 22, 1995, As Revised and Adopted by the  
Chicago Bar Association Real Estate Committee  
March 2, 1995**

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## I. INTRODUCTION AND EXECUTIVE SUMMARY

The Civic Federation Task Force on Reform of the Cook County Property Tax Appeals Process was formed in response to concerns raised during the passage of Public Act 88-642, which took effect September 9, 1994. This act, commonly known by its bill number as "Senate Bill 1336," resulted from a consensus among taxpayers, the organized bar, taxpayer watchdog organizations, taxing officials, and state legislators that the procedure for judicial review of real estate taxes in Cook County was imperiled by recent court decisions.

Over many years, the process for judicial review of real property taxes, and particularly tax assessments, has been the subject of considerable debate. Most of the debate has centered around the doctrine of "constructive fraud," which forms the current basis for review of assessments through tax objections in the circuit court. While tax objections are available throughout Illinois, they are little used outside Cook County because review of assessments through the state Property Tax Appeal Board is available and is preferred by most taxpayers. In Cook County, however, objections in court based on constructive fraud have been the taxpayer's only option.

Historically, the main criticism directed at the law of constructive fraud was its unpredictability. In the 19th century the Illinois courts, which had been initially reluctant to review assessments in the absence of actual fraud or dishonesty on the part of assessing officials, developed the concept of constructive fraud to extend relief to a slightly larger class of cases. Theoretically, although no actual dishonesty was alleged or proven, the courts declared that the taxpayer might recover upon proof of an extreme overassessment, a valuation "so grossly out of the way" that it could not reasonably be supposed to have been "honestly" made. See *Pacific Hotel Co. v. Lieb*, 83 Ill. 602, 609-10 (1876). However, no clear definition of a "grossly excessive" assessment ever emerged, and court decisions in this century produced dramatically disparate results. (See cases cited in Ganz, Alan S., "Review of Real Estate Assessments - Cook County (Chicago) versus Remainder of Illinois," 11 John Marshall Journal of Practice and Procedure, 17, 19 (1978).)

Recently, the constructive fraud debate has intensified because of the Illinois Supreme Court's interpretation of the doctrine in *In Re Application of County Treasurer, etc. v. Ford Motor Company*, 131 Ill.2d 541, 546 N.E.2d 506 (1989), a decision which has been strictly followed by subsequent courts. See *In Re Application of County Collector, etc. v. Atlas Corporation*, 261 Ill.App.3d 494, 633 N.E.2d 778 (1993), *lv. to app. den.* 155 Ill.2d 564 (1994); and *In Re Application of County Collector, etc. v. J.C. Penney Company, Inc.*, Circuit Court of Cook County, County Division, Misc. No. 86-34 (tax year 1985), Objection No. 721 (Memorandum Decision of June 15, 1994, Judge Michael J. Murphy; appeal pending.) These decisions refocused the issue in tax objection cases challenging assessments, from emphasizing discrepancies in value to emphasizing circumstances purporting to show misconduct or "dishonesty" by assessing officials. The result has been to divert the attention of courts and litigants away from the question of the accuracy and legality of the assessment and tax.

In the view of its legislative sponsors, Senate Bill 1336 was intended to overrule that portion of *Ford* dealing with the question of the assessor's exercise of honest judgment. However, it was not intended to work a comprehensive change in the shape and scope of the tax objection procedure. From its inception the bill was intended to be a stopgap, providing some relief until a panel representing all interested parties could be convened to draft a more comprehensive and lasting statutory reform. See *88th General Assembly House Transcription Debate, SB 1336, June 9, 1994*, at 1-3 (remarks of Representatives Currie, Kubik and Levin). Such a panel was convened as the Civic Federation Task Force.

The stopgap nature of SB 1336 was given new emphasis by a recent decision of the Cook County Circuit Court declaring the provision unconstitutional. *In Re Application of County Collector, etc. v. J.C. Penney Company, Inc.*, Misc. Nos. 86-34, 87-16, 88-15 (various objections for tax years 1985-1987) ("*J.C. Penney II*") (Memorandum Opinion of December 6, 1994, Judge Michael J. Murphy). This decision appears to rest primarily on the circuit court's view that SB 1336 abandoned the traditional rule of constructive fraud, yet failed to replace it with a clearly defined alternative rule.

The Task Force believes that the alternative legislation proposed in this report supplies the clearly defined rules which the court found lacking in SB 1336. Further, it is hoped that the prompt enactment of this alternative legislation will best address the underlying problems in the tax appeals process which led to SB 1336 and will obviate the lengthy and uncertain appellate review of SB 1336 which has now begun.

The Task Force based its work on five principles or goals. To be effective, the tax appeals process must: (1) be clearly defined; (2) afford a complete remedy to aggrieved taxpayers; (3) focus on the accuracy and legality of the challenged tax or assessment, not on collateral issues; (4) balance the public's interest in relief from improper taxes with its interest in stable property tax revenues for the support of local government and (5) not seek structural changes in the current functioning of the Cook County Assessor's office or the Cook County Board of Appeals.

The Task Force concluded that these goals would best be accomplished by reforming the applicable court proceedings (i.e., the judicial tax objection process), rather than the other alternative, namely, extending the Property Tax Appeal Board's jurisdiction to Cook County.

The proposed legislation streamlines tax objection procedure, clarifies the hearing process, and makes significant changes in the standard of review applied in challenges to assessment valuations. The key features of the proposal are:

#### **General Provisions**

- **Standard of Review.** In assessment appeals, the doctrine of constructive fraud is expressly abolished. Where the taxpayer meets the burden of proof and overcomes the presumption that the assessment is correct, the court is directed to grant relief from an assessment that is incorrect or illegal. The standard makes clear that in cases which allege overvaluation of the taxpayer's property, it will be unnecessary to prove that the assessment resulted from any misconduct or improper practices by assessing officials.
- **Presumptions and Burden of Proof.** As under existing law, the assessments, rates and taxes challenged in an objection are presumed correct. The taxpayer will have the



burden of proof by "clear and convincing evidence" -- the highest burden applicable in civil cases -- in order to rebut this presumption and obtain a tax refund.

- **Scope of the Tax Objection Remedy.** The reformed tax objection procedure will preserve the broad scope of the remedy under existing law. Thus, not only incorrect assessments, but also statutory misclassifications, constitutional violations, illegal levies or tax rates, and any other legal or factual claims not exclusively provided for in other parts of the Property Tax Code, will fall within the ambit of a tax objection complaint.

- **Conduct of Hearings.** As under existing law, tax objections will be tried to the court without a jury, and the court will hear the matter *de novo* rather than as an appeal from the action of the assessing officials. Appeals from final judgments may be taken to the appellate court as in other civil cases.

- **Prerequisites to Objection.** There is no change in the existing law that taxes must be paid in full as a pre-condition to filing a tax objection in court. Similarly, the requirement that the taxpayer exhaust its administrative remedy by way of appeal to the county board of appeals or review prior to proceeding in court will continue to apply; but this requirement is now specifically spelled out in the statute.

#### **Procedural Reforms**

- **Payment Under Protest.** The current requirement that a separate letter of protest be filed with the county collector at the time of payment is eliminated.

- **Time of Payment and Filing.** Both payment of the tax and filing of the tax objection complaint are keyed to the due date of the second (i.e. final) installment tax bill. To meet the condition for filing an objection, payment in full must occur no later than 60 days from the first penalty date for this installment, and the objection must be filed within 75 days from that penalty date.

- **Separation from Collector's Application.** Tax objections will be initiated by the taxpayer as a straightforward civil complaint, naming the county collector as defendant. This ends the anomalous current practice in which objections technically must be interposed

in response to the collector's application for judgment and order of sale against delinquent properties.

#### **Burden of Proof and Standard of Review in Assessment Cases**

In resolving the questions of the standard of review and burden of proof in assessment challenges, the Task Force was required to balance the need to provide effective taxpayer relief against the need to avoid opening up the process so widely that the courts could potentially be called on to reassess any or all property in the county. The consensus on the Task Force was to provide for a standard of review permitting recovery upon proof of an incorrect or illegal assessment, but to require the taxpayer to meet a burden of proof by "clear and convincing" evidence (the highest burden applied in civil litigation, but clearly not the criminal burden, "beyond a reasonable doubt") in order to establish that such an incorrect or illegal assessment has occurred. This choice of balance was preferred over the alternative of choosing the lower burden of proof and then attempting the seemingly impossible task of defining an enhanced standard of review, in which the "degree of incorrectness" would be in issue.

This balance is illustrated by a case in which the outcome turns solely on the competing opinions of equally compelling witnesses. It is expected that in such a case, the assessment would be sustained since such evidence would not constitute clear and convincing proof that the assessment is incorrect. On the other hand, where the evidence does clearly and convincingly demonstrate the existence of an incorrect assessment it is expected that the court would grant relief.

#### **Scope of Proposed Reform; No Change in PTAB Procedure**

In order to solve the problems arising in the aftermath of the *Ford* case, the proposed legislation is designed to take effect immediately and to apply to all pending cases.

Additionally, although the proposed draft is of statewide application, it must be emphasized that appeals to the state Property Tax Appeal Board (PTAB), which are currently the vehicle for most cases of assessment review outside Cook County, are not changed in any way by the draft legislation. The Task Force concluded that a proposal for

statewide application was preferable to attempting to limit the reform to Cook County, for several reasons.

The tax objection provisions of the Property Tax Code which would be amended have always applied throughout Illinois. While non-Cook County taxpayers have had and will continue to have, as an alternative, an administrative appeal remedy through the PTAB, the judicial tax objection process has always been available to these taxpayers. The Task Force sees no valid reason to deprive non-Cook County taxpayers of this alternative or to deprive them of the benefit of a reform in it. Indeed, either deprivation presents potential constitutional problems.

## **II. PROPOSED PROPERTY TAX CODE AMENDMENTS AND COMMENTARY**

Following is a section-by-section analysis of the Task Force's proposed legislative changes to the Property Tax Code. Deletions from the existing text of the Code are indicated by overstrikes, and new language is highlighted by shading. Each quotation from the Code is followed by a brief commentary explaining the changes. The changes in several other sections are omitted from this analysis since the proposed amendments are primarily technical in nature. These are detailed at the end of this report, at which place the full text of all the proposed amendments is reproduced, without commentary, as an appendix.

### **§ 21-175 Proceedings By Court**

Defenses to the entry of judgment against properties included in the delinquent list shall be entertained by the court only when: (a) the defense includes a writing specifying the particular grounds for the objection; and (b) except as otherwise provided in Section ~~14-15~~, 14-25, 23-5, and 23-25, the ~~writing is accompanied by an official original or duplicate receipt of the tax collector showing that the taxes to which objection is made have been fully paid under protest. All tax collectors shall furnish the necessary duplicate receipts without charge. The court shall hear and determine the matter as provided in Section 23-15~~ ~~taxes to which objection is made~~

are paid under protest pursuant to Section 23-5 and a tax objection complaint is filed pursuant to Section 23-10.

\* \* \*

This section and Section 23-10 of the Code currently embody the basic provisions for tax objections, requiring that the objections be filed only as responses ("defenses") within the annual county collector's application for judgment and order of sale of delinquent properties. Thus, although in modern times objections by definition relate to taxes which are fully paid, by historical accident the objection process is relegated to judicial proceedings whose primary purpose is collection of unpaid taxes. This produces an anomalous situation in which the objecting taxpayer, for practical purposes the plaintiff in the lawsuit and the party with the burden of proof, is technically a defendant against the "application" or complaint commenced by the county collector. See *In Re Application of County Collector (etc.) v. Randolph-Wells Building Partnership*, 78 Ill. App. 3d 769, 397 N.E.2d 232 (1st Dist.1979).

The Task Force found no reason for this procedural anomaly to continue. Therefore, changes in Section 23-10, cross-referenced in this section, would permit tax objections to be commenced as a straightforward complaint filed by the taxpayer. In theory the tax objection complaint process should be divorced for most purposes from the collector's application and judgment proceedings. However, although filed as a complaint separately from the collector's application, the new form of tax objection may nonetheless still be construed as an objection to the annual tax judgment to the extent any part of the Code may logically require this result (e.g. exemption claims). Therefore the terminology of tax "objection" has been retained in order to weave the new procedure into the existing fabric of the Code.

The Code currently provides for two other types of tax objection which are left essentially unchanged, although some minor modifications in statutory language have been proposed. First, Section 14-15 permits adjudication of certificates of error by an "assessor's objection" to the collector's application. A number of such certificates correct assessment valuation errors for each tax year in Cook County through such objections by the assessor, and the courts have recognized the efficacy and convenience of this procedure. See, e.g.,

*Chicago Sheraton Corporation v. Zaban*, 71 Ill. 2d 85, 373 N.E. 2d 1318 (1978). Under Section 14-25 and related sections, certificates of error are also employed to establish exemptions.

Second, this Section 21-175, together with Sections 23-5 and 23-25, provide a limited but important role for exemption objections filed by taxpayers: permitting the taxpayer to block a tax sale of its property while an application for exemption is being adjudicated on the merits by the Department of Revenue or the courts. Since the law does not require payment of the taxes while an exemption claim is decided, the amendments to this section will continue to permit exemption objections directly within the collector's application proceeding without this pre-condition. Alternatively, the exemption claimant may accomplish the same result (forestalling a tax sale) indirectly by filing a separate tax objection complaint under Sections 23-5 and 23-10.

#### **§ 23-5 Payment Under Protest**

If any person desires to object ~~under Section 21-175~~ to all or any part of a property tax for any year, for any reason other than that the property is exempt from taxation ~~and that a proceeding to determine the tax exempt status of such property is pending under Section 16-70 or Section 16-130 or is being conducted under Section 8-35 or Section 8-40~~, he or she shall pay all of the tax due ~~prior to the collector's filing of his or her annual application for judgment and order of sale of delinquent properties within sixty days from the first penalty date of the final installment of taxes for that year.~~ ~~Each payment shall be accompanied by a written statement substantially in the following form:~~ Whenever taxes are paid in compliance with this Section and a tax objection complaint is filed in compliance with Section 23-10, one hundred percent of such taxes shall be deemed paid under protest without the filing of a separate letter of protest with the county collector.

### **The Requirement of Protest**

Payment of taxes in full is retained as a requirement of the tax objection process. However, the necessity of presenting a separate letter of protest to the county collector at the time of payment has been eliminated. The new language makes clear that the combination of the full payment of the tax within the statutory qualifying time limit and the timely filing of a tax objection complaint constitutes the act of "protest" that distinguishes such payment from a "voluntary payment" and its consequences under existing case law.

Under current law (Section 23-10), the "protest" (effected by timely payment and the contemporaneous filing of a "letter of protest") is automatically waived if the taxpayer fails to perfect it by filing a timely tax objection in court. Each year several thousand taxpayers file protest letters on pre-printed forms along with their payments, unaware that these protests are nullified by their failure to pursue objections in court. To this segment of the public, the separate protest letter is at best meaningless and at worst deceptive. For county collectors, receiving separate protest letters is simply a useless burden upon already busy staff.

They do not even aid the collector in complying with the provisions of Section 20-35 of the Code, which establishes a "Protest Fund" in which the collector must deposit certain amounts of taxes withheld from distribution to taxing bodies under Section 23-20. Although the "total amount of taxes paid under protest" is one of three alternative measures for the amount of deposits to the Protest Fund, letters of protest cannot help the collector determine this total since, under Section 23-10, the letters are null and void if not followed up by the filing of objections in court. Therefore, the filing of the tax objection is currently, and will remain, the crucial act permitting the taxpayer to challenge and claim a refund of "protested" taxes, and also permitting the collector to ascertain the "total amount of taxes paid under protest." This is why the amendments provide that the qualifying tax payment plus the objection complaint itself will constitute the taxpayer's protest.

### Time of Payment

Current law provides for the taxpayer to pay taxes subject to objection "prior to the collector's filing of his or her annual application for judgment and order of sale." This is a cause of confusion, and occasionally leads taxpayers to lose their right to object as a result of missing the last date for payment, because the time of the collector's application fluctuates from one year to another. The only ways for taxpayers or their counsel to become aware of the date for a given year are to discover it in the boiler plate legal notices published in local newspapers, or to call the collector's office repeatedly until the date has been set. The Task Force concluded that establishing a definite time period of sixty days, measured from the first penalty date (i.e., the due date) for the final installment tax bill for the year in question, would key the payment deadline to the event which is most likely to be known to the taxpayer. This period allows ample time for payment, yet also allows the cutoff date for tax objection complaints to fall prior to the annual tax judgment as under current law. As under current law, taxes must be paid in full (including any penalty which may have accrued if the bill is paid late) in order to acquire the right to file a tax objection complaint.

### § 23-10 Tax Objections and Copies

~~Once a protest has been filed with the with the county collector, in all counties t~~ The person paying ~~under protest~~ the taxes due as provided in Section 23-5 shall appear in ~~he next application for judgment and order of sale and may file an~~ tax objection complaint pursuant to Section 23-15 within seventy-five days from the first penalty date of the final installment of taxes for the year in question. ~~Upon failure to do so, the protest shall be waived, and judgment and order of sale entered for any unpaid balance of taxes. Provided, however, that no objection to an assessment for any year shall be allowed by the court where an administrative remedy was available by complaint to the board of appeals or review under Section 16-55 or Section 16-115, unless such remedy was exhausted prior to the filing of the tax objection complaint.~~

When any tax protest is filed with the county collector and an objection complaint is filed with the court in a county with less than 3,000,000 inhabitants, the

following procedures shall be followed: The plaintiff ~~person paying under protest~~ shall file 3 copies of the ~~objection complaint~~ with the clerk of the circuit court. Any ~~tax objection complaint~~ or amendment thereto shall contain on the first page a listing of the taxing districts against which the objection is directed. Within 10 days after the ~~objection complaint~~ is filed, the clerk of the circuit court shall deliver one copy to the State's Attorney and one copy to the county clerk, taking their receipts therefor. The county clerk shall, within 30 days from the last day for the filing of objections, notify the duly elected or appointed custodian of funds for each taxing district that may be affected by the objection, stating that an objection has been filed.

\* \* \*

The proposed amendments to this section govern the time and prerequisites for filing tax objection complaints. Timing is again keyed to the first penalty date (i.e., the due date) of the final installment tax bill, just as in the case of the qualifying payment. However, the complaint filing may be made within seventy-five, rather than sixty, days of that due date, thus creating a fifteen-day grace period between the last qualifying payment date and the last day to file complaints.

The provision of the current law that, upon failure to appear in the collector's application and object, the taxpayer's protest "shall be waived, and judgment and order of sale entered for any unpaid balance of taxes" is deleted as inappropriate and superfluous. The elimination of the separate protest letter under the proposed amendments makes its explicit "waiver" unnecessary; and since the objection complaint itself constitutes the "protest," the right to protest or object is obviously waived when no complaint is filed. Moreover, the clause referring to "judgment and order of sale for any unpaid balance" is generally inoperative under current law (except for exemption objections), since taxes subject to an objection complaint must, by definition, be fully paid. In any event, this clause was considered to be redundant by the Task Force in view of the provision for entry of judgment which is contained in Section 21-175.

The requirement that a taxpayer exhaust available administrative remedies by appeal to the local board of appeals or review prior to filing an objection in court is a judicially



created rule under current law. In the judgment of the Task Force the rule performs an important function and should be retained. It allows the administrative review agencies to reduce the burden of objections on the courts by granting relief which may obviate further appeals. The amendatory language also makes explicit the current assumption that exhaustion is not required at the assessor level, but only at the board level. This language also alerts the non-professional to the exhaustion rule, of which he or she may otherwise be unaware at the critical time in the assessment cycle.

By codifying the rule in this section, it is intended to adopt rather than to alter existing judicial interpretations. E.g., *People ex rel. Nordlund v. Lans*, 31 Ill.2d 477, 202 N.E.2d 543 (1964) (taxpayer cannot object to excessive valuation in Collector's proceeding without first pursuing his administrative remedies at the Board); *People ex rel. Korzen v. Fulton Market Cold Storage Company*, 62 Ill.2d 443, 343 N.E.2d 450 (1976) (same, where taxpayer's issue is classification/assessment level); *In Re Application of the County Collector, etc. v. Heerey*, 173 Ill.App.3d 821, 527 N.E.2d 1045 (1st Dist. 1988) (the objecting taxpayer need not exhaust the administrative remedy personally, provided the subject property was brought before the board of appeals by another interested party); *In Re Application of Pike County Collector, etc. v. Carpenter*, 133 Ill.App.3d 142, 478 N.E.2d 626 (3d Dist. 1985) (filing written complaint with board of review suffices for exhaustion without appearance for oral hearing on complaint). The exhaustion requirement is limited to tax objections challenging assessments, since prior administrative review is unavailable in cases challenging taxing body budgets and levies (tax rate objections).

The requirement under current law that tax objections outside Cook County provide for notice to interested taxing bodies is unchanged in these amendments. The terminology used in this section is altered simply to conform to the new procedure for filing the tax objection as a complaint separate from the collector's application for judgment and order of sale, and to the new provisions abolishing the protest letter requirement.

### § 23-15 Tax Objection Procedure and Hearing

(a) A tax objection complaint under Section 23-10 shall be filed in the circuit court of the county in which the subject property is located. The complaint shall name the county collector as defendant and shall specify any objections which the plaintiff may have to the taxes in question. No appearance or answer by the county collector to the tax objection complaint, nor any further pleadings, need be filed. Amendments to the complaint may be made to the same extent which, by law, could be made in any personal action pending in the court.

(b) (1) The court, sitting without a jury, shall hear and determine all objections specified to the taxes, assessments or levies in question. This Section shall be construed to provide a complete remedy for any claims with respect to such taxes, assessments or levies, excepting only matters for which an exclusive remedy is provided elsewhere in this Code.

(2) The taxes, assessments and levies which are the subject of the objection shall be presumed correct and legal, but the presumption shall be rebuttable. The plaintiff shall have the burden of proving any contested matter of fact by clear and convincing evidence.

(3) Objections to assessments shall be heard *de novo* by the court. The court shall grant relief in such cases where the objector meets the burden of proof under this Section and shows an assessment to be incorrect or illegal. Where an objection is made claiming incorrect valuation, the court shall consider such objection without regard to the correctness of any practice, procedure, or method of valuation followed by the assessor or board of appeals or review in making or reviewing the assessment, and without regard to the intent or motivation of any assessing official. The doctrine known as constructive fraud is hereby abolished.

(c) If the court shall order a refund of any part of the taxes paid, it shall also order the payment of interest as provided in Section 23-20. Appeals may be taken from final judgments as in other civil cases.

This section is completely rewritten, with all present language deleted. The new language contains provisions for the form of tax objection complaints, the conduct of

hearings, presumptions and the burden of proof, the standard of review to apply in cases challenging assessments, and appellate review of final judgments.

**Subsection (a)**

**Form of Complaint and Initial Procedure; Venue**

Because tax objections are to be filed as complaints separate from the collector's application, their form and certain basic procedural matters are set forth in some detail. As discussed below, it is intended that certain features of the current procedure which are working well, such as avoiding the need for extensive pleadings in routine cases, will be continued under the new procedure.

Venue is confined to the county where the subject property is located, to the same effect as the existing law. Similarly, the county collector remains the party opposing the taxpayer's request for a tax refund. As under current law, no particular form of complaint is required; the plaintiff taxpayer must simply and clearly "specify" his or her objections to the taxes in question. The collector is not required to file an appearance or answer to the tax objection complaint, nor is a reply or any further pleading required. Summons is unnecessary and the state's attorney, as counsel for the collector, will receive copies of the objection complaints directly from the clerk of the circuit court as is the case under current law. The provision for amendments is identical to the existing law under language contained in Section 21-180, which applies to the prior form of objections within the collector's application. See *People ex rel. Harris v. Chicago and North Western Railway Co.*, 8 Ill.2d 246, 133 N.E.2d 22 (1956).

While this procedure is simple in order to accommodate efficiently the many routine objections which are filed each year, it is designed to be flexible enough to accommodate more complex matters as well. Thus, while pleadings subsequent to the objection complaint will not normally be filed, it is expected that the courts and litigants will employ the common devices of civil practice, such as motions to dismiss or for summary judgment, as may be appropriate to the issues in particular cases. This continues the practice followed under existing law. See *People ex rel. Southfield Apartment Co. v. Jarecki*, 408 Ill. 266, 96 N.E.2d 569 (1951) (procedure under civil practice law applies to matters under Revenue Act

(now the Property Tax Code) except where the Act specifically provides contrary procedural rules); 735 ILCS 5/1-108(b) (1994) (Article II of the Code of Civil Procedure governs except where separate statutes provide their own contrary procedures).

### Control of Discovery

In proposing a revised standard of review, another important goal of the Task Force, in addition to the goals discussed below in subsection (b), is to provide a foundation for judicial control of the time-consuming, unproductive discovery contests which have plagued tax objection litigation under the current constructive fraud standard.

As in any civil litigation, the scope of discovery in tax objection matters must be determined according to the nature of the legal and factual issues which are actually in dispute. See Illinois Supreme Court Rule 201(b)(1) (relevant discovery "relates to the claim or defense" of a party). Under the constructive fraud doctrine as interpreted in the *Ford* case, even in the most typical overvaluation claims, taxpayers have of necessity been forced to focus on alleged errors in the assessment process; and a flurry of discovery has inevitably followed. Under the draft standard of review in subsection (b)(3), constructive fraud is abolished and the statutory language makes it clear that such overvaluation claims (which constitute the vast majority, although not all, of the court's tax objection caseload) will focus on the accuracy of the assessed value instead of on the assessment process which established that value. In the typical overvaluation case under the new standard, where the "practice, procedure or method of valuation" and the "intent or motivation of . . . assessing official[s]" are expressly made irrelevant to recovery, the need for discovery will be limited by curtailing inquiry into these irrelevant factors.

The judicial tools for control of discovery already exist under Illinois Supreme Court Rule 201(c)(2), providing for court supervision of "all or any part of any discovery procedure"; Supreme Court Rule 218, providing the court with express authority to conduct a pre-trial conference, and to enter an order following the conference which "specifies the issues for trial," simplifies the issues, determines admissions or stipulations, limits the number of expert witnesses, and so forth; and, Supreme Court Rule 220(b), which similarly provides express authority to structure discovery as to experts. The court may use these

rules, either *sua sponte* or on motion of a party, to set guidelines for appropriate discovery in tax objection cases. Such guidelines will be set at an early point in the life of the case, based on the actual contested issues (as opposed to general allegations in the complaint, which are often far broader than the issues that are contested), so that discovery may proceed promptly and efficiently.

**Subsection (b)**

Scope and Conduct of Hearings;

Presumptions and Burden of Proof; Standard of Review

Subsection (b)(1) codifies several features of existing tax objection law for purposes of the proposed procedure, including the requirement that cases be tried to the bench rather than a jury. As under current law, the court will hear tax objections *de novo* rather than as appeals from the decision of the board of appeals or review. Such direct appeal (under the Administrative Review Law) is barred under *White v. Board of Appeals*, 45 Ill.2d 378, 259 N.E.2d 51 (1970).

This subsection also emphasizes that tax objections are intended to provide a complete remedy, excepting only matters for which an exclusive remedy is provided elsewhere (as in Section 8-40 governing judicial review under the Administrative Review Law of certain final decisions of the Department of Revenue). The broad scope of the tax objection remedy is an essential feature of the reform scheme. In its review of the Cook County tax objection process some fifteen years ago, the U.S. Supreme Court held that the taxpayer must be afforded "a full hearing and judicial determination at which she may raise any and all constitutional objections to the tax" in order for the process to pass muster under federal law. *Rosewell v. LaSalle National Bank*, 450 U.S. 503, 514, 516, n. 19 (1981). Of course, as under existing law, the reformed tax objection process will not permit counter-claims by the collector or a judgment by the court increasing the taxpayer's assessment or tax.

Tax objection procedure encompasses, in addition to valuation objections, the so-called rate objections (challenging the legality of certain portions of the tax levies that

ultimately determine the tax rate), as well as other legal challenges. No change is intended that would affect the standards applied in rate litigation or other legal challenges.

Subsection (b)(2) provides for a presumption of the correctness of challenged taxes, assessments and levies, which the taxpayer may rebut with proof (as to any contested factual matter) by clear and convincing evidence. The application of these provisions to assessment appeals, under the standard of review of contested assessments set forth in subsection (b)(3), required the Task Force to strike a balance between the public's interest in relief from improper taxes and its interest in stable property tax revenues. (It should be emphasized that the balance of these public interests simply informed the choice of the appropriate legal standard to be written in the Property Tax Code; such general policy concerns are *not* intended to be weighed in the balance by courts when the standard is applied to individual cases.) Much of the Task Force's work was devoted to this single issue.

The use of "constructive fraud" in earlier tax litigation was an attempt to provide for such a balance, on the one hand permitting at least some relief in serious cases (without having to prove actual fraud), and, on the other hand, avoiding the situation where every taxpayer is able to ask the court to revalue its property. With the apparent closing off of the first of these desiderata in the *Ford* case and its sequels, the Task Force proposal now attempts to make the former trade-off explicit, and more fairly balanced than it was under the hodge-podge of rulings which resulted from the constructive fraud doctrine. This is sought to be accomplished by providing for an appropriate burden of proof, separately from the question of the appropriate standard of review.

As to the burden of proof, the choice came down to "a preponderance of the evidence" (the ordinary plaintiff's burden in civil litigation), or "clear and convincing evidence" (the highest burden in civil litigation, but clearly not the criminal burden, "beyond a reasonable doubt"). As to the standard of review, for valuation issues, the choice was whether to make it "incorrect," or whether it should be some form of words attempting to indicate a requirement to show a higher degree of inaccuracy (such as "grossly excessive" or "substantially erroneous").

The consensus of the Task Force was to require the higher burden of proof coupled with the less restrictive standard of review. Thus, for a taxpayer to overcome the

presumption of validity of the assessment, he or she would have to prove an incorrect assessment by clear and convincing evidence. The proposed new language also expressly eliminates the doctrine of "constructive fraud" from the court's consideration. (Of course, this is not intended to affect the general law of fraud, actual or constructive, outside of the context of real property tax matters.) Further, the new language negatives the judicial requirement, enunciated in the *Ford* case, that in order to prevail the taxpayer must prove that the assessing officials or their staff made some specific and demonstrable error in arriving at the assessment.

The Task Force consensus reflects its judgment that the attempt to define, let alone to prove, an elevated degree of assessment inaccuracy is inherently speculative and cannot be reconciled with the need for a clear standard of review. Moreover, the public interest in avoiding a flood of questionable judicial reassessments is not appropriately addressed by denying recovery for some inaccuracies, and allowing recovery for others whose parameters can only be vaguely defined. Rather, it is appropriately addressed by an elevated level of proof required to show that an incorrect assessment has occurred.

The Task Force therefore concluded that the public interest is best served by an initial presumption of correctness of the challenged assessment, and then a burden on the taxpayer to prove by clear and convincing evidence that the assessment is incorrect. For example, should a trial outcome turn solely on valuation evidence, if the competing valuation conclusions are determined by the court to be equally compelling, it is expected that the assessment would be sustained since the evidence would not constitute clear and convincing proof that the assessed value is incorrect. On the other hand, relief would be granted where there is a clear and convincing showing of incorrectness.

It must be remembered that actual damage is an essential element of the taxpayer's cause of action under any standard of review. Thus, although a taxpayer might prove that a "mistake" in his assessed valuation has occurred in the abstract sense, if the "mistaken" valuation and resulting tax is not shown to exceed the proper valuation and its resulting tax, then the assessment is not incorrect within the meaning of the law, and no recovery may be had. E.g. *In Re Application of Rosewell (etc.) v. Bulk Terminals Company*, 73 Ill.App.3d 225, 238 (1st Dist. 1979) (leasehold assessment by a legally incorrect computation is not subject

to challenge where an assessment by the legally correct computation would be higher). The proposed legislation is not intended to depart from this "no harm, no foul" rule. To the contrary, the revised standard strengthens the rule by explicitly providing for valuation objections "without regard to the correctness of any practice, procedure or method of valuation" or the "intent or motivation of . . . assessing official[s]." (Subsection (b)(3).)

**Subsection (c)**

**Final Judgments and Appellate Review**

The provisions of this subsection, requiring interest to be paid upon any taxes which the court may order the collector to refund to the plaintiff taxpayer, and providing for appeals from final judgments as in other civil actions, are essentially identical to the existing law.

**§ 23-25 Tax Exempt Property; Restriction on Tax Objections**

No taxpayer may ~~pay under protest as provided in Section 23-5 or~~ file an objection as provided in Section 21-175 ~~or Section 23-10~~ on the grounds that the property is exempt from taxation, or otherwise seek a judicial determination as to tax exempt status, except as provided in Section 8-40 and except as otherwise provided in this Section and Section 14-25 and Section 21-175. Nothing in this Section shall affect the right of a governmental agency to seek a judicial determination as to the exempt status of property for those years during which eminent domain proceedings were pending before a court, once a certificate of exemption for the property is obtained by the governmental agency under Section 8-35 or Section 8-40. This Section shall not apply to exemptions granted under Sections 15-165 through 15-180.

~~The limitation in this Section shall not apply to court proceedings relating to an exemption for 1985 and preceding assessment years. However, an order entered in any such proceeding shall not preclude the necessity of applying for an exemption for 1986 or later assessment years in the manner provided by Sections 16-70 or 16-130.~~



The proposed changes to this section are technical in nature. Minor variations in language and statutory cross-references are made to accommodate the abolition of the separate protest letter, and to recognize that either the traditional objection or the new objection complaint procedure may be used to withdraw a property from the tax sale pending the determination of an exemption claim. (See commentary to Section 21-175 above.) The second paragraph restores language formerly included in the statute, which was unintentionally deleted during the recent Property Tax Code recodification project despite the legislature's purpose to avoid any substantive changes in the meaning or application of the law.

### § 23-30 Conference on Tax Objection

~~Upon~~ ~~Following~~ the filing of an objection under Section 21-175 ~~23-10~~, the court ~~must, unless the matter has been sooner disposed of, within 90 days after the filing~~ ~~may~~ hold a conference ~~with~~ ~~between~~ the objector and the State's Attorney. ~~If no agreement is reached at the conference, the court must, upon the demand of either the taxpayer or the State's attorney, set the matter for hearing within 90 days of the demand.~~ Compromise agreements on tax objections reached by conference shall be filed with the court, and the ~~State's Attorney parties~~ shall prepare an order covering the settlement and ~~file~~ ~~submit~~ the order ~~with the clerk of~~ ~~to~~ the court ~~within 15 days following the conference~~ ~~for entry~~.

This section of the Code recognizes the authority of the courts to conduct pre-trial conferences with a view to resolving tax objections by compromise, and provides for orders to effectuate any resulting settlements. Caselaw has made it clear that there is inherent as well as statutory authority for settlement of tax matters. See *In Re Application of County Collector (etc.)*, *J&J Partnership v. Laborers' International Union Local No. 703*, 155 Ill.2d 520, 617 N.E.2d 1192 (1993); *People ex rel. Thompson v. Anderson*, 119 Ill.App.3d 932, 457 N.E.2d 489 (3d Dist. 1983). Compromise is to be encouraged in any litigation and, under the proposed legislation, it is anticipated that settlements will still be the rule rather than the exception.

The time limits in the current provision, although framed in ostensibly peremptory terms, have been construed as directory rather than mandatory by the Illinois Attorney General. 1975 Opin. Atty. Gen. No. S-1011. Moreover, the time limits have not been observed in any court proceeding in Cook County within the memory of any lawyer now practicing, as near as the Task Force can determine. The proposal therefore deletes these limits as unrealistic. Of course, the courts retain their inherent authority to schedule pre-trial conferences, to encourage settlements, and to establish rules and procedures to accomplish these ends. (For an example of the exercise of this authority, see Rules of the Circuit Court of Cook County, Rule 10.6, "Small Claims Proceedings for Real Estate Tax Objections.")

**Provision for Effective Date and Application to Pending Cases (Uncodified)**

§ \_\_. This amendatory Act of 1995 shall take effect immediately upon becoming law and shall apply to all tax objection matters still pending for any tax year, provided that the procedures and time limitations for payment of taxes and filing tax objection complaints under amended Property Tax Code Sections 23-5 and 23-10 shall apply only to tax year 1994 and subsequent tax years.

Given the subject matter of the proposed amendments to the Property Tax Code, it is likely that courts would construe them to have retroactive effect upon pending tax objections filed under the current procedure in any event. For the authority to make the provisions retroactive, see *Schenz v. Castle*, 84 Ill.2d 196, 417 N.E.2d 1336, 1340 (1981); *People ex rel. Eitel v. Lindheimer*, 371 Ill.367, 371 (1939); *Isestein v. Rosewell*, 106 Ill.2d 301, 310 (1985); (no vested right in continuation of tax statute, therefore amendments are retroactive). However, in order to address the concerns which led to the proposed reform, the Task Force believes that it is essential to avoid any unclarity as to the effectiveness and application of the amendments. Accordingly, this section, which need not be codified, is proposed to make unmistakable the legislative intent that these amendments take effect immediately and that they govern the disposition of all tax objection matters not previously

disposed of by final judgment (i.e., matters which remain pending either at the circuit court level or on appeal).

The proposed amendments have been drafted with a view to immediate enactment. Accordingly, the filing requirements are proposed to be first applied to tax year 1994 (as to which payment will be due and objections will be filed the latter part of calendar year 1995) and then to later tax years. Payments under protest and tax objection filings for tax year 1993 and prior years have been completed under the current procedure. Of course, as stated above, the hearing of objections for all tax years prior to 1994 would be governed in all other respects by the new amendments.

# **APPENDIX**

**CIVIC FEDERATION TASK FORCE ON REFORM  
OF THE COOK COUNTY TAX APPEALS PROCESS**

**PROPOSED AMENDMENTS TO PROPERTY TAX CODE**

**Part I: Principal Provisions**

1 § 21-175. Proceedings by court. Defenses to the entry of judgment against properties  
2 included in the delinquent list shall be entertained by the court only when: (a) the defense  
3 includes a writing specifying the particular grounds for the objection; and (b) except as  
4 otherwise provided in Section ~~14-15~~, 14-25, 23-5, and 23-25, the ~~writing is accompanied by~~  
5 ~~an official original or duplicate receipt of the tax collector showing that the taxes to which~~  
6 ~~objection is made have been fully paid under protest. All tax collectors shall furnish the~~  
7 ~~necessary duplicate receipts without charge. The court shall hear and determine the matter~~  
8 ~~as provided in Section 23-15~~ taxes to which objection is made are paid under protest  
9 pursuant to Section 23-5 and a tax objection complaint is filed pursuant to Section 23-10.

10 If any party objecting is entitled to a refund of all or any part of a tax paid ~~under~~  
11 ~~protest~~, the court shall enter judgment accordingly, and also shall enter judgment for the  
12 taxes, special assessments, interest and penalties as appear to be due. The judgment shall  
13 be considered as a several judgment against each property or part thereof, for each kind of  
14 tax or special assessment included therein. The court shall direct the clerk to prepare and  
15 enter an order for the sale of the property against which judgment is entered. However, if  
16 a defense is made that the property, or any part thereof, is exempt from taxation and it is  
17 demonstrated that a proceeding to determine the exempt status of the property is pending  
18 under Section 16-70 or 16-130 or is being conducted under Section 8-35 or 8-40, the court  
19 shall not enter a judgment relating to that property until the proceedings being conducted

20 under Section 8-35 or Section 8-40 have been terminated.

21

22 § 23-5. Payment under protest. If any person desires to object under Section 21-175 to all  
 23 or any part of a property tax for any year, for any reason other than that the property is  
 24 exempt from taxation and that a proceeding to determine the tax exempt status of such  
 25 property is pending under Section 16-70 or Section 16-130 or is being conducted under  
 26 Section 8-35 or Section 8-40, he or she shall pay all of the tax due prior to the collector's  
 27 filing of his or her annual application for judgment and order of sale of delinquent  
 28 properties within sixty days from the first penalty date of the final installment of taxes for  
 29 that year. Each payment shall be accompanied by a written statement substantially in the  
 30 following form: Whenever taxes are paid in compliance with this Section and a tax objection  
 31 complaint is filed in compliance with Section 23-10, one hundred percent of such taxes shall  
 32 be deemed paid under protest without the filing of a separate letter of protest with the  
 33 county collector.

34 [ Delete all other text in existing section including statutory protest form. ]

35

36 § 23-10. Tax objections and copies. Once a protest has been filed with the with the county  
 37 collector, in all counties t The person paying under protest the taxes due as provided in  
 38 Section 23-5 shall appear in he next application for judgment and order of sale and may file  
 39 an tax objection complaint pursuant to Section 23-15 within seventy-five days from the first  
 40 penalty date of the final installment of taxes for the year in question. Upon failure to do  
 41 so, the protest shall be waived, and judgment and order of sale entered for any unpaid

42 ~~balance of taxes.~~ Provided, however, that no objection to an assessment for any year shall  
 43 be allowed by the court where an administrative remedy was available by complaint to the  
 44 board of appeals or review under Section 16-55 or Section 16-115, unless such remedy was  
 45 exhausted prior to the filing of the tax objection complaint.

46 When any tax ~~protest is filed with the county collector and an~~ objection complaint  
 47 is filed with the court in a county with less than 3,000,000 inhabitants, the following  
 48 procedures shall be followed: ~~tThe plaintiff person paying under protest~~ shall file 3 copies  
 49 of the ~~objection~~ complaint with the clerk of the circuit court. Any tax objection complaint  
 50 or amendment thereto shall contain on the first page a listing of the taxing districts against  
 51 which the objection is directed. Within 10 days after the ~~objection~~ complaint is filed, the  
 52 clerk of the circuit court shall deliver one copy to the State's Attorney and one copy to the  
 53 county clerk, taking their receipts therefor. The county clerk shall, within 30 days from the  
 54 last day for the filing of objections, notify the duly elected or appointed custodian of funds  
 55 for each taxing district that may be affected by the objection, stating that an objection has  
 56 been filed. \* \* \*

57 [*Continue with existing text regarding notice to affected taxing districts.*]

58

59 § 23-15. Tax objection procedure and hearing.

60 [*Delete all language presently in this section and replace with the following.*]

61 (a) A tax objection complaint under Section 23-10 shall be filed in the circuit court of the  
 62 county in which the subject property is located. The complaint shall name the county  
 63 collector as defendant and shall specify any objections which the plaintiff may have to the

64 taxes in question. No appearance or answer by the county collector to the tax objection  
65 complaint, nor any further pleadings, need be filed. Amendments to the complaint may be  
66 made to the same extent which, by law, could be made in any personal action pending in  
67 the court.

68 (b) (1) The court, sitting without a jury, shall hear and determine all objections specified  
69 to the taxes, assessments or levies in question. This Section shall be construed to provide  
70 a complete remedy for any claims with respect to such taxes, assessments or levies, excepting  
71 only matters for which an exclusive remedy is provided elsewhere in this Code.

72 (2) The taxes, assessments and levies which are the subject of the objection shall be  
73 presumed correct and legal, but the presumption shall be rebuttable. The plaintiff shall have  
74 the burden of proving any contested matter of fact by clear and convincing evidence.

75 (3) Objections to assessments shall be heard *de novo* by the court. The court shall  
76 grant relief in such cases where the objector meets the burden of proof under this Section  
77 and shows an assessment to be incorrect or illegal. Where an objection is made claiming  
78 incorrect valuation, the court shall consider such objection without regard to the correctness  
79 of any practice, procedure, or method of valuation followed by the assessor or board of  
80 appeals or review in making or reviewing the assessment, and without regard to the intent  
81 or motivation of any assessing official. The doctrine known as constructive fraud is hereby  
82 abolished.

83 (c) If the court shall order a refund of any part of the taxes paid, it shall also order the  
84 payment of interest as provided in Section 23-20. Appeals may be taken from final  
85 judgments as in other civil cases.



86 § 23-25. Tax exempt property; restriction on tax objections. No taxpayer may ~~pay under~~  
87 ~~protest as provided in Section 23-5 or~~ file an objection as provided in Section 21-175 ~~or~~  
88 ~~Section 23-10~~ on the grounds that the property is exempt from taxation, or otherwise seek  
89 a judicial determination as to tax exempt status, except as provided in Section 8-40 and  
90 except as otherwise provided in this Section and Section 14-25 and Section 21-175. Nothing  
91 in this Section shall affect the right of a governmental agency to seek a judicial  
92 determination as to the exempt status of property for those years during which eminent  
93 domain proceedings were pending before a court, once a certificate of exemption for the  
94 property is obtained by the governmental agency under Section 8-35 or Section 8-40. This  
95 Section shall not apply to exemptions granted under Sections 15-165 through 15-180.

96 ~~The limitation in this Section shall not apply to court proceedings relating to an~~  
97 ~~exemption for 1985 and preceding assessment years. However, an order entered in any such~~  
98 ~~proceeding shall not preclude the necessity of applying for an exemption for 1986 or later~~  
99 ~~assessment years in the manner provided by Sections 16-70 or 16-130.~~

100

101 § 23-30. Conference on tax objection. ~~Upon~~ ~~Following~~ the filing of an objection under  
102 Section 21-175 ~~23-10~~, the court ~~must, unless the matter has been sooner disposed of, within~~  
103 ~~90 days after the filing~~ ~~may~~ hold a conference ~~with~~ ~~between~~ the objector and the State's  
104 Attorney. ~~If no agreement is reached at the conference, the court must, upon the demand~~  
105 ~~of either the taxpayer or the State's attorney, set the matter for hearing within 90 days of~~  
106 ~~the demand.~~ Compromise agreements on tax objections reached by conference shall be filed  
107 with the court, and the ~~State's Attorney~~ ~~parties~~ shall prepare an order covering the

108 settlement and file ~~submit~~ the order ~~with the clerk of~~ ~~to~~ the court ~~within 15 days following~~  
 109 ~~the conference~~ for entry.

110 *[Provision for Effective Date and Application to Pending Cases (Uncodified)]*

111 § \_\_\_\_ This amendatory Act of 1995 shall take effect immediately upon becoming law and  
 112 shall apply to all tax objection matters still pending for any tax year, provided that the  
 113 procedures and time limitations for payment of taxes and filing tax objection complaints  
 114 under amended Property Tax Code Sections 23-5 and 23-10 shall apply only to tax year  
 115 1994 and subsequent tax years.

116  
 117 **Part II: Additional Provisions**

118 § 14-15. Certificate of error; counties of 3,000,000 or more.

119 (a) In counties with 3,000,000 or more inhabitants, if, at any time before judgment  
 120 is rendered in any proceeding to collect or to enjoin the collection of taxes based upon any  
 121 assessment of any property belonging to any taxpayer, the county assessor discovers an error  
 122 or mistake in the assessment, the assessor shall execute a certificate setting forth the nature  
 123 and cause of the error. The Certificate when endorsed by the county assessor, or when  
 124 endorsed by the county assessor and board of appeals for the tax year for which the  
 125 certificate is issued, may be received in evidence in any court of competent jurisdiction.  
 126 When so introduced in evidence such certificate shall become a part of the court records,  
 127 and shall not be removed from the files except upon the order of the court.

128 A certificate executed under this Section may be issued to the person erroneously  
 129 assessed, or a list of the tax parcels for which certificates have been issued, may be

130 presented by the assessor to the court as an objection in the application for judgment and  
131 order of sale for the year in relation to which the certificate is made. The state's attorney  
132 of the county in which the property is situated shall mail a copy of any final judgment  
133 entered by the court regarding the certificate to the taxpayer of record for the year in  
134 question.

135 Any unpaid taxes after the entry of the final judgment by the court on certificates  
136 issued under this Section may be included in a special tax sale, provided that an  
137 advertisement is published and a notice is mailed to the person in whose name the taxes  
138 were last assessed, in a form and manner substantially similar to the advertisement and  
139 notice required under Sections 21-110 and 21-135. The advertisement and sale shall be  
140 subject to all provisions of law regulating the annual advertisement and sale of delinquent  
141 property, to the extent that those provisions may be made applicable.

142 A certificate of error executed under this Section allowing homestead exemptions  
143 under Sections 15-170 and 15-175 of this Code no previously allowed shall be given effect  
144 by the county treasurer, who shall mark the tax books and, upon receipt of the following  
145 certificate from the county assessor or supervisor of assessments, shall issue refunds to the  
146 taxpayer accordingly:

147 "CERTIFICATION

148 I . . . . county assessor or supervisor of assessments, hereby certify that the  
149 Certificates of Error set out on the attached list have been duly issued to  
150 allow homestead exemptions pursuant to Sections 15-170 and 15-175 of the  
151 Property Tax Code which should have been previously allowed; and that a  
152 certified copy of the attached list and this certification have been served upon  
153 the county State's Attorney."

154           The county treasurer has the power to mark the tax books to reflect the issuance of  
155 homestead certificates of error from and including the due date of the tax bill for the year  
156 for which the homestead exemption should have been allowed until ~~2~~ three years after the  
157 first day of January of the year after the year for which the homestead exemption should  
158 have been allowed. The county treasurer has the power to issue refunds to the taxpayer as  
159 set forth above from and including the first day of January of the year after the year for  
160 which the homestead exemption should have been allowed until all refunds authorized by  
161 this Section have been completed.

162           The county treasurer has no power to issue refunds to the taxpayer as set forth above  
163 unless the Certification set out in this Section has been served upon the county State's  
164 Attorney.

165           (b) Nothing in subsection (a) of this Section shall be construed to prohibit the  
166 execution, endorsement, issuance and adjudication of a certificate of error where the annual  
167 judgment and order of sale for the tax year in question is reopened for further proceedings  
168 upon consent of the county collector and county assessor, represented by the State's  
169 Attorney, and where a new final judgment is subsequently entered pursuant to the  
170 certificate. This subsection (b) shall be construed as declarative of the existing law and not  
171 as a new enactment.

172           (c) No certificate of error, other than a certificate to establish an exemption  
173 pursuant to Section 14-25, shall be executed for any tax year more than three years after the  
174 date on which the annual judgment and order of sale for that tax year was first entered.

175

176 §21-110. Published notice of annual application for judgment and sale; delinquent taxes.  
177 At any time after all taxes have become delinquent ~~or are paid under protest~~ in any year,  
178 the Collector shall publish an advertisement, giving notice of the intended application for  
179 judgment and sale of the delinquent properties ~~and for judgment fixing the correct amount~~  
180 ~~of any tax paid under protest~~. Except as provided below, the advertisement shall be in a  
181 newspaper published in the township or road district in which the properties are located.  
182 If there is no newspaper published in the township or road district, then the notice shall be  
183 published in some newspaper in the same county as the township or road district, to be  
184 selected by the county collector. When the property is in a city with more than 1,000,000  
185 inhabitants, the advertisement may be in any newspaper published in the same county.  
186 When the property is in an incorporated town which has superseded a civil township, the  
187 advertisement shall be in a newspaper published in the incorporated town or if there is not  
188 such newspaper, then in a newspaper published in the county.

189 The provisions of this Section relating to the time when the Collector shall advertise  
190 intended application for judgment for sale are subject to modification by the governing  
191 authority of a county in accordance with the provision of subsection (c) of Section 21-40.

192  
193 § 21-115. Times of publication of notice. The advertisement shall be published once at  
194 least 10 days before the day on which judgment is to be applied for, and shall contain a list  
195 of the delinquent properties upon which the taxes of any part thereof remain due and  
196 unpaid, the names of owners, if known, the total amount due, and the year or years for  
197 which they are due. In counties of less than 3,000,000 inhabitants, advertisement shall

198 include notice of the registration requirement for persons bidding at the sale. Properties  
199 ~~upon which taxes have been paid in full under protest shall not be included in the list.~~ The  
200 collector shall give notice that he or she will apply to the circuit court on a specified day for  
201 judgment against the properties for the taxes, and costs and for an order to sell the  
202 properties for the satisfaction of the amount due, ~~and for a judgment fixing the correct~~  
203 ~~amount of any tax paid under protest.~~

204 The Collector shall also give notice that on the . . . Monday next succeeding the  
205 date of application all the properties for the sale of which an order is made, will be exposed  
206 to public sale at a location within the county designated by the county collector, for the  
207 amount of taxes, and cost due. The advertisement published according to the provisions of  
208 this section shall be deemed to be sufficient notice of the intended application for judgment  
209 and of the sale of properties under the order of the court, ~~or for judgment fixing the correct~~  
210 ~~amount of any tax paid under protest.~~ Notwithstanding the provision of this Section and  
211 Section 21-110, in the 10 years following the completion of a general reassessment of  
212 property in any county with 3,000,000 or more inhabitants, made under any order of the  
213 Department, the publication shall be made not sooner than 10 days nor more than 90 days  
214 after the date when all unpaid taxes or property have become delinquent.

215  
216 § 21-150. Time of applying for judgment. Except as otherwise provided in this Section or  
217 by ordinance or resolution enacted under subsection (c) of Section 21-40, all applications  
218 for judgment and order of sale for taxes and special assessments on delinquent properties  
219 ~~and for judgment fixing the correct amount of any tax paid under protest~~ shall be made

220 during the month of October. In those counties which have adopted an ordinance under  
221 Section 21-40, the application for judgment and order of sale for delinquent taxes ~~or for~~  
222 ~~judgment fixing the correct amount of any tax paid under protest~~ shall be made in  
223 December. In the 10 years next following the completion of a general reassessment of  
224 property in any county with 3,000,000 or more inhabitants, made under an order of the  
225 Department, applications for judgment and order of sale ~~and for judgment fixing the correct~~  
226 ~~amount of any tax paid under protest~~ shall be made as soon as may be and on the day  
227 specified in the advertisement required by Section 21-110 and 21-115. If for any cause the  
228 court is not held on the day specified, the cause shall stand continued, and it shall be  
229 unnecessary to re-advertise the list or notice.

230           Within 30 days after the day specified for the application for judgment the court shall  
231 hear and determine the matter. If judgment is rendered, the sale shall begin on the Monday  
232 specified in the notice as provided in Section 21-115. If the collector is prevented from  
233 advertising and obtaining judgment during the month of October, the collector may obtain  
234 judgment at any time thereafter; but if the failure arises by the county collector's not  
235 complying with any of the requirements of this Code, he or she shall be held on his or her  
236 official bond for the full amount of all taxes and special assessments charged against him or  
237 her. Any failure on the part of the county collector shall not be allowed as a valid objection  
238 to the collection of any tax or assessment, or to entry of a judgment against any delinquent  
239 properties included in the application of the county collector, ~~or to the entry of a judgment~~  
240 ~~fixing the correct amount of any tax paid under protests.~~

241

242 § 21-160. Annual tax judgment, sale, redemption, and forfeiture record. The collector shall  
243 transcribe into a record prepared for that purpose, and known as the annual tax judgment,  
244 sale, redemption and forfeiture record, the list of delinquent properties ~~and of properties~~  
245 ~~upon which taxes have been paid under protest~~. The record shall be made out in numerical  
246 order, and contain all the information necessary to be recorded, at least 5 days before the  
247 day on which application for judgment is to be made.

248 The record shall set forth the name of the owner, if known; the description of the  
249 property; the year or years for which the tax; or in counties with 3,000,000 or more  
250 inhabitants, the tax or special assessments, are due ~~or for which the taxes have been paid~~  
251 ~~under protest; the amount of taxes paid under protest~~; the valuation on which the tax is  
252 extended; the amount of the consolidated and other taxes or in counties with 3,000,000 or  
253 more inhabitants, the consolidated and other taxes and special assessments; the costs; and  
254 the total amount of the charges against the property.

255 The record shall also be ruled in columns, to show in counties with 3,000,000 or more  
256 inhabitants the withdrawal of any special assessments from collection and in all counties to  
257 show the amount paid before entry of judgment; the amount of judgment and a column for  
258 remarks; the amount paid before sale and after entry of judgment; the amount of the sale;  
259 the amount of interest or penalty; amount of cost; amount forfeited to the State; date of  
260 sale; acres or part sold; name of purchaser; amount of sale and penalty; taxes of succeeding  
261 years; interest and when paid, interest and cost; total amount of redemption; date of  
262 redemption; when deed executed; by whom redeemed; an a column for remarks or receipt  
263 of redemption money.



264           The record shall be kept in the office of the county clerk.

265

266       § 21-170. Report of payments and corrections. On the day on which application for  
267 judgment on delinquent property is applied for, the collector, assisted by the county clerk,  
268 shall post all payments compare and correct the list, and shall make and subscribe an  
269 affidavit, which shall be substantially in the following form:

270       State of Illinois                            )

271   )       ss.

272       County of \_\_\_\_\_ )

273

274           I . . . , collector of the county of . . . , do solemnly swear (or affirm, as the case may  
275 be), that the foregoing is a true and correct list of the delinquent property within the county  
276 of . . . , upon which I have been unable to collect the taxes (and special assessment, interest,  
277 and printer's fees, if any), charged thereon, as required by law, for the year or years therein  
278 set forth; ~~and of all of the properties upon which the taxes have been paid under protest;~~  
279 and that the taxes now remain due and unpaid, to the best of my knowledge and belief.

280           Dated . . . . .

281           The affidavit shall be entered at the end of the list, and signed by the collector.

282

283       § 23-35. Tax objection based on budget or appropriation ordinance. Notwithstanding the  
284 provisions of Section ~~21-175~~ 23-10, no objection to any property tax levied by any  
285 municipality shall be sustained by any court because of the forms of any budget or

286 appropriation ordinance, or the degree of itemization or classification of items therein, or  
287 the reasonableness of any amount budgeted or appropriated thereby, if: \* \* \*

288 *[Continue with existing text of section.]*

289

**SUPPLEMENTARY  
APPENDIX B**

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record. On this question, there are 114...114 voting...114 voting 'yes', none voting 'no', 1 voting 'present'. House does concur with Senate Amendment #1 to House Bill 1093. And this Bill, having received the required Constitutional Majority, is hereby declared passed. The House will now stand in recess until the hour of 9:15. Representative Brunsvold."

Brunsvold: "Thank you, Mr. ... Thank you, Mr. Speaker. Earlier I had a Motion and the Chair indicated he'd get back to me. Can we go back to that Order, 'We'll get back to you'."

Speaker Johnson, Tim: "At 9:15, I'm sure that we'll deal accordingly with your Motion. I'm not aware of what you've made, but we'll deal with it then. The House will stand in recess until 9:15. The Gentleman from Logan... The Gentleman from Logan, Representative Turner, for what purpose do you rise?"

Turner: "I have no Motions at this time, Mr. Speaker. Thank you."

Speaker Johnson, Tim: "The House will continue at ease then."

Clerk McLennand: "Attention Members of the House of Representatives, the House will reconvene in five minutes. The House will reconvene in five minutes."

Speaker Daniels: "The House will come to order. Members will be in their seats. On the Order of Concurrence, House Bill 1465. Read the Bill, Mr. Clerk. Mr. Clerk, take that out of the record for the moment. Committee Reports."

Clerk McLennand: "Committee Reports. Committee Report from Representative Krause, Chairman of Committee on Health Care and Human Services, to which the following Joint Action Motions were referred, action taken on May 24, 1995, reported the same back 'do approve' for consideration: on concurrence, House Bill 1967, together with Senate

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Amendments #1 and 2; House Bill 2330, together on Senate Amendments #1 and 2; House Bill 175, together with Senate Amendment #1; and House Bill 241, together with Senate Amendment #1. Committee Report from Representative Maureen Murphy, Chairman of the Committee on Revenue, to which the following Joint Action Motions were referred, action taken on May 24, 1995, reported the same back 'do approve' for consideration: concurrence House Bill 1465, together with Senate Amendments #1 and 2; House Bill 2332, together with Senate Amendment #1; and House Bill 1212, together with Senate Amendments #1, 2, 5, 9, 11, 12 and 13. Committee Report from Representative Stephens, Chairman from the Committee on Executive, to which the following Joint Action Motions were referred, action taken on May 24, 1995, reported the same back 'do approve' for consideration: on the Order of Concurrence House Bill 41, together with Senate Amendment #3 and House Bill 838, together with Senate Amendment #1. Committee Report from Representative Saviano, Chairman for Committee on Registration and Regulation, to which the following Joint Action Motions were referred, action taken on May 24, 1995, reported the same back 'do approve' for consideration: on the Order of Concurrence House Bill 1969, together with Senate Amendment #1; House Bill #3, together with Senate Amendments #1 through 7; House Bill 2349, together with Senate Amendment #1; and House Bill 32, together with Senate Amendments #1 and 2. Committee Report from Representative Deuchler, Chairman from Committee on Financial Institutions, from which the following Joint Action Motions were referred, action taken on May 24, 1995, reported the same back 'do approve' for consideration: on the Order of Concurrence House Bill 377, together with Senate Amendments 1 through

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10. Committee Report from Representative Persico, Chairman from Committee on Environment and Energy, to which the following Joint Action Motions were referred, action taken on May 24, 1995, reported the same back 'do approve' for consideration: on the Order of Concurrence Senate Amendments #1 to House Bill 729; House Bill 929, together with Senate Amendments #1 and 2; and House Bill 901, together with Senate Amendment #1."

Speaker Daniels: "House Bill 1465 on the Order of Concurrence. Read the Bill, Mr. Clerk."

Clerk McLennand: "House Bill #1465, a Motion to concur has been filed by Representative Kubik on Senate Amendments #1 and 2 and they have been approved for consideration."

Speaker Daniels: "Representative Kubik."

Kubik: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. Senate Amendment #...I would move to concur with Senate Amendments #1 and 2 to House Bill 1465. Senate Amendments #1 and 2 contain a major reform of the Cook County property tax system. And there are some major elements of this Bill that I would like to briefly describe. The first element of the Bill is a provision that allows Cook County taxpayers to appeal to the State Property Tax Appeals Board. Under the current system throughout the state and 101 other counties, if you want to appeal your property taxes, you can appeal to a board of review and then to the State Board of Tax Appeals. In Cook County, you can only appeal to the Board of Tax Appeals, so this would allow taxpayers another avenue to appeal what they consider unfair assessments. That's the first element of the Bill. The second element of the Bill is to change the existing property tax appeal system in Cook County. At the present time there is a two member board of tax appeal.

*House Bill  
1465*

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That two member board under this legislation would be abolished. It would be replaced by a Board of Review and the Board of Review would have more enhanced powers than the Board of Tax Appeal. The Board of Review would initially be an appointed board. There would be an interim board appointed for two years. An elected board would begin serving in 1998. The State Legislature would draw districts. There would be three districts of equal size that would be contained in Cook County and they would all run for election in 1998. The final, major portion of the legislation is a change in the standard by which property tax appeals are judged in court. The present time they are judged on the basis of constructive fraud. This Bill would replace that burden of proof to clear and convincing statewide. For those of you who are not familiar with this burden, it is an impossible burden to meet and as a result, the Civic Federation and a number of groups have come together and this portion of the Bill was actually proposed by the Civic Federation and has widespread support among not only local government but also taxpayers and practitioners. This is an excellent move forward in our tax system. This Bill...the intention of this Bill is very clear. It is to allow the creation of a system that will be more taxpayer friendly and more...allow for people to appeal those taxes and actually have a chance to affect an assessment in this process. This is a system that exists in 101 other counties; it does not exist in Cook County. The elements of this Bill will bring Cook County to a...closer to the standard that is in 101 other counties. I think this is a major move forward for the taxpayers of Cook County and I would certainly appreciate your support on this Concurrence Motion."

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Speaker Daniels: "Is there any discussion? Supplemental Calendar announcement."

Clerk McLennand: "Supplemental Calendar #3 has been distributed."

Speaker Daniels: "Is there any discussion? The Lady from Cook, Representative Currie."

Currie: "Thank you, Speaker and Members of the House. I rise in reluctant opposition to concurrence with the Amendments to House Bill 1465. There are many things in this Bill, in this measure, in these Amendments that are good public policy. I think it is very good news that these Amendments adopt a proposal that came to us from the Civic Federation with respect to the standard of proof for property tax appeals in the Circuit Courts of our state. As you know, we have suffered under a constructive fraud, interpretation of the kind of standard that is required in order to win an appeal. That standard was, indeed, a very difficult one for any property owner to overcome. The new measure would provide for clear and convincing evidence as a standard with a requirement that the taxpayer exhaust administrative remedies and with deference to the assessor and the assessing practices that preceded the appeal. I think as a matter of public policy, it makes sense to add a member to the Cook County Board of Tax Appeals. Two member boards don't make a lot of sense. Three member boards are certainly a lot sounder. But there are serious flaws in these Amendments to House Bill 1465. Serious, serious flaws that I think means we should not be voting 'yes' tonight. First of all, I think with the Civic Federation of Chicago that there are serious constitutional questions about our ability to abolish offices whose incumbents were elected in general elections in the County of Cook, one as recently as November of 1994. The proposed replacement of



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those members in this measure, again I think is fatally flawed, both on constitutional and policy grounds. What business do the members of the Cook County delegation of this General Assembly have, what qualifications do we possess that makes us the appropriate people to choose replacement members for this board? With the Civic Federation, we would be far wiser to take the route that says at the next general election, let's add a third member and let's restore this opportunity to the voters of Cook County, not try to take on this perk for ourselves. Secondly, under this Bill, in addition to the appeal to the assessor, in addition to the appeal to the Appeal Board and in addition to the opportunity to go into court, taxpayers in Cook County will have the opportunity to go also to Springfield to the Property Tax Appeals Board. With the Civic Federation, I oppose extending PTAB jurisdiction to Cook County. PTAB is not funded. It does not have the expertise that is required to deal with the kinds of appeals that will come to it from Cook County. Last year PTAB had 9,000 appeals, 9,000. And PTAB is seriously backlogged. The Board of Appeals, on the other hand, in Cook County dealt with 70,000 appeals, no comparison whatsoever. The cost to the taxpayers of the state to expand PTAB would be enormous for this proposal to be adopted and the idea of a four-step review procedure for a complaining property taxpayer is only to delay and to make chaos out of our property tax system. At the end of the day, our units of local government will not have any kind of certainty about the revenues that are available to them. They will be caught in a lengthy four, five, six year process in which they will be spending money that later they are going to have to give back. They will be at the

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bank borrowing in order to meet their responsibilities because the tax collection system under this PTAB approach will fall completely apart. As I say, there is a lot that is good in this Bill, a lot that has merit. I would wish that the Sponsors of the legislation would take this Bill into a Conference Committee, adopt appropriate standards for appeals in the Circuit Courts, add a member, if they like, to the Board of Tax Appeals in Cook County, but retain the elective system the citizens of Cook County now enjoy, and reject the notion that the Property Tax Appeals Board will help, rather than bring chaos to our tax assessment and collection system. I am sure the Sponsor is well intentioned, but I'm here to tell you, Members of this chamber, that what he offers you with the opportunity for us to select members of this new Review Board and with the opportunity to go to PTAB, he offers us and our taxpayers a pig in a poke. I urge a 'no' vote."

Speaker Daniels: "Any further discussion? The Lady from Cook, Representative Fantin. Ladies and Gentlemen of the House. Ladies and Gentlemen, those not entitled to the floor. Representative Fantin."

Fantin: "Thank you. Will the Representative yield?"

Speaker Daniels: "He indicates he will."

Fantin: "Representative, I notice they have three assessment districts and you have them listed. Are these going to follow the tri-annual assessments as a Cook County assessor now follows?"

Speaker Daniels: "Representative Kubik."

Kubik: "Yes."

Speaker Daniels: "Representative Fantin."

Fantin: "It will be the same years as a Cook County assessor is now doing?"

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Speaker Daniels: "Representative Kubik."

Kubik: "Yes, Representative, as you know there are three districts. The dividing line for the suburban district is North Avenue and then the city is in one assessment district as well."

Speaker Daniels: "Representative Fantin."

Fantin: "You are talking about abolishing a board, starting a new board. There is a transitional period which was mentioned of one...one...January 1, '96 to June of '96. What is going to be done during this transitional period?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative, I think maybe, let me explain, I think you might have those dates somewhat confused. You are right that the Members...the Legislature must draw a map by June 1st of '96. The Interim Board would serve for a period of two years until the '98 election. So...and that Interim Board would assume the duties of the present Board of Tax Appeals with some enhanced powers, the powers of Board of Review."

Speaker Daniels: "Representative Fantin."

Fantin: "I'm sorry, I could not hear his answer."

Speaker Daniels: "Ladies and Gentlemen of the House, it's important that we allow the Members to engage in their debate. Representative Kubik, could you answer that question once more, please."

Kubik: "Yes, Representative Fantin, as I indicated earlier, the June date is the date by which the Legislature must draw a map for those members...for the '98 election by June 1st of 1996. The Interim Board would begin its service on the first day of 1996, as I understand on the legislation. And they would serve for two years until the new...newly elected board would be elected. I might point out those

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members who are on the Interim Board certainly are not precluded from running for office in those districts."

Speaker Daniels: "Representative Fantin."

Fantin: "Do you know what the estimated cost is for this change?"

Speaker Daniels: "Representative Kubik."

Kubik: "Well, Representative, I know that the Assessor's Office and the Board of Review have...or the Board of Appeals has stated that, I believe it's...they're saying \$2,000,000 as I understand it, although I'm not sure that that's a correct figure. I will concede that the addition of a third member is going to cost more money. I will concede that, but I think when you are looking at a tax system in Cook County, which is a five billion dollar tax system, that the amount of money that we are talking about, which will ensure fairer assessments, is a very small price to pay."

Speaker Daniels: "Ladies and Gentlemen, Ladies and Gentlemen. Representative Fantin."

Fantin: "They are estimating that this would cost minimum about \$2,000,000 and this would come from where?"

Speaker Daniels: "Representative Kubik."

Kubik: "Well, as I indicated earlier, Representative, I do not know and I do not necessarily accept their estimate of \$2,000,000. Now obviously it's going to come from local taxpayers, but as I said earlier, when you are talking about a \$5,000,000,000 tax system, I don't think that's...you know, a million dollars is a lot of money to me, but in the aggregate, it is not that much money because we are assuring that there will be fairer assessments in this process."

Speaker Daniels: "Representative Fantin, could you bring your questions to a close, please."

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Fantin: "I would just say that I understand what you are trying to do and that maybe the assessment process would move a little bit faster, the Board of Appeals, but I question if this is the right way to do it, that we need to do it in a little more timely fashion. I think we are trying to rush into this and do something pretty fast here that I'm afraid we might be sorry for. I'm just going to ask all my colleagues for a 'no' vote."

Speaker Daniels: "Further discussion? The Gentleman from McHenry, Representative Skinner."

Skinner: "By putting the Cook County Government, the Cook County properties under the State Property Tax Appeal Board, we are finally bringing rationality to the assessment appeal process throughout the State of Illinois. Since the 1960's, the rest of the State of Illinois has known what the rules of the game are. If you own a piece of property and you are assessed above the median assessment level in your county, you have known that if you get to the...if you persist to the State Property Tax Appeal Board level, that your assessment will be lowered to the median assessment level of your county. Now putting the State Property Tax Appeal Board over Cook County presents some problems, but not insurmountable problems of logic to the State Property Tax Appeal Board. The largest class of property that is in numbers is Class II in Cook County which includes residential property up to 12 units. It is my opinion, based upon dealing with the State Property Tax Appeal Board as county treasurer on behalf of property taxpayers in 1969 and '70, that the Property Tax Appeal Board should lower assessments of all residential properties in Class II to the median average assessment for the township or the county, whichever is lower. And I guess I should add

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there's a third possibility. Or the assessment district, whichever of the three is lower. Now what this will do will be force the Cook County assessing officials to assess more uniformly than they are now. And that would be quite an accomplishment, because the assessments of Class II property within Cook County from township to township varies wildly. I would refer the State Property Tax Appeal Board to the findings of the assessment to sales ratio studies conducted annually by the Department of Revenue for further guidance in determining what the median assessment levels are. Now for some classes of property, there are not enough sales within each township for there to be a median assessment level on a township level. For those sales I believe that the State Property Tax Appeal Board should find the median assessment for the smallest geographic area for which it can be determined. That may be the assessment district, it may be suburban Cook County, suburban Cook County versus the City of Chicago. In those...In the cases of those classes, I believe that the assessment level should...that the assessments of the appealing properties which are above the median assessment level for the counties should be lowered to the county level. I guess that's enough legislative history. I think it's important to realize that for the past over 25 years, over a quarter of a century, the people of Cook County have been discriminated against because they have not been able to appeal their assessments to an appeal body where the rules of the game can be figured out by somebody reasonably intelligent and someone who understands what the assessment process is all about. Currently in Cook County to win an assessment appeal, it depends on who you know, not what you know. It depends on not the facts of the case

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but on the quality of the representation. That is, and I don't mean intellectual quality, I mean the closeness that the person has with the assessing officials. It is time to end this favoritism system in Cook County and to take a more logical approach to determining who the winners and who the losers are. It should not depend on who you know, but it should depend on the facts of the case on whether one wins or loses an assessment appeal in the State of Illinois. And by putting the State Property Tax Appeal Board over Cook County, I would guess that within five years that the Cook County assessing officials will figure out the same things that the McHenry County assessment officials figured out in one year, and that is if they don't want to look foolish, they will follow the rules of the game that are established statewide."

Speaker Daniels: "Further discussion? The Gentleman from Cook, Representative Lopez."

Lopez: "Thank you, Mr. Speaker. Would the Sponsor yield?"

Speaker Daniels: "He indicates he will."

Lopez: "Representative Kubik, do you believe in the election process?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative, yes, I do believe in the election process, but I also believe that the Legislature...the units of government that we are talking about are created by the State Legislature. They have initially been created by the State Legislature and now we are revising it. So, I think it's entirely appropriate for us to be involved in the change of this process, so..."

Speaker Daniels: "Representative Lopez."

Lopez: "That brings me to the next point. Would you agree with me and say that the county commissioners of the Board of

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Tax Appeals are state elected officials or are they county commissioners?"

Speaker Daniels: "Representative Kubik."

Kubik: "They are elected in Cook County, as I am, but their offices were created by a state law. So, it is a state created function they run in the county."

Speaker Daniels: "Representative Lopez."

Lopez: "So would you say that they are state officials?"

Speaker Daniels: "Representative Kubik."

Kubik: "I would say that they are people who reside in Cook County, who have been elected to a system that was created by a state law."

Speaker Daniels: "Representative Lopez."

Lopez: "So in other words, what you are saying is that they are just like we are. We were created by the Illinois Legislature where you draw maps, so I guess we will consider all ourselves and them state officials. Representative, are you aware of Walker versus State Board of Elections? Article 5, Section 9 of the State Constitution."

Speaker Daniels: "Representative Kubik."

Kubik: "No."

Speaker Daniels: "Representative Lopez."

Lopez: "Let me read what the Constitution says: 'The State Legislature may not grant to itself the authority to appoint state officers. This authority is vested in the Governor by this Section unless a restriction on appointment by the Legislature is overridden by specific constitutional provision establishing the office in question.'"

Speaker Daniels: "Representative Kubik."

Kubik: "As I stated earlier, we are abolishing an office and we



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are creating a new form of government, a Board of Review."

Speaker Daniels: "Representative Lopez."

Lopez: "I agree with what you are saying, Representative, but the Constitution is very clear, this court case is very clear where it says that us, as a state body, as a State Legislature, we can not appoint or elect state officials."

Speaker Daniels: "Representative Kubik. Representative Lopez."

Lopez: "So therefore, we don't have the authority to really appoint an Interim Board of a Board of Review. Let's go on to the next point. Representative, are you aware that the two commissioners, the city commissioners were elected, duly elected by the people of Cook County in November of 1994, less than six or seven months ago?"

Speaker Daniels: "Representative Kubik."

Kubik: "Yes."

Speaker Daniels: "Representative Lopez."

Lopez: "Are you aware of any fraud or any problems with the election process in November of '94?"

Speaker Daniels: "Representative Kubik."

Kubik: "I do not know of any, but then again, there may have been some. I don't know."

Speaker Daniels: "Representative Lopez."

Lopez: "So, Representative, so why, when the state Constitution clearly states that we cannot appoint, and why if the elections were fair, no fraud involved, why are we changing this in the middle, less than seven months after two city commissioners that were elected by the people of Cook County, the county who you partly represent, why are we doing this when...are we saying that we do not trust the people of Cook County?"

Speaker Daniels: "Representative Kubik."

Kubik: "As I stated earlier, we are abolishing one board and

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creating..."

Speaker Daniels: "Representative Kubik."

Kubik: "Creating a different board with different powers and different responsibilities."

Speaker Daniels: "Representative Lopez, your time has expired. The Gentleman from Cook, Representative Madigan."

Madigan: "Thank you, Mr. Speaker. I rise for the purpose of declaring that I will vote 'present' on this Bill because of the possibility of a conflict of interest. Thank you."

Speaker Daniels: "The Gentleman from Cook, Representative Santiago."

Santiago: "Thank you, Mr. Speaker. Would the Gentleman yield for a question?"

Speaker Daniels: "He indicates he will."

Santiago: "Representative Kubik, let's go in some detail here about this proposed legislation. You are eliminating the Tax Board of Appeals. Am I correct?"

Speaker Daniels: "Representative Kubik."

Santiago: "What?"

Speaker Daniels: "Representative Santiago, I think his answer is, 'yes'."

Santiago: "Could you please tell us what kind of a mechanism are you establishing so that the taxpayers could go and appeal their taxes? If you're getting rid of a board, what are you going to do to replace those members?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative, the process is as follows: The Legislative Leaders will appoint four Legislators from Cook County who must reside in...I'm sorry, appoint two members of Cook County who must reside in Cook County to a board. That will create an eight member board. They must, by October 1st, provide four names, no more than two from each

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political party. In turn, the Members of the General Assembly who have a portion of their legislative district in Cook County would be allowed to vote for these four Members based on a weighted vote of the gubernatorial election of 1994. That election must be held by December 1st. The top three vote getters would be then appointed to the Interim Board for a period of two years. Obviously, no more than two from one party would be elected. They would begin their duties on the first day of January, 1996."

Speaker Daniels: "Representative Santiago."

Santiago: "Once the term of the Interim Board, once you nominate the Interim Board, you nominate these individuals. What is the next process? What is the next step in the process?"

Speaker Daniels: "Representative Kubik."

Kubik: "As I indicated, I think I indicated, although I guess it's pretty noisy in here."

Speaker Daniels: "Excuse me. Ladies and Gentlemen."

Kubik: "That's not a problem with me, but... As I indicate, once they are nominated, there will be four nominated. Of those four, the Legislators within... that have districts within Cook County would be given a weighted vote and would be allowed to vote on those nominations and the top three would be elected. As I indicated, there would be no more than two from one party."

Speaker Daniels: "Representative Santiago."

Santiago: "Isn't there in the Bill a stipulation that a process in which a map is going to be drawn so that the new commissioners will be elected within district. Is there such a mechanism in there, in the Bill?"

Speaker Daniels: "Representative Kubik."

Kubik: "I'm sorry, Representative. I thought you were talking about the Interim Board. The board that will begin the

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election process in 1998, there will be a map that will be drawn by the Legislature and that map must be drawn by June 1st of 1996."

Speaker Daniels: "Representative Santiago."

Santiago: "Can you tell me, Representative Kubik, how many taxpayers appealed their taxes in 1994 before the Cook County Tax Board of Appeals, and the other part of the question, how many cases were filed or appealed directly to PTAB?"

Speaker Daniels: "Representative Kubik."

Kubik: "My understanding is the answer to the first is around 70,000, and I believe the answer to the second is around 9 to 10,000."

Speaker Daniels: "Representative Santiago, your time is expiring. Can you bring your questions to a close?"

Santiago: "Yes. Now, if two commissioners could do the job of analyzing 70,000 cases, why do we need three?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative, it has been... Well, first of all as I understand it, the Cook County Board of Tax Appeals is the only two member board in the country, the only two member board in the country. I think it is understood by most individuals, including the Chicago Bar Association and others, who believe that a fairer system would be a three member system, and a system where there is minority participation in the Board of Review process. Let me point out that in other counties throughout the state, which obviously are much smaller than Cook County, no more than two members of the Board of Review are from one party, so there has been minority participation."

Speaker Daniels: "Representative Santiago."

Santiago: "Representative Kubik, don't you think that a board

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that handles 70,000 cases is an efficient board?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative, based on the evidence that I have seen over the years regarding assessments in Cook County, they may, as you point out, dispose of 70,000 cases. I'm not sure they do it very well."

Speaker Daniels: "Representative Santiago."

Santiago: "Do you have any evidence indicating what you just stated?"

Speaker Daniels: "Representative Kubik."

Kubik: "I think the Department of Revenue has done a number of studies on this issue over the years. I think the Taxpayers Federation, which regardless of how they feel about a particular issue, is seen as an organization that has a lot of integrity in the research that they do, would indicate that in Cook County the assessment process is one that doesn't work. And that there is a wide disparity in assessments and that this system is not working. So I think, you know, I could probably go back to my office and bring down a load of books and show you that, but I think over the years that has been proven that the assessment process in Cook County and the way that those assessments are determined and the ultimate result of those assessments indicate that it doesn't work."

Speaker Daniels: "Representative Santiago."

Santiago: "So, you have stated that PTAB handled what, 6,000 cases last year?"

Speaker Daniels: "Representative Kubik."

Kubik: "I think it's about 9,000."

Speaker Daniels: "Representative Santiago."

Santiago: "How many members are on the PTAB Board?"

Speaker Daniels: "Representative Kubik."

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Kubik: "Five members."

Speaker Daniels: "Representative Santiago."

Santiago: "So, we have a state agency that handles 9,000 cases and it has five members, and I also know that they are behind some six years, and now we want to eliminate an office, a board that handles 70,000 cases with only two commissioners. Where is the sensibility in this equation? Can you tell me that?"

Speaker Daniels: "Representative Kubik."

Kubik: "Well, Representative, they may handle 9,000 cases a year. There are 101 other counties in this state. It seems to me, that if they handle 9,000 cases, then what's happening is, on the lower levels at the Board of Review and at the assessor level, people are much more satisfied with and can understand their assessments so they don't feel the need to go to PTAB and go through that process. So what we are trying to do is improve the system on the bottom side and hopefully there will be fewer that will go upward, but it seems to me that people, there are fewer people that are appealing because they are happier with the result that has been done at the Board of Review and the assessor's level."

Speaker Daniels: "Representative Santiago, your time has expired. Can you bring your line of questioning to a close, please or summarize?"

Santiago: "I have so many questions. Thank you, Mr. Speaker, for your indulgence; I really appreciate it."

Speaker Daniels: "Representative Feigenholtz, are you giving Representative Santiago your time? Looks like you have another gift. So we will give you another five minutes."

Santiago: "Yes. It's been a tough birthday for me."

Speaker Daniels: "Well, you're doing a good job."

Santiago: "Thank you, Mr. Speaker. Representative Kubik, we

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cannot compare the rest of the state with Cook County. Half...the population of Cook County is half of the state. Will you agree with me on that point?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative, you are the one who introduced the comparison, not me. So, you know, I'm just responding to your line of questioning. You are the one who said, 'Why are we doing this?' And you brought the comparison in."

Speaker Daniels: "Representative Santiago."

Santiago: "I believe that you and everyone here will disagree with you. Just... All we have to do is look at the number 70,000 versus 9,000. Two commissioners doing...processing 70,000 cases with a board that only...that has five commissioners and only processes 9,000 cases, and they are behind six years. Now, let me ask you this question. Let's say that this Bill passes. This board, this PTAB, how many cases are they going to be able to handle?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative, first of all, in the...there will be a phase in of the cases. In the '96 tax...the '96 assessment year, appealable in '97, we will just do residential. In the '97, appealable in '98, we will do the rest of the classes of property. The recognition here is that there will need to be additional resources that will be provided to the State Tax Appeals Board, and this will allow us that opportunity to phase in those resources."

Speaker Daniels: "Representative Santiago."

Santiago: "How... Do you have an estimate of how many cases this PTAB is going to handle in a year?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative, I don't know and I think the reason that we ought to...one other thing we ought to keep in mind is

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that along with the portion that you are talking about of this Bill, we are also changing the standard by which a court makes a judgement on tax assessment. There may be some cases that will choose not to go to PTAB after they have gone to the Board of Review, but rather to go into court and that number we cannot estimate. What I can tell you is that in the State Property Tax Appeals Board at the present time, something in the nature of 65 to 75% of their cases are related to home owner assessment."

Speaker Daniels: "Representative Santiago."

Santiago: "Representative Kubik, you said earlier that PTAB handled 9,000 cases, and I have some information that tells me that they are six years behind. Let's say by your Bill, you're saying that you want to open up the appealing process. Let's say 30,000 people decide to appeal to PTAB. What are you going to do with those people? If you can't handle 9,000, how are you going to handle 30,000? Are you going to put the taxpayers in Cook County at risk? Are you going to put all those taxing bodies at risk? Because you know of the bonding authorizations and the other obligation that these taxing bodies have if these...they are not going to be able to get their money...how are...is this board, that's an inefficient board, is going to handle 30,000 cases?"

Speaker Daniels: "Representative Kubik."

Kubik: "Well, Representative, I think we have a basic disagreement as to how this system is going to work. I happen to believe that if we create a three member Board of Tax Appeals and we develop a good system in the Board of Tax Appeals, that will result in fewer cases going to PTAB. How many? I don't know. We are prepared to place some resources into PTAB to upgrade that particular..."



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Speaker Daniels: "Further discussion? The Gentleman from Cook, Representative Kotlarz."

Kotlarz: "Mr. Speaker, I would like to yield my time to Representative Santiago. I would also like to announce that I am voting 'present' because of a possible conflict."

Speaker Daniels: "Well, you can't do both, Sir. If you are going to announce that, that will take up your time, but I will...Representative Santiago, I am going to go to somebody else and then come back to you on a yield. The Gentleman from Cook, Representative Pedersen."

Pedersen: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. Will the Sponsor yield?"

Speaker Daniels: "He indicates he will."

Pedersen: "Representative, under the current system, a taxpayer normally goes to the assessor first when he wants to appeal. Isn't that correct?"

Speaker Daniels: "Representative Kubik."

Kubik: "Yes."

Speaker Daniels: "Representative Pedersen."

Pedersen: "And logically under the new system, he would do the same thing. Right?"

Speaker Daniels: "Representative Kubik."

Kubik: "Yes."

Speaker Daniels: "Representative Pedersen."

Pedersen: "And if he doesn't like the results at the assessor's office, then he has a chance to go to the Board of Appeals."

Speaker Daniels: "Representative Kubik."

Kubik: "Yes, that is the second step. Yes."

Speaker Daniels: "Representative Pedersen."

Pedersen: "And under the new system, he would have the right to do the same thing and that would be the logical step."

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Correct?"

Speaker Daniels: "Representative Kubik."

Kubik: "Correct. That would be the same under...the new system...it would be the same."

Speaker Daniels: "Representative Pedersen."

Pedersen: "So, if he is still unhappy and that, of course, does happen currently, he now has the opportunity to go to the State Property Tax Appeals Board with his appeal. That's the one thing that's new. ...that correct?"

Speaker Daniels: "Representative Kubik."

Kubik: "Yes, that is correct, Representative."

Speaker Daniels: "Representative Pedersen."

Pedersen: "Now, if the State Property Tax Appeals Board has a procedure that's somewhat different and they start changing some of these lower judgments, isn't it logical that if the lower appeals...places that people go, if that...if they're being overridden by the State Property Tax Appeals Board, don't you think it's just logical that at some point the county assessor and the Board of Appeals are going to say, 'well, we'll just do it the same way as the State Property Tax Appeals Board and they won't have to go there.' Isn't that logical?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative Pedersen, that is certainly our hope and I think it is logical. That is our hope that over a period of time that that will occur and will result in fairer assessments at the assessor level and at the Board of Review level."

Speaker Daniels: "Representative Kubik...Pedersen."

Pedersen: "And this... So what...so what that means is that the residents and property owners in Cook County will then have the same right as everybody else in the state has. Isn't

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that correct?"

Speaker Daniels: "Representative Kubik."

Kubik: "Yes, Representative, at the present time, as you well know, in every other county in the state, the taxpayer is allowed the opportunity, not only to appeal at the assessor level, not only to appeal at the board of review level, but at the Property Tax Appeals Board level. Now my belief is that we should not deny that opportunity to the taxpayers of Cook County."

Speaker Daniels: "Representative Kubik. Representative Pedersen."

Pedersen: "Well, to the Bill, Mr. Speaker, this...all the scare tactics we are talking about here will probably just not be there. What's going to happen is at the local levels, where appeals are made, they are going to be doing them the way the State Property Tax Appeals Board will ultimately do it anyway. The other thing is that why do the...why do residents in Cook County not have the same right as everybody in the rest of the state? The other thing is that, you know, we have had people on the other side of the aisle in the past who proposed some of these very things, and so I think what we are really talking about, is this a question of fairness for property owners in Cook County? It certainly would be a lot simpler, and I think it's a marvelous step forward we are taking here for all the property owners in Cook County, and I urge an 'aye' vote."

Speaker Daniels: "The Gentleman from Cook, Representative Pugh."

Pugh: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. Will the Sponsor yield for a question?"

Speaker Daniels: "He indicates he will."

Pugh: "Representative Kubik, can you tell me the names of the members who are...who currently make up this body?"

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Speaker Daniels: "Representative Kubik."

Kubik: "Representative, I'm not sure I understand your question. Maybe you could be a little more specific."

Speaker Daniels: "Representative Pugh, could you restate your question?"

Pugh: "Okay. Do we start the clock over as a result..."

Speaker Daniels: "No, just restate your question. He didn't understand it."

Pugh: "The Board of Appeals, who currently makes up? Who are the current commissioners?"

Speaker Daniels: "Representative Kubik."

Kubik: "There are two commissioners. I believe their names are Joseph Barrios and Wilson Frost."

Speaker Daniels: "Representative Pugh."

Pugh: "And what ethnicity are these two individuals?"

Speaker Daniels: "Representative Pugh, is this to the Bill? Is this to the Bill, Sir?"

Pugh: "Yes, Sir."

Speaker Daniels: "Representative Kubik."

Kubik: "Representative, I believe that Representative...I'm sorry, Commissioner Frost is an African American and Mr. Barrios is Hispanic."

Speaker Daniels: "Representative Pugh."

Pugh: "And the purpose of this legislation is designed to move those two individuals out of office and replace them with some new people."

Speaker Daniels: "Representative Kubik."

Kubik: "No, there is nothing in this legislation which precludes those two individuals from applying for a membership on the Interim Board and/or running for office under a system that would...districts that would be created by June 1st of 1996."

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Speaker Daniels: "Representative Pugh."

Pugh: "What's the purpose? Why do...what's the need? Why do we need this legislation at this point in time?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative, we have a board that is a two member board. As I indicated earlier, I have no personal differences with the board members. It has been my experience over my ten years in the General Assembly. I have been down to the Chicago Bar Association on numerous occasions. The Chicago Bar Association believes very strongly, as many other groups do, it should be a three member board. In addition to that, we, in looking at this board, decided that it would be more appropriate to have a Board of Review as opposed to a Board of Appeals. So we abolish the Board of Appeals and created a Board of Review, which has three members."

Speaker Daniels: "Representative Pugh."

Pugh: "So, will this board...will this legislation that we're about to create, will it save the taxpayers' money if we are going from a two member board to a three member board, will we save the taxpayer money? And if so, how much?"

Speaker Daniels: "Representative Kubik."

Kubik: "I think that would be hard to determine, but I do believe that in a fairer assessment system, taxpayers, all sorts of taxpayers, homeowners, small business people, everyone will get fairer assessments, which means lower tax bills. You know, a person who has a piece of property, whether it be a home or a business, is entitled to a fair assessment. That's all we are trying to do here is to create a system that makes sure that we have fair and equal assessments in Cook County."

Speaker Daniels: "Representative Pugh."

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Pugh: "So, are you... The fair and equal assessments would save the taxpayers that pay taxes money, but...that pay taxes on...that pay property taxes, that would save them money, but would the cost...would the savings accrue to the average citizen who doesn't own property that is also paying taxes? Would not his tax bill be increased, so in turn would this not be considered a tax increase?"

Speaker Daniels: "Representative Kubik."

Kubik: "As I said in my opening remarks, Representative, I'm under no illusion. I under..."

Speaker Daniels: "Representative Kubik, can you bring your answer to a close. Time has expired."

Kubik: "I understand that initially there may be some increased cost. We are talking about a \$5 billion dollar tax system in Cook County, and I think that we are trying to change a system that will ensure fairer tax assessments for everyone. And I think that it's hard to calculate how much this will cost, but I think in the long run, a better, fairer system is good for all of the people of Cook County."

Speaker Daniels: "The Gentleman from Cook, Representative Dart."

Dart: "Thank you, Mr. Speaker, to the Bill. This is nothing what Representative Kubik is saying. Earlier today we had...we imposed a disaster plan on the Chicago school system. Today squarely in the cross hairs are the taxpayers, not only of Cook County, but the taxpayers of downstate, and I'll tell you why. The Cook County taxpayers, as the Sponsor freely admitted in committee today, they are going to get stuck holding the bag here. They are the ones that are going to have to come up with \$1 million for compensation for commissioners, \$500,000 plus for compensation for additional employees, \$500,000 plus for

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compensation for employees to process and defend appeals brought before the PTAB. In addition to that, there is going to be an additional \$2 million cost to the assessors office, but I suppose in this Body what's a couple million dollars amongst friends here, huh? What's the difference? It doesn't make any difference. But more importantly, let's keep this thing in perspective as well. What is this doing to all the downstaters. Downstaters are also going to get hurt here. Each one of these individuals here who are Representatives from Cook County, this is a tax increase for Cook County. The Representative admitted that in committee today that this is going to have to come from a levy from Cook County taxpayers to pay for it. So you now will be voting for a tax increase, all in the name of this making assessments fair, which is not going to occur. What you have done in addition is you've set up another bureaucratic level here as well at the PTAB. And what does that mean? For you downstaters, what that means is that now when your constituents, your taxpayers are going down in front of PTAB, guess what? The backlog that is now a couple years is going to be 6, 7, 8, 9 years. They can't handle it. Let me read you something that the Civic Federation put out. In regards to extending the jurisdiction of the PTAB to Cook County, the Civic Federation at this time strongly opposes extending the PTAB jurisdiction to Cook County. The PTAB lacks the funding or the expertise to handle potential flood of assessment appeals from the state's largest county, and this Bill makes no provision to assist PTAB in either respect. Currently the Board of Appeals review over 60,000 assessments appeals annually, as well as 1,000 certificates of error and exemptions. If only 25,000 parcels were

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appealed from Cook County to the PTAB, it's workload would increase by 280%. Imposing a tremendous stain on an already overworked and understaffed body. This is what this Bill is going to do. There is no two ways about it, that is it. That is it in a nutshell. So for you in Cook County, here is your tax increase. For the downstaters you are insuring that your taxpayers will not be able to get their taxes heard in front of PTAB. Who it does help though, it will help lawyers. Lawyers will be given a...this will be like full employment for lawyers, because the new standard is something I fully agree with, but it's going to mean encouraging more people to appeal. And this PTAB that does not have the expertise for these big cases, they get one of these big parcels maybe once a year. Cook County gets them about once a day. They have none of the expertise to handle this. So what is this going to be doing to all the downstate individuals who come in front of PTAB? They are going to be pushed in the back of the docket and pushed further and further. And what's the other thing that you're doing here as well? The other thing you are doing to the downstate as well as in addition to the backlog is now you are setting up a system where the taxing bodies, which we have already handcuffed, and I'm sure you've heard from them already from the school districts with tax caps. We have already handcuffed them with that, but what we are doing here now is we are setting up a system there to get them yet again. Because under the PTAB, PTAB does not make its decisions on assessments until after the bills have been issued and taxing bodies will thus experience millions of dollars in losses per year due to costly refunds, the large business owners filing before PTAB. These repayments will be ordered after the money has



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already been spent. This will be repayed, not only the money, but guess what? With interest as well. So you are also sticking them that way, too. Here we have it, we are setting up a new bureaucracy. We are not paying for it, Cook County taxpayers will. We are also putting in place new responsibilities for PTAB. We are giving them no money for that; we will just pull that out of the budget somewhere as well. We are not sure exactly where that's going to come from. So what, in effect, have we done? We have put together a very costly system here, which will not speed up tax appeals at all. It will not make it more fair. We all know that and you know it as well. The reality of it is, just like we will no longer hear from you again crying about Chicago public schools because you have imposed your plan on us in that regards. Now you are imposing your plan in this regard and the chaos, the utter chaos that is going to be caused by this and the expense to the taxpayers, guess what? It's at your doorstep again and you are the ones that are going to be sitting there holding the bag when your taxpayers are going to see their bills going up, and they are not going to be able to get their tax refunds back because you have done it to them again. This does not make sense. There are some good provisions in this Bill. This is not one of them and this Bill should be defeated."

Speaker Daniels: "Further discussion? The Lady from Lake, Andrea Moore."

Moore, A: "Thank you, Mr. Speaker, I move the previous question."

Speaker Daniels: "The question is, 'Shall the main question be put?' All those in favor signify by saying 'aye'; opposed 'no'. The 'ayes' have it. Representative Kubik to close."

Kubik: "Thank you, Mr. Speaker. I think that this Bill has been

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very fully debated. Let me make a couple of points before we vote. This is not...This is not some kind of a radical proposal. This proposal is the law in 101 other counties in the state. What you say is that in Cook County, you can't appeal more than twice. You appeal to the assessor and you appeal to the Board of Tax Appeals. In every other county in the state, you appeal to the assessor, you appeal to the Board of Review, and then you appeal to the PTAB if you don't like it. What we are saying is that we ought to give that ability to the other taxpayers, the taxpayers of Cook County. So, you know, I can't understand why somebody wouldn't want to give a taxpayer, who has done nothing wrong, other than been given an assessment by an assessor which is wrong, and they bring the evidence that it's wrong and they want to go through a system to make sure that that assessment is fair. What's wrong with that? I think that makes imminently good sense. Now, I believe that this Bill is a well balanced Bill. It makes a lot of sense. It's taxpayer friendly. If you believe in taxpayers, if you believe in fair assessments and if you believe that we ought to bring a taxpayer an opportunity to get a fair assessment you ought to be for this Bill. I urge a 'yes' vote on the Motion to concur on Senate Amendments 1 and 2."

Speaker Daniels: "The question is, 'Shall the House concur in House Bill 1465, Senate Amendments #1 and 2?' All those in favor signify by voting 'aye'; opposed by voting 'nay'. The voting is open. This is final action. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk will take the record. On this question, there are 67 'ayes', 46 'no', 4 voting 'present'. On this question, the House does concur with Senate Amendments #1 and 2 to House Bill 1465. This Bill, having received the

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Constitutional Majority, is hereby declared passed.

Speaker Daniels: Ladies and Gentlemen of the House, we have several Resolutions, several Motions to recede, several Motions to non-concur and we will complete our evening with House Bill 901. So we are going to move fast on the resolutions, Motions to recede, and to non-concur. The first is, Senate Resolution 21. Read the Resolution, Senate Joint Resolution 21. Supplemental #3, excuse me, Mr. Clerk."

Clerk Rossi: "Senate Joint Resolution #21 offered by Representative Persico."

Speaker Daniels: "Representative Persico?"

Persico: "Thank you, Mr. Speaker, Members of the House. Senate Joint Resolution 21 is a compromise Resolution with many industries and utility companies, to form a joint committee to review and propose legislation to establish wheeling of electricity in Illinois. Very quickly, what the effect of this Resolution, what we're trying to do is to create a 12 member joint committee to hold hearings and be charged with generating a legislative proposal to implement wheeling of electricity in Illinois. It creates a non-voting technical assistant group from various companies, organizations, and associations. And two representatives of the Commerce Commission to offer advice and information on the issues before the joint committee. It requires the joint committee to hire a facilitator to ease and administer the joint committee activities, who is to be nominated by the assistant group and appointed by the majority of the committee. It requires the committee to begin work by June 15, 1995. It requires a preliminary report to the General Assembly by December 1, 1995 and it requires submission of a final legislative proposal by

**SUPPLEMENTARY  
APPENDIX C**

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SENATOR CULLERTON:

A point of personal privilege.

PRESIDING OFFICER: (SENATOR DONAHUE)

Please state your point.

SENATOR CULLERTON:

I'm very happy to introduce the Mt. Carmel Academy class, which is on the Republican side of the aisle in the gallery, and like to welcome them to Springfield.

PRESIDING OFFICER: (SENATOR DONAHUE)

Will you all please rise and be recognized. Welcome to Springfield. Now, on page 6 on the Order of 3rd Reading is House Bill 1465. Madam Secretary, read the bill.

ACTING SECRETARY HAWKER:

House Bill 1465.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley.

SENATOR O'MALLEY:

Again, thank you, Madam President and Members of the Senate. House Bill 1465, as amended, is the Cook County Assessment Reform package that we have been working on. Some of the current -- some of the significant provisions include the following: Abolishing the current Board of Appeals, effective January 1, 1996; directs the Board of Appeals to maintain sufficient records to defend all actions and justify all decisions made by the Board of Appeals, and to transfer all records to the interim Board of Review on January 1, 1996. It also replaces the Board of Appeals with an interim board of review to be appointed by Members of the General Assembly representing Cook County by weighted vote; establishes a three -- establishes three election districts with boundaries to be drawn by the General Assembly no later than June 1, 1996;

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creates a three-person board of review, members are elected in the November, 1998 general election for four-year terms. It also provides for the annual selection of a chairman at the -- in the Board of Review by lot, with no members serving for two consecutive years; grants to the Board of Review many of the same powers and mandates as all other boards of review, including the authority to review, change any assessment regardless of any action by any other assessing authority or in the absence of taxpayer complaint; if phases in access also to the Property Tax Appeals Board beginning with residential property six units or less for assessments made in 1996. That is the 1996 assessment year, adding all other classes of property beginning with the 1997 assessment year. There are also some statewide initiatives contained in the legislation that I would like to make sure that everybody appreciates. In particular, there are a number of objection reform initiatives statewide that are the product of the work of the Civic Federation Task Force on reform of the Cook County Property Tax Appeals Process. In fact, for purposes of intent, I want to make it clear that the provisions of this amended bill concerning tax objections are based on the legislative draft and commentary contained in the report of the Civic Federation Task Force on Reform of the Cook County Property Tax Appeals Process as adopted by the Chicago Bar Association. The report is dated March 2, 1995. The -- the Civic Federation report and commentary is intended to be treated as part of the legislative history concerning this -- this bill. Finally, the -- the concept, or the doctrine of constructive fraud is abolished statewide, and clear and convincing, as a level of burden of proof, for circuit -- circuit courts by all counties is established. That's a summary of the bill, and I'd be happy to answer any questions there may be.

PRESIDING OFFICER: (SENATOR DONAHUE)

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Is there any discussion? Senator Berman.

SENATOR BERMAN:

Thank you, Madam President, Ladies and Gentlemen of the Senate. There are some good points in this bill, and there are some points that I think justify a No vote. And let me point out to you that for those of you who are not from Cook County, you are increasing the costs of State government by the provisions of this bill. At the present time, the Property Tax Appeals Board handles only appeals from the hundred and one counties outside of Cook. Cook County has its own system of the Assessor and then the Board of Tax Appeals. This bill changes the Board of Tax Appeals and puts the Property Tax Appeals Board as a reviewing board, an appellate court, so to speak, of the decisions of the Cook County Board of Tax Appeals. Let me give you some numbers. The -- the current request for a budget from the Property Tax Appeals Board is seven hundred and thirty-eight thousand dollars. That's -- hears -- and they hear, at the present time, about nine thousand appeals per year. The Cook County Board of Appeals estimates that if the -- if the Property Tax Appeal Board is put in over them, there will be an increase at least ten thousand cases a year. The Board of Appeals in Cook County presently hears over sixty-six thousand appeals a year, and a ten-year average of over -- of almost forty thousand. If they were only fifty percent appeals you're talking about a doubling, tripling, perhaps quadrupling of the work load of the Property Tax Appeals Board, and that budget is paid for out of State dollars, not by Cook County dollars. So you are, by voting Yes on this, extending a substantial commitment of State dollars to do something which is presently being done within Cook County at the expense of only Cook County. I would also point out that you are substantially increasing the bureaucracy that's involved by increasing the number of members of the Board of Appeals and this process of appeals from the Cook

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County Board of Appeals to the State Property Tax Appeals Board.  
I think that a No vote is called for on this bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any discussion? Any discussion? Seeing none,  
Senator O'Malley, to close.

SENATOR O'MALLEY:

Yes. Madam President, there are a few remarks I'd like to make in closing. Primarily because of the prior speaker's comments, and I would point out to those of us who represent Cook County some facts that you should be aware of. I think most of the criticism is related to access to the Property Tax Appeal Board. This is a remedy that is available to every taxpayer -- property taxpayer in the State of Illinois other than those of us who live and reside in -- in Cook County. I checked on the statistics about the Property Tax Appeals Board and, lo and behold, what did I find out, that eighty percent plus of all appeals that are made to the Property Tax Appeals Board, are for homeowners, and I think it's only appropriate that we extend this level of due process, which is just one more level that's available to the citizens of Cook County if we take this step today. So I think that primarily addresses the previous speaker's comments, but he also mentioned, I think, that there would be additional expenses at the Board of Review level. I don't know where those estimates come from, but I can tell you that there is broad appeal in -- in Cook County to allow for a three-member board of review. A third member to the current two members, and to be consistent with the rest of the State of Illinois, which currently has a Board of Review process with three members. I would ask for an affirmative roll call. And, again, I urge everybody from Cook County who represents any home owner in Cook County to do what they can to support this important initiative to allow home owners the due process that every other citizen of



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Illinois enjoys. Thank you.

PRESIDING OFFICER: (SENATOR DONAHUE)

The question is, shall House Bill 1465 pass. Those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 33 Ayes, 25 Nays, none voting Present. House Bill 1465, having received the required constitutional majority, is declared passed. Senator Berman, for what purpose do you rise?

SENATOR BERMAN:

I would -- I would request, Madam President, a verification of the affirmative vote.

PRESIDING OFFICER: (SENATOR DONAHUE)

That is always in order. A verification has been requested. Will all Members please be in your seats, and will -- Madam Secretary, will you please read the affirmative vote.

ACTING SECRETARY HAWKER:

The following Members voted in the affirmative: Barkhausen, Burzynski, Butler, Cronin, DeAngelis, Dillard, Donahue, Dudycz, Ralph Dunn, Fawell, Fitzgerald, Geo-Karis, Hasara, Hawkinson, Karpel, Klemm, Lauzen, Madigan, Mahar, Maitland, O'Malley, Parker, Peterson, Petka, Raica, Rauschenberger, Sieben, Syverson, Walsh, Watson, Weaver, Woodyard and Mr. President.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Berman, do you question the presence of any Member?

SENATOR BERMAN:

Senator Barkhausen.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Barkhausen's in his chair.

SENATOR BERMAN:

No further questions, Madam President.

PRESIDING OFFICER: (SENATOR DONAHUE)

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Thank you very much, Senator Berman. On a verified roll call, the Ayes are 33, the Nays are 25, there are none voting Present. House Bill 1465, having received the required constitutional majority, is declared passed. The middle of page 7 is House Bill 1853. Senator Dillard. Madam Secretary, read the bill.

ACTING SECRETARY HAWKER:

House Bill 1853.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Dillard.

SENATOR DILLARD:

Thank you Madam President, Ladies and Gentlemen of the Senate. This bill amends the State Treasurer's Act and the Deposit of State Moneys Act and requires the Treasurer to develop and publish and implement an investment policy for all funds under the Treasurer's control. The bill also requires the Treasurer to appoint an Inspector General to detect and prevent fraud and mismanagement in the Treasurer's Office. And finally, House Bill 1853 stipulates that if there is an agreement between the Treasurer and a bank or a savings and loan detailing the use of deposited State funds that that agreement may not require the gift of money, goods or services to a third party. This makes a number of positive changes we -- we put in the law, and a -- and a policy -- some type of investment policy for the State of Illinois, and it contains a couple of good, what I believe are, ethics and cleanup types of activity concerning the six billion dollars a year that are invested through the State Treasurer. I'd be happy to answer any questions.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there discussion? Senator Collins.

SENATOR COLLINS:

**SUPPLEMENTARY  
APPENDIX D**

**PA 102-0699****(105 ILCS 5/2-3.192 new)**

Sec. 2-3.192. Significant loss grant program. Subject to specific State appropriation, the State Board shall make Significant Loss Grants available to school districts that meet all of the following requirements:

(1) The district has been affected by a recent substantial loss of contributions from a single taxpayer that resulted in either a significant loss of the overall district Equalized Assessed Value or a significant loss in property tax revenue from January 1, 2018 through the effective date of this amendatory Act of the 102nd General Assembly.

(2) The district's total equalized assessed value is significantly derived from a single taxpayer.

(3) The district's administrative office is located in a county with less than 30,000 inhabitants.

(4) The district has a total student enrollment of less than 500 students as published on the most recent Illinois School Report Card.

(5) The district has a low income concentration of at least 45% as published on the most recent Illinois School Report Card.

The Professional Review Panel shall make recommendations to the State Board regarding grant eligibility and allocations. The State Board shall determine grant eligibility and allocations. This Section is repealed on July 1, 2023.

**PA 102-0698**

Section 110. The amount of \$2,700,000, or so much thereof as may be necessary, is appropriated from the General Revenue Fund to the State Board of Education for Significant Loss Grants authorized by 105 ILCS 5/2-3.192

**IN THE CIRCUIT COURT OF JACKSON COUNTY, ILLINOIS  
FIRST JUDICIAL CIRCUIT**

PEOPLE OF THE STATE OF ILLINOIS, )  
JACKSON COUNTY; SHAWNEE )  
COMMUNITY UNIT SCHOOL DISTRICT )  
NO. 84; SHAWNEE COMMUNITY COLLEGE, )  
COMMUNITY COLLEGE DISTRICT NO. 531; )  
and JACKSON COUNTY AS TRUSTEE )  
(for Taxing Districts) )

Plaintiffs, )

v. )

GRAND TOWER ENERGY CENTER, LLC; )  
ROCKLAND CAPITAL, LLC; ROCKLAND )  
CAPITAL GP, LLC; and ROCKLAND CAPITAL, )  
LP )

Defendants. )

FILED  
2/15/2023 3:25 PM  
Cindy R. Svanda  
Circuit Clerk  
Jackson County, Il  
BD

No. 2022TX6

**FIRST AMENDED COMPLAINT**

NOW COME, Shawnee Community Unit School District No. 84 by and through its attorneys, ROBBINS, SCHWARTZ, NICHOLAS, LIFTON and TAYLOR, LTD.; the People of the State of Illinois, Jackson County by JOSEPH CERVANTEZ, STATE’S ATTORNEY OF JACKSON COUNTY through his assistant Joni Bailey; Shawnee Community College, Community College District # 531 by and through its attorneys, JOHNSON, SCHNEIDER & FERRELL, LLC.; and Jackson County as Trustee (for Taxing Districts) by and through its attorney NEAL J. WALLACE, (collectively the “Plaintiffs”) and for their First Amended Complaint against Grand Tower Energy Center, LLC; Rockland Capital, LLC; Rockland Capital GP, LLC; and Rockland Capital, LP (collectively the “Defendants”), state as follows:

## INTRODUCTION

1. This is an action for collection of two years of delinquent real estate taxes pursuant to Section 21-440 of the Illinois Property Tax Code. 35 ILCS 200/21-440 (2023).
2. Defendant, Grand Tower Energy Center, LLC, is the owner of record to which taxes were assessed by the Jackson County Tax Assessor for parcel 16-14-200-001 in 2020 (payable in 2021) and 2021 (payable in 2022).
3. The 2020 assessed taxes on Jackson County Parcel 16-14-200-001 were Two Million One Hundred Sixty-Two Thousand Eight Hundred Sixty-Three Dollars and Eighty-Two Cents (\$2,162,863.82).
4. The 2021 assessed taxes on Jackson County Parcel 16-14-200-001 were Two Million Two Hundred Sixty-Five Thousand Six Hundred Forty-Two Dollars and Seventy-Eight Cents (\$2,265,642.78).
5. The 2020 and 2021 assessed taxes on Jackson County Parcel 16-14-200-001 have not been paid.
6. On December 10, 2021, the Jackson County Treasurer conducted a Delinquent Real Estate Tax Sale for 2020 assessed taxes payable in 2021.
7. On December 10, 2021, Jackson County as Trustee for Taxing Districts under Trusts 16-14-200-001 became the holder of Tax Certificate 202000756.
8. Tax Certificate 202000756 remains open and valid. The redemption period expires August 2, 2024.
9. Plaintiffs seek a judgment against Defendants for the total amounts due for assessed taxes on Jackson County parcel 16-14-200-001, including costs of this action and attorney's fees.

10. Plaintiffs also seek a judgment against Defendants for pre-judgment and post-judgment interest.

### **VENUE**

11. The Circuit Court for the First Judicial Circuit, Jackson County, is the proper venue for this matter, as the property for which the taxes remain unpaid is located in Jackson County, Illinois, and all transactions at issue which are the subject of this Complaint took place in Jackson County.

### **PARTIES**

12. At all times relevant hereto, the People of the State of Illinois are statutory Plaintiffs in cases filed under Section 21-440 of the Property Tax Code. The People of the State of Illinois suffer damage when property owners do not pay their property taxes due to the increased tax liability that results to the People and due to the loss of essential governmental services and functions resulting from nonpayment.

13. Jackson County, as Trustee for Taxing Districts holds Tax Certificate 202000756 for Parcel 16-14-200-001.

14. At all times hereinafter mentioned Plaintiff, Shawnee Community Unit School District No. 84 (“Shawnee School District”) is an Illinois School District under the Illinois School Code 105 ILCS 5/1 et seq with its principal office at 3365 State Route 3 North, Wolf Lake, Illinois.

15. At all times hereinafter mentioned Plaintiff, Shawnee School District, is an Illinois School District that employs approximately 54 educational faculty and staff, and it is responsible for the education of approximately 300 kindergarten through twelfth grade students, 95% of whom are categorized as low-income.

16. For Tax Year 2020, the Shawnee School District's property tax levy resulted in a tax extension on the Subject Property in the amount of \$1,196,153.86. For Tax Year 2021, the School District's property tax levy resulted in a tax extension on the Subject Property in the amount of \$1,300,951.82.

17. The Subject Property's property tax revenue is necessary for the Shawnee School District to perform essential school functions including the payment of staff and the provision of essential student services. As the result of the Defendants' failure to pay taxes, Shawnee School District is without this revenue to perform these essential school district functions for Shawnee School District students and staff and the Shawnee School District community.

18. At all times hereinafter mentioned Plaintiff Shawnee Community College, Community College District # 531 ("Shawnee Community College") is an Illinois Community College under the Public Community College Act, 110 ILCS 805/1-1 et seq with its principal office at 8364 Shawnee College Road, Ullin, Illinois.

19. Plaintiff, Shawnee Community College, employs educational faculty and staff and is responsible for the education of approximately 2,600 students in the communities of Anna, Cairo, Metropolis, Ullin and Vienna.

20. For Tax Year 2020, the Shawnee Community College's property tax levy resulted in a tax extension on the Subject Property in the amount of \$194,874.57. For Tax Year 2021, the Shawnee Community College's property tax levy resulted in a tax extension on the Subject Property in the amount of \$185,513.13.

21. The Subject Property's property tax revenue is necessary for the Shawnee Community College to perform essential college functions including the payment of staff and the provision of essential student services. As the result of the Defendants' failure to pay taxes,



Shawnee Community College is without a portion of this revenue to perform these essential college functions for Shawnee Community College students and staff and the Shawnee Community College community.

22. At all times hereinafter mentioned Plaintiff Jackson County is an Illinois County under the Illinois Counties Code 55 ILCS 5/1-4010 with its principal office located at 1001 Walnut Street, Murphysboro, Illinois.

23. For Tax Year 2020, Plaintiff Jackson County's property tax levy resulted in a tax extension on the Subject Property in the amount of \$512,097.55. For Tax Year 2021, Plaintiff Jackson County's property tax levy resulted in a tax extension on the Subject Property in the amount of \$518,614.95. The Subject Property's property tax revenue is necessary for Jackson County to perform essential government functions for the health, safety and well-being of the residents of Jackson County. As the result of the failure to pay taxes, Jackson County is without this revenue to perform these essential governmental functions for the residents of Jackson County.

24. At all times hereinafter mentioned Joseph E. Meyers and Associates is the County Delinquent Tax Agent for Jackson County pursuant to the authority of the Illinois Property Tax Code 35 ILCS 200/ (2023) and a Resolution adopted by the Jackson County Board.

25. For Tax Year 2020, the combined levies for Taxing Districts - Grand Tower Township, Grand Tower Park District, Kinkaid Reeds Creek Conservancy District, Assessing District 3, Tower Rock Fire District, Grand Tower Drainage District, and Grand Tower Road and Bridge District - resulted in a tax extension on the Subject Property in the amount of \$259,737.84. For Tax Year 2021, the combined levies for Taxing Districts - Grand Tower Township, Grand Tower Park District, Kinkaid Reeds Creek Conservancy District, Assessing District 3, Tower Rock Fire District, Grand Tower Drainage District, and Grand Tower Road and Bridge District - resulted

in a tax extension on the Subject Property in the amount of \$260,562.88. The Subject Property's property tax revenue is necessary for these taxing districts to perform essential government functions for the health, safety and well-being of the residents of Jackson County. As the result of the failure to pay taxes, Jackson County is without this revenue to perform these essential governmental functions for the residents of Jackson County.

26. Upon information and belief, at all times relevant hereto, Defendant Grand Tower Energy Center, LLC ("GTEC"), was a Delaware corporation with its principal office located at 24 Waterway Avenue, Suite 400, The Woodlands, Texas, 77380.

27. Upon information and belief, at all times relevant hereto, Defendant GTEC owned and operated an Illinois power plant in Grand Tower, Jackson County, Illinois, on the Subject Property.

28. Upon information and belief, at all times relevant hereto, Defendant Rockland Capital LLC was a Delaware Corporation with its principal office located at 24 Waterway Avenue, Suite 400, The Woodlands, Texas, 77380.

29. Upon information and belief, at all times relevant hereto, Defendant Rockland Capital GP, LLC was a Delaware Corporation with its principal office located at 24 Waterway Avenue, Suite 400, The Woodlands, Texas, 77380, and general partner of Rockland Capital LP, A Delaware Corporation.

30. Upon information and belief, at all times relevant hereto, Defendant Rockland Capital, LP was a Delaware Corporation with its principal office located at 24 Waterway Avenue, Suite 400, The Woodlands, Texas, 77380, and the manager of the power plant located in Grand Tower, Illinois, and assessed to GTEC as owner.

**THE SUBJECT PROPERTY**

31. The Grand Tower Power Station is a natural gas fired combined cycle electric generation station located at 1820 Power Plant Road in the City of Grand Tower, Grand Tower Township, Jackson County, Illinois.

32. The Grand Tower Power Station complex comprises eleven Jackson County Parcel Identification Numbers (“PINs”):

16-13-300-006

16-14-200-001

16-14-200-002

16-14-400-001

16-14-400-002

16-23-200-001

16-24-101-001

16-13-300-004

16-13-100-001

16-13-300-001

46-13-300-001

33. Jackson County Parcel number 16-14-200-001 will hereinafter be referred to as the “Subject Property”.

34. Upon information and belief, on or about September 30, 2013, Rockland Capital, LLC, Rockland GP, LLC, or Rockland Capital, LP, or a predecessor in interest, contracted to purchase the Subject Property and adjacent parcels from Ameren Corporation as part of a portfolio of natural-gas fired power plants.

35. Upon information and belief, in January 2014, Main Line Generation, LLC, parent company of GTEC, and a wholly owned affiliate of Rockland Capital, LLC purchased the Subject Property from and affiliate of Ameren Corporation as part of a portfolio of natural-gas fired power plants.<sup>1</sup>

36. Upon information and belief, Rockland Capital GP, LLC and Rockland Capital LP acquired the interest of Rockland Capital, LLC, in the Grand Tower Power Station at some date following the January 2014 acquisition.

### **THE TAX YEAR 2020 TAX SALE**

37. On August 19, 2021, the first installment of taxes for Tax Year 2020 on Subject Property in the amount of \$1,081,431.91 became due and owing.

38. As of August 19, 2021, the Defendants had not paid the first installment of taxes for Tax Year 2020 on Subject Property.

39. On or about October 19, 2021, the second installment of taxes for Tax Year 2020 on Subject Property in the amount of \$1,081,431.91 became due and owing.

40. As of October 19, 2021, the Defendants had not paid the second installment of taxes for Tax Year 2020 on Subject Property.

41. On December 6, 2021, in Jackson County Case 2021TX5, Judge Steven M.J. Bost of the First Judicial Circuit, Jackson County, Illinois, entered a final judgement and order of sale for taxes and special assessments in favor of the People of the State of Illinois, for multiple parcels, including the Subject Property, pursuant to Section 21-180 of the Property Tax Code, 35 ILCS

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<sup>1</sup> Appellant, Grand Tower Energy Center, LLC's Response to Intervenor's Closing Brief in Property Tax Appeal Board Docket 14-03445 and 15-00452, at page 2, footnote 1.

200/21-180 (2023). A copy of said Order with supporting documents is attached hereto, marked as **Complaint Exhibit A**, and made a part hereof.

42. On December 10, 2021, after due notice and with no sufficient defense having been made or cause shown why judgment should not be entered against the Subject Property for taxes (special assessments, if any), interest, penalties and costs due and unpaid thereon, the Jackson County Treasurer conducted a Delinquent Real Estate Tax Sale for multiple parcels, including the Subject Property.

43. At the annual tax sale conducted on December 10, 2021, Jackson County as Trustee for Taxing Districts under Trusts 16-14-200-001 became the holder of Tax Certificate 202000756, which remains open and valid with a redemption period that expires on August 2, 2024.

44. The Tax Year 2021 taxes payable in 2022 on the Subject Property were not offered at the annual tax sale conducted on January 20, 2023.

### **COUNT I AGAINST GTEC**

#### **PAYMENT OF TAX YEAR 2020 TAXES**

45. The Plaintiffs reassert and re-allege the allegations set forth above in Paragraphs 1 through 44 as though fully set forth herein.

46. Upon information and belief, GTEC held an ownership interest in the Subject Property on January 1, 2020.

47. On January 1, 2020, the Subject Property was assessed to GTEC in the assessment records of the Jackson County Chief County Assessment Officer and the Jackson County Board of Review (Hereinafter collectively the “Jackson County Assessor”).

48. On January 1, 2020, GTEC was liable for the taxes for Tax Year 2020 on the Subject Property.

49. Pursuant to Section 9-175 of the Property Tax Code, the owner of the property on January 1 in any year shall be liable for the taxes of that year. 35 ILCS 200/9-175 (2023).

50. Pursuant to Section 9-175 of the Property Tax Code, each owner of property on January 1 of a year is liable jointly and severally in any action under Section 21-440 for all taxes of that year. 35 ILCS 200/9-175 (2023).

51. Pursuant to Section 21-440 of the Property Tax Code, the County Board may, at any time after final judgment and order of sale against delinquent property under Section 21-180, institute a civil action in the name of the People of the State of Illinois in the circuit court for the whole amount due for taxes and special assessments on the delinquent or forfeited property. 35 ILCS 200/21-440 (2023).

52. Pursuant to Section 21-440 of the Property Tax Code, any county, city, village, incorporated town, school district or other municipal corporation to which any tax or special assessment is due, may, at any time after final judgment under Section 21-180, institute a civil action in its own name, in the circuit court, for the amount of the tax or special assessment due to it on the delinquent or forfeited property, and prosecute the same to final judgment.

53. Because Tax Year 2020 taxes in the amount of \$2,162,863.82 remain due on the delinquent Subject Property, Plaintiffs seek to collect the taxes plus interest, penalties, fees and other charges granted by law pursuant to 35 ILCS 200/21-440.

54. The Plaintiffs have incurred and will incur certain costs and attorney fees in their efforts to collect the taxes due.

WHEREFORE, the Plaintiffs pray for the entry of a judgment in its favor and against GTEC in the amount of \$2,162,863.82 plus penalties, fees and the costs of collection including attorney fees, and court costs, and for such further relief as this Court deems appropriate and just.

**COUNT II AGAINST GTEC****PAYMENT OF TAX YEAR 2021 TAXES**

55. The Plaintiffs reassert and re-allege the allegations set forth above in Paragraphs 1 through 44 as though fully set forth herein.

56. Upon information and belief, GTEC held an ownership interest in the Subject Property on January 1, 2021.

57. On January 1, 2021, the Subject Property was assessed to GTEC in the assessment records of the Jackson County Assessor.

58. On January 1, 2021, GTEC was liable for the taxes for Tax Year 2021 on the Subject Property.

59. The Plaintiffs reassert and re-allege the allegations set forth above in Paragraphs 49 through 52 as though fully set forth herein.

60. Because Tax Year 2021 taxes in the amount of \$2,265,642.78 remain due on the delinquent Subject Property, Plaintiffs seek to collect the taxes plus interest, penalties, fees and other charges granted by law pursuant to 35 ILCS 200/21-440.

61. The Plaintiffs have incurred and will incur certain costs and attorney fees in their efforts to collect the taxes due.

WHEREFORE, the Plaintiffs pray for the entry of a judgment in its favor and against GTEC in the amount of \$2,265,642.78 plus penalties, fees and the costs of collection including attorney fees, and court costs, and for such further relief as this Court deems appropriate and just.

**COUNT III AGAINST ROCKLAND CAPITAL, LLC****PAYMENT OF TAXES**

62. Plaintiffs reassert and re-allege the allegations set for above in Paragraphs 1 through 61 as though fully set forth herein.

63. Upon information and belief based on statements made by legal counsel for GTEC at the February 8, 2022, hearing before the Jackson County Board of Review, GTEC may lack sufficient liquid assets to satisfy the real estate tax liability on the Subject Property for Tax Years 2020 and 2021.

64. On information and belief, GTEC is a shell company that was formed by Rockland Capital, LLC, Rockland Capital GP, LLC and/or Rockland Capital, LP on January 13, 2014, immediately prior to Rockland's purchase of the Subject Property (Rockland Capital, LLC, Rockland Capital GP, LLC and/or Rockland Capital, LP are at times hereinafter referred to collectively as "Rockland" or the "Rockland Entities").

65. On information and belief, Rockland formed GTEC as a means to, among other things, inadequately capitalize GTEC so that the Rockland could avoid paying the Subject Property's property tax liability that was present at the time that Rockland acquired the Subject Property.

66. The Rockland Entities hold themselves out as the Subject Property's owner. On information and belief, the Rockland Entities and a third-party management company, NAES, under Rockland's direction and control, manage the day-to-day operations of the Subject Property.

67. The Rockland Entities are the governing and dominating personality of the business enterprises of GTEC.



68. Upon information and belief, GTEC was merely an instrumentality to conduct the business.

69. Adherence to the corporate existence would sanction a fraud, promote injustice, and/or promote inequitable consequences on third persons, such as Plaintiffs if the record owner, GTEC, lacked the liquid assets to satisfy the real estate taxes and assessments related to the Subject Property.

70. Upon information and belief, Defendants, GTEC, Rockland Capital, LP, Rockland Capital GP, LLC, and Rockland Capital, LLC are alter egos of one another. Defendants, GTEC, Rockland Capital, LP, Rockland Capital GP, LLC, and Rockland Capital, LLC should be treated as one entity to prevent Defendants, GTEC, Rockland Capital, LP, Rockland Capital GP, LLC, and Rockland Capital, LLC, from using the corporate fiction as a tool to inflict fraud upon Plaintiffs. The corporate fiction of Defendants, GTEC, Rockland Capital, LP, Rockland Capital GP, LLC, and/or Rockland Capital, LLC, should be disregarded because they have been used as part of an unfair device to achieve the inequitable result of claiming insolvency on behalf of GTEC, the shell company, thereby leaving the Plaintiffs having insufficient revenue to perform essential governmental and school functions and to provide essential governmental and school services.

71. If a judgment is entered in this matter against GTEC which GTEC lacks the liquid assets to satisfy, the corporate fiction should be disregarded because: (1) the fiction is used, or is being used, as a means to inadequately undercapitalize an Illinois power plant and its existing property tax obligations; (2) Defendants, GTEC, Rockland Capital, LP, Rockland Capital GP, LLC, and/or Rockland Capital, LLC were organized and operated as a mere tool or business conduit of Rockland Capital, LP, Rockland Capital GP, LLC, and/or Rockland Capital, LLC; (3) the corporate fiction is resorted to as a means of evading existing legal obligations including the

payment of property taxes; (4) the corporate fiction is used to circumvent payment of taxes; and (5) the corporate fiction is relied upon as a protection to justify a wrong.

72. The corporate structure should not shield evasion of existing property tax obligations, circumvention of statute, and the like. This abuse necessitates disregarding the existence of the Defendants, GTEC, Rockland Capital, LP, Rockland Capital GP, LLC, and/or Rockland Capital, LLC as separate entities. As a result, the corporate veil of Defendants, GTEC, Rockland Capital, LP, Rockland Capital GP, LLC, and Rockland Capital, LLC should be pierced to provide that all Defendants, including Rockland Entities, are jointly and severally liable to Plaintiffs for a judgment recovered by Plaintiffs in this matter against GTEC.

73. To hold the Defendants vicariously liable for the unpaid taxes by piercing the corporate veil, Plaintiffs must prove the corporate form should be disregarded. Plaintiffs can satisfy their burden and the corporate veil can be pierced for the following reasons:

- A. GTEC is inadequately capitalized.
- B. GTEC failed to observe corporate formalities.
- C. At all times relevant, the Rockland Entities identified themselves as owner of the Subject Property on Rockland's website at <https://www.rocklandcapital.com/natural-gas-combined-cycle/.2>
- D. Rockland purchased the subject property in furtherance of Rockland investors' interest in the Subject Property.
- E. The Rockland Entities used their own staff or a third-party management company, NAES, hired by Rockland to manage the Subject Property and handle the Subject Property's daily operations.

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<sup>2</sup> Visited by the undersigned on April 4, 2022

- F. NAES identifies “Rockland Capital” as owner of the Subject Property on NAES’s website at <https://www.naes.com/locations/grand-tower-energy-center/><sup>3</sup>
- G. The Rockland Entities used their own staff or a third-party management company hired by the Rockland Entities and conducts the business and affairs of the Subject Property as though GTEC does not exist.
- H. Based on information and belief, GTEC does not have any employees or any functioning officers or directors.
- I. Based on information and belief, the funds of the Rockland Entities and GTEC are commingled and are one in the same.
- J. Based on information and belief, the revenues generated from the Subject Property are diverted to the Rockland Entities to the detriment of GTEC’s creditors and the People of the State of Illinois.

74. Rockland has previously acknowledged and admitted to ownership of the Subject Property and to the exercise of control over the Subject Property. In a hearing before the Illinois Property Tax Appeal Board on May 18, 2018, Rockland executives appeared, identified themselves as Rockland executives and not as executives or employees of GTEC, and then testified under oath that Rockland “owned” the Subject Property. A copy of the applicable portions of the Property Tax Appeal Board hearing transcript is attached hereto, marked **Complaint Exhibit B**, and made a part hereof. At the May 18 hearing, Rockland’s “principal” and “investment team”

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<sup>3</sup> Visited by the undersigned on April 4, 2022

member, Jonathan Beach, and Rockland's asset manager and vice president, Robert Rapenske, testified under oath to the following:

- A. Rockland purchased the Subject Property from Ameren.
- B. Rockland own the Subject Property.
- C. Prior to purchase, Rockland principals analyzed, negotiated and performed projections to determine the Subject Property's profitability.
- D. Rockland suffered losses from the Subject Property's economic performance.
- E. Rockland performed substantial maintenance to increase the Subject Property's profitability.
- F. Rockland implemented policies and procedures to improve the Subject Property's performance.
- G. Rockland hires, oversees and "instructs" a third-party management company, NAES, to serve as plant manager and to implement Rockland procedures with respect to the Subject Property's operations.
- H. Rockland serves as the Subject Property's asset manager.
- I. Rockland manages the Subject Property and oversees the Subject Property's daily operations.
- J. Rockland establishes budgets for the Subject Property.
- K. Rockland establishes maintenance plans for the Subject Property.
- L. Rockland is in control of environmental remediation efforts at the Subject Property and works with the Illinois Environmental Protection Agency on

management zone applications, testing and compliance with federal regulations.

- M. Rockland could have improved the subject property in order to make the property profitable, but it did not engage in this activity.

75. By reason of the foregoing, Rockland Capital, LP, Rockland Capital GP, LLC, and/or Rockland Capital, LLC perpetrated an injustice against Plaintiffs because they used GTEC as a façade to funnel revenues directly to Rockland Capital, LP, Rockland Capital GP, LLC, and/or Rockland Capital, LLC in order to avoid paying property taxes; the property taxes for the Subject Property should have gone to fund educational programming and services for the Shawnee School District where 95% of the students are low income, for the governmental services in Jackson County and the affected taxing districts.

76. By reason of the foregoing, GTEC is a mere façade for Rockland Capital, LP, Rockland Capital GP, LLC, and/or Rockland Capital, LLC .

77. Rockland Capital, LP, Rockland Capital GP, LLC, and Rockland Capital, LLC are the alter egos of GTEC; and Rockland Capital, LP, Rockland Capital GP, LLC, Rockland Capital, LLC and GTEC are one and the same entity.

78. Because of Rockland's actions, Rockland Capital, LLC should be jointly and severally liable for the taxes assessed to and owed by GTEC to Plaintiffs for Tax Years 2020 and 2021.

79. Based on the foregoing, this Court should pierce the corporate veil of GTEC, and enter judgment in favor of Plaintiffs and against Rockland Capital, LLC.

WHEREFORE, the Plaintiffs pray for the entry of a judgment in its favor and against Rockland Capital, LLC in the amount of \$4,428,506.60 plus penalties, fees and the costs of

collection including attorney fees, and court costs, and for such further relief as this Court deems appropriate and just.

**COUNT IV AGAINST ROCKLAND CAPITAL GP, LLC**

**PAYMENT OF TAXES**

80. The Plaintiffs reassert and re-allege the allegations set forth above in Paragraphs 1 through 79 as though fully set forth herein.

81. Rockland Capital GP, LLC is the alter ego of GTEC, Rockland Capital, LP and Rockland Capital, LLC, and Rockland Capital GP, LLC, Rockland Capital, LP, Rockland Capital, LLC and GTEC are one in the same entity.

82. Because of Rockland Capital GP, LLC's action, Rockland Capital GP, LLC should be jointly and severally liable for the taxes assessed to and owed by GTEC to Plaintiffs for Tax Years 2020 and 2021.

WHEREFORE, the Plaintiffs pray for the entry of a judgment in its favor and against Rockland Capital GP, LLC in the amount of \$4,428,506.60 plus penalties, fees and the costs of collection including attorney fees, and court costs, and for such further relief as this Court deems appropriate and just.

**COUNT V AGAINST ROCKLAND CAPITAL LP**

**PAYMENT OF TAXES**

83. The Plaintiffs reassert and re-allege the allegations set forth above in Paragraphs 1 through 82 as though fully set forth herein.

84. Rockland Capital, LP is the alter ego of GTEC, Rockland Capital GP, LLC and Rockland Capital, LLC; and Rockland Capital, LP, Rockland Capital GP, LLC, Rockland Capital, LLC and GTEC are one in the same entity.

85. Because of Rockland Capital, LP's action, Rockland Capital, LP should be jointly and severally liable for the taxes assessed to and owed by GTEC to Plaintiffs for Tax Years 2020 and 2021.

WHEREFORE, the Plaintiffs pray for the entry of a judgment in its favor and against Rockland Capital, LP in the amount of \$4,428,506.60 plus penalties, fees and the costs of collection including attorney fees, and court costs, and for such further relief as this Court deems appropriate and just.

Respectfully submitted,

SHAWNEE COMMUNITY UNIT  
SCHOOL DISTRICT NO. 4

By:           /s/ Scott L. Ginsburg            
Scott L. Ginsburg, one of its Attorneys

JACKSON COUNTY

JOSEPH A. CERVANTEZ, State's Attorney

By:           /s/ Joni Bailey            
Joni Bailey  
Assistant State's Attorney

SHAWNEE COMMUNITY COLLEGE

By:           /s/ John Schneider            
John Schneider, one of its attorneys

JACKSON COUNTY AS TRUSTEE

By:           /s/ Neal Wallace            
Neal Wallace, one of its attorneys

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IN THE CIRCUIT COURT FOR THE  
FIRST JUDICIAL CIRCUIT JACKSON COUNTY, ILLINOIS

STATE OF ILLINOIS     )  
                                  ) SS  
COUNTY OF JACKSON    )

21-TX- 5

ORDER

Please before the undersigned Presiding Judge, Steven M. J. [Signature]  
In the Circuit Court for the First Judicial Circuit, Jackson County Illinois, duly  
convened and in session on December 6, 2021, the following court officials being  
present, Cindy Svanda, Clerk of said Court, Joseph A. Cervantez, State's Attorney,  
of said County and State aforesaid.

Now comes Elizabeth A Hunter, County Treasurer and Ex-Officio  
Collector and her attorney, and makes application for judgement and order of sale  
for taxes and special assessments of delinquent lands and lots and for judgement  
fixing the correct amount of any taxes paid under protest, etc., all properties with  
taxes unpaid, and for an Order authorizing the sale of said properties, such  
property to be offered for sale commencing Friday, December 10, 2021, at the  
Davis-McCann Center, 15 N 14th St, Murphysboro, IL, and make due proof to the  
court of publication giving due notice of the application made aforesaid by  
submitting a copy of the newspaper containing said notice, advertisement and  
delinquent list which the court admits into evidence, and the same filed herein as a  
part the records of the court, Southern Illinoisan Newspaper.

Being the Book identified as the Tax Judgements, Sale, Redemption  
and Forfeiture record number Ninety-four (94) consisting of pages

2021 DEC - 6 4 AM 10:08  
FILED 24  
DIRECTOR CLERK  
JACKSON COUNTY, IL

1 through 98 listing individual properties by Property Tax number. This Order being attached to said identified book #94 and covers the properties as herein identified showing taxes not paid.

Having been filed herein and having been introduced in evidence by said Collector and the Court having examined said delinquent list copied therein, and having heard all objections to the Entry of Judgement filed herein, and having pronounced Judgement therein as required by law and as shown by the Order of this Court entered herein, and whereas issue notice has been given of the intended application for Judgement against said land and lots in said application described, and no sufficient defense having been made or cause shown why Judgement should not be entered against said lands and lots for taxes, railroads, telephone and telegraph properties, if any special assessments or installments thereof and special levee and drainage taxes, interest, penalties and costs due and unpaid thereon for the year or years herein set forth in said application, except as to certain lands and lots to which objections to judgement are filed, therefore, it is considered by the Court that Judgement be and is hereby entered against the aforesaid tract of tracts of lots or lands, or parts of tracts or lots or as the case may be in favor of the people of the State of Illinois for the sum annexed to each, except as to such tracts or lots as to which objections are filed, being the amount of taxes, special assessment of installment thereon: and it is Ordered by the Court that the several tracts of lots or lands or so much or each of them as shall be sufficient to satisfy the amount of special assessments of the taxes or installments thereof: levee and drainage taxes, if any interest, penalties and cost annexed to them severally, to be sold or forfeited as the law directs.

ENTERED: December 6, 2021



---

**JUDGE**  
**Of the Circuit Court for the First Judicial Circuit**

STATE OF ILLINOIS     )  
                                   ) SS                                   21-TX-  
 COUNTY OF JACKSON    )

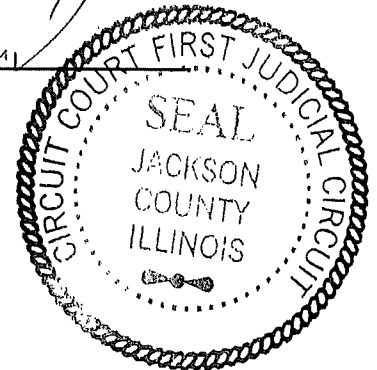
**I, Cindy Svanda, Clerk of the Circuit Court for the First Judicial  
 Circuit, Jackson County, Illinois do hereby certify that the foregoing is a true and  
 correct record of the delinquent real estate in said County, against which  
 Judgement and Order of sale was duly entered in the aforesaid Court on December  
 6, 2021, for the amount of taxes, special assessments, interest, and cost due severally  
 thereon as therein set forth and that the Judgement and Order of the  
 Court in relation thereto fully appears as said record.**

**Dated: December 6, 2021**


---

**Cindy Svanda**  
**Clerk of the Circuit Court**



JACKSON COUNTY DELINQUENT REAL ESTATE TAX LIST

THE FOLLOWING PUBLISHED NOTICE IS REQUIRED BY THE ILLINOIS REVISED STATUTES IN ORDER TO ENABLE PERSONS TO PAY THEIR DELINQUENT PROPERTY TAXES PRIOR TO THE SALE OF SUCH TAXES.

JACKSON COUNTY

DELINQUENT REAL ESTATE TAX LIST

STATE OF ILLINOIS SS COUNTY OF JACKSON COUNTY

I, Elizabeth A Hunter, Treasurer and Ex-Officio Collector of taxes for the County of Jackson County and State of Illinois, do hereby give public notice that I shall apply to the Circuit Court of said county for judgement, upon Monday, December 6th, 2021 A.D. at 9:00 o'clock A.M. (should the Courtroom be closed Monday, December 6th, 2021 for any reason, judgement will be applied for the next day the courtroom is open.) Shall apply for judgement against the lands, lots, tracts, railroads, properties, and the improvements thereon situated in said tracts, railroad properties and the improvements thereon situated in said county and listed above for delinquent taxes, paid under protest, together with interest, penalties and cost as set above, and shall also at the same time ask for an order of the said court for the sale and said lands, lots, tracts, railroad properties and the improvements thereon, as the law directs for the satisfaction of such judgments and interest, penalties, and cost due and to accrue.

Public Notice is further hereby given that on the following Friday, succeeding the date of application for judgement and said Friday, being December 10, 2021 all of the lands, lots, tracts, and the improvements thereon, for sale of which and order shall be made, will be exposed for public sale at the Davis-McCann Center, 15 N 14th St, Murphysboro, Illinois. Should the Davis-McCann Center be closed for any reason on December 10, 2021, the tax sale will be held the following Monday, December 13, 2021 at the Jackson County Courthouse in Murphysboro, Illinois. The terms of the sale will be as follows: When the taxes, special assessment taxes, penalties, interest and cost due thereon; and each sale to be subject to the confirmation and direction of said Court, all in accordance with the State in such case made and provided. The said sale will commence at the hour of 10:00 in the morning of Friday, December 10, 2021 from day to day until all lands, lots, railroad properties, and the improvements thereon for which an order of sale shall be made, have been sold offered for sale if forfeited.

Dated at Murphysboro this 17th day of November, 2021 Elizabeth A Hunter, County Treasurer and Ex-Officio Tax Collector of Jackson County, Illinois.

EXPLANATION

The permanent parcel number system is as follows: 1st and 2nd numbers designate the township the property is located in. The 3rd and 4th numbers are the section numbers. The 5th, 6th, and 7th numbers designate the parcel block number. The 8th, 9th, and 10th numbers are the parcel number.

THIS LIST OF UNPAID TAXES WAS PREPARED AS OF 4:00 PM, NOVEMBER 17, 2021. THIS LIST INCLUDES ALL SIXTEEN TOWNSHIPS IN JACKSON COUNTY.

NOTICE: JACKSON COUNTY WILL BE USING AN AUTOMATION SERVICE TO HOLD THE TAX SALE. Contact the Treasurer's Office for a form if you intend to bid. The completed form has to be turned in to the Treasurer's Office by 4:00 PM, Monday, November 29, 2021.

Table with columns: Parcel Number, Total, Name. Lists delinquent tax parcels for Bradley township.

Table with columns: Ora, Parcel Number, Total, Name. Lists delinquent tax parcels for various townships including Vergennes, Elk, and Somerset.

Table with columns: Parcel Number, Total, Name. Lists delinquent tax parcels for various townships including Deggins, Kinkaid, and DeSoto.

## JACKSON COUNTY DELINQUENT REAL ESTATE TAX LIST

10-16-354-007	\$3,047.82	RICH, MANDI & SHACKLETON,	14-04-335-015	\$722.47	OMD PROPERTIES, LLC	14-10-309-010	\$424.87	RAWSON, RYAN & KATHERINE
10-16-355-010	\$1,317.83	FRED, TRAVIS & KASEY	14-04-337-022	\$1,050.55	MURPHY, MITCH	14-10-309-013	\$7,339.15	RAWSON, RYAN & KATHERINE
10-17-300-017	\$3,600.87	FRED, JASON	14-04-337-023	\$1,057.25	MURPHY, JOHN	14-10-327-010	\$1,743.37	BAEISEN, RANDALL
10-17-300-019	\$4,019.77	FRED, TRAVIS & KASEY	14-04-353-001	\$666.97	DCLL, LLC	14-10-354-002	\$2,550.56	GALE, WILLIAM SCOTT
10-20-127-001	\$2,555.89	TURNER, ANDREA	14-04-354-021	\$1,245.48	HERALD GRAPHICS & PRINTING	14-10-354-034	\$528.48	GALE, WILLIAM SCOTT
10-20-128-017	\$1,214.41	BARRY, RONALD & KATHRYN	14-04-354-022	\$1,107.35	HERALD GRAPHICS & PRINTING	14-10-462-007	\$1,283.50	BITTLE, ANTHONY
10-20-203-002	\$939.16	STEARNS, RICHARD	14-04-354-023	\$1,372.91	ELDERS, TIA	14-12-105-005	\$3,987.44	APARTMENT-41, LLC-JCOC
10-20-203-009	\$892.33	HUNSAKER, TRESSA	14-04-354-028	\$3,305.43	CLUTTS, MICHAEL	14-12-102-001	\$110.65	HALE, SHERRY & HALE, TERRY
10-20-203-010	\$651.86	HUNSAKER, TRESSA	14-04-355-030	\$2,115.58	MOSGLIN, KELLY	14-12-128-002	\$4,744.81	BARIL, JUSTIN
10-20-205-013	\$2,625.67	FLORES, EMILIA & MARIA	14-04-357-012	\$2,272.58	LAYNE, ANGELA	14-12-226-011	\$241.16	JAMES, EARL
10-20-206-023	\$1,312.09	DAVIS, NELLIE	14-04-357-018	\$2,060.61	VESTAL, JAMES & KRISTY	14-12-401-010	\$1,503.89	APARTMENT-44, LLC
10-20-206-024	\$864.61	PLEASANT, J & DAHTRUN, V	14-04-358-000	\$2,199.51	RUDDOLF, SHERRI	14-13-126-006	\$865.68	SMITH, CONNIE
10-20-208-001	\$994.85	JCTB INC	14-04-361-010	\$947.11	MC LAUGHLIN, ERICA & MURPH	14-13-126-035	\$380.66	BRUNKEN, EDWARD & MANDY
10-20-208-002	\$1,847.38	MOORE, MARGACE	14-04-376-038	\$1,217.76	DUFFY, AMANDA & MATTHEW	14-13-203-002	\$1,946.53	MUELLER, CHRIS
10-20-228-011	\$7,285.85	BROOKS, RYAN	14-04-378-005	\$573.52	MC GINNIS, TIMOTHY & JULI	14-15-101-014	\$203.22	GALE, WILLIAM SCOTT
10-20-228-014	\$2,226.53	DUVALL, TODD & JESSICA	14-04-378-006	\$596.79	GUPTA, VINOD	14-15-227-019	\$2,387.98	HODAPP PROPERTIES, LLC
10-20-228-018	\$1,327.31	DUVALL, TODD & JESSICA	14-04-398-028	\$3,655.54	MILES, MICHAEL	14-15-277-004	\$1,451.50	CAWNESS, DOLORE
10-20-229-004	\$957.26	TRUST #566	14-04-398-029	\$9,147.02	MORRISON, DAVID	14-15-301-003	\$1,675.23	MARTIN, NORMAN & DIANE
10-20-230-006	\$1,127.05	A. MANZA-CARCONA, L URS	14-04-397-029	\$625.13	LINDESEY, JOSHUA	14-16-226-007	\$3,749.72	ROBINSON, MICHAEL & ELIZA
10-20-230-006	\$551.46	PARKS, WENDY	14-04-402-012	\$745.97	BEASLEY, JOHN & BEASLEY, J	14-16-476-003	\$1,245.58	BARIL, PROPERTIES, LLC
10-20-233-016	\$1,153.35	GUPTA, VINOD	14-04-404-020	\$1,328.27	BLACKSHEAR ADVANTAGE, LLC	14-17-300-023	\$26.13	ANDERS, BRIAN
10-20-234-000	\$1,912.36	RISTAINO, SAVANTHA	14-04-404-021	\$1,328.27	BLACKSHEAR ADVANTAGE, LLC	14-17-300-023	\$1,685.92	SANDERS, ERIC
10-20-234-010	\$1,413.79	KELLETT, HOWARD	14-04-406-309	\$174.48	BOROS, REGINA	14-18-102-003	\$723.82	GREGSON, SHANE
10-20-251-020	\$658.32	HOOD, TAMAR	14-04-407-034	\$1,337.61	BROWN, NICHOLAS & EUBANKS	14-18-400-034	\$26.24	SOLOMAN FRANCIS LAND TRUST
10-20-400-007	\$2,377.55	TURNER, JAMEY & TURNER, RO	14-04-408-000	\$407.45	BDOW, DANIEL & STARLA	14-20-400-023	\$83.46	VAHA, ERIC & VANA, SUE
10-20-400-008	\$949.09	TURNER, ROBYN BOWLIN	14-04-431-004	\$1,547.69	GLASSER, CHARLES & LIJANE	14-23-200-003	\$2,228.42	STOKES, PATRICIA
10-21-110-005	\$463.57	MELDOWS, GREGORY	14-04-453-003	\$446.97	SUTTON, DAVID & LOGAN, DEB	14-24-100-002	\$28.35	MOHR, LLOYD & GERALDINE
10-21-112-007	\$851.59	HUNSAKER, TRESSA	14-04-453-005	\$9,655.68	SATTERFIELD, KATHY	14-24-100-026	\$83.46	DUFFY, AMANDA & MATTHEW
10-21-113-002	\$226.67	DUNCAN, RANDALL	14-04-453-010	\$3,620.11	FOSTER, JEREMY A LEEHSA	14-24-226-009	\$4,566.25	BANKSTATER, PHILIP
10-21-118-001	\$149.93	VINOR, NICHOLAS	14-04-453-020	\$2,600.18	LA SALLE NTL ASSOC TR#1238	14-29-101-007	\$3,919.18	FAVRELL, PHIL
10-21-118-002	\$131.07	VINOR, NICHOLAS	14-04-453-021	\$1,525.11	LA SALLE NTL ASSOC TR#1238	14-25-126-001	\$2,154.53	SMITH, CORY
10-21-118-003	\$131.07	VINOR, NICHOLAS	14-04-454-005	\$406.58	RAY, MATHEW	14-25-351-003	\$10,873.94	BUDELICK, LAURA
10-21-118-004	\$131.07	VINOR, NICHOLAS	14-04-455-002	\$906.86	MOORE, JOSHUA & ASHLEY	14-26-200-005	\$605.02	BLESSING, AARON
10-21-118-005	\$131.07	VINOR, NICHOLAS	14-04-455-003	\$862.89	MOORE, JOSHUA	14-26-200-016	\$1,395.68	BLESSING, JAMES
10-21-118-006	\$149.03	VINOR, NICHOLAS	14-04-455-006	\$1,728.73	DOERF, JASON & ASHLE	14-26-300-001	\$118.91	BLESSING, JAMES
10-21-151-033	\$3,033.32	VILES, DANIEL	14-04-458-002	\$1,633.16	HAYNES, STEVEN	14-26-400-011	\$3,770.56	BLESSING, JAMES
10-21-151-034	\$2,781.18	PHITCHETT, CHARLES	14-04-458-003	\$1,633.16	HAYNES, STEVEN	14-26-400-011	\$245.26	LEE, RONNIE
10-21-176-003	\$7,775.16	FLORES, GEORGINA	14-04-458-006	\$543.40	SEYFERTH, MANOY	14-31-100-008	\$222.24	HUNZIKER, LISA
10-21-178-012	\$1,416.86	GEORGE, KENDRA	14-04-478-003	\$1,611.80	GOOD EARTH SUPPORT GROUP	14-32-300-004	\$305.50	LINDESEY, JOSHUA
10-21-300-001	\$52.41	TURNER, ROBYN BOWLIN	14-04-478-017	\$1,361.95	KEIRNS, BYRON			
10-29-228-008	\$125.03	GRECO PROPERTIES, INC	14-04-478-018	\$66.95	KEIRNS, BYRON			
10-30-100-047	\$312.26	360 NETWORKS USA INC/TAX D	14-04-480-007	\$86.35	GARY, LEONA			
10-35-176-005	\$2,553.34	KERTER, JOHN & JAMIE	14-04-481-007	\$86.35	SCHROEDER, WILLIAM A TRUST			
10-35-775-001	\$147.62	FAGER, JILL & LINDESEY, JUL	14-04-482-005	\$86.35	GARY, LEONA			
10-36-751-001	\$228.41	FAGER, JILL & LINDESEY, JUL	14-04-482-006	\$86.35	GARY, LEONA			
			14-04-484-000	\$86.35	LARRY LEWIS HOLDING & IN			
			14-04-484-003	\$86.35	LARRY LEWIS HOLDING & IN			
			14-04-484-004	\$86.35	LARRY LEWIS HOLDING & IN			
			14-04-484-014	\$86.35	LARRY LEWIS HOLDING & IN			
			14-04-484-021	\$292.08	BETHEL AME CHURCH			
			14-05-176-004	\$2,260.41	BARIL, JUSTIN			
			14-05-201-001	\$641.79	PHILLIPS, MARHIA			
			14-05-202-002	\$680.39	FOSTER, JEREMY A LEEHSA			
			14-05-202-003	\$616.18	FOSTER, JEREMY A LEEHSA			
			14-05-204-005	\$2,826.32	GOULD, DANNY & AMY			
			14-05-228-019	\$178.63	GUPTA, VINOD			
			14-05-229-016	\$478.34	BASDEN, JOHN			
			14-05-229-022	\$1,183.16	GREENLEY, REBECCA			
			14-05-255-014	\$709.92	ZIMMER, DARLENE			
			14-05-258-013	\$356.11	P & N PROPERTIES, INC			
			14-05-276-006	\$440.14	HARLAND, JOHN & PEGGIE			
			14-05-277-012	\$1,382.86	ROBERTSON, BRANDON			
			14-05-279-009	\$468.74	COPPA, TACCA			
			14-05-280-012	\$328.53	SCHMELLYMAYER, JAQUELINE			
			14-05-281-003	\$1,522.47	SKENES, DARRELL			
			14-05-281-007	\$1,902.62	HORNECKER, CARL			
			14-05-281-014	\$473.71	HOECKER, DAVID			
			14-05-332-025	\$171.50	KORANAN, KETI			
			14-05-402-008	\$1,726.80	BIGGS, KENNETH			
			14-05-405-005	\$1,135.36	DICKERSON, ASHLEY			
			14-05-406-013	\$808.74	BALSITIS, SHEANNE			
			14-05-409-002	\$392.80	BARIL, JUSTIN			
			14-05-409-018	\$437.89	MOYER, SCOTT			
			14-05-411-020	\$1,867.82	SWAFFORD, FLOYD & REBECCA			
			14-05-426-016	\$1,089.84	BARIL, JUSTIN & BROOKE			
			14-05-430-010	\$937.77	SKALSKY, GEORGE			
			14-05-431-012	\$801.14	BAUER, CHRISTINE			
			14-05-432-007	\$1,918.08	STARBUCK, JENNIFER			
			14-05-432-007	\$1,100.92	CARRUTHERS, BARBARA			
			14-05-432-010	\$1,228.95	CLUTTS, FRED			
			14-05-455-005	\$611.84	REED, CURT			
			14-05-458-002	\$2,324.05	DUFFY, MATTHEW & AMANDA			
			14-05-459-003	\$2,838.13	COCHRAN, MELISSA			
			14-05-483-004	\$744.85	BARIL, JUSTIN			
			14-06-201-005	\$4,881.18	ELDERS, TIA			
			14-06-276-005	\$302.93	BOUCHER, BRANDI			
			14-06-126-007	\$48.73	COX, DUSTIN			
			14-06-126-008	\$53.13	COX, DUSTIN			
			14-06-127-001	\$37.20	COX, DUSTIN			
			14-06-127-016	\$1,922.92	COX, DUSTIN			
			14-06-129-014	\$734.36	COOPER, DEBORAH & PAHLE, M			
			14-06-131-004	\$878.89	FOSTER, R & THOMPSON, R			
			14-06-173-011	\$341.29	HOECKER, DAVID			
			14-06-181-023	\$1,058.84	CUDEMO, JENNIFER			
			14-06-202-022	\$212.98	LEE, RONNIE			
			14-06-202-023	\$431.33	FLETERO, W			
			14-06-203-015	\$1,163.16	SMITH, GARY & MOORE, FRED			
			14-06-203-018	\$2,089.36	KARVIS, MANDI & RAYMOND			
			14-06-206-019	\$369.42	HEARN, PHYLLIS			
			14-06-226-002	\$1,499.77	MOFFATT, KRISTY			
			14-06-226-007	\$3,671.11	BARIL, AARON			
			14-06-228-009	\$1,31.35	REGINA, DANK			
			14-06-230-001	\$3,929.58	HAYES, LAODRAE			
			14-06-230-011	\$2,952.01	STAR ENTERPRISES			
			14-06-231-004	\$228.83	PLUCKER, CURTIS & PLUCKER			
			14-06-233-005	\$2,070.09	REYNOLDS, PAMELA			
			14-06-233-010	\$2,229.75	SHERMAN, ISABELLA			
			14-06-233-014	\$173.96	AHLFIELD, CAROLOTTA &			
			14-06-234-012	\$2,314.87	SACX DBA Z GAS, LLC			
			14-08-235-010	\$3,025.97	HUTCHINGS, AMY			
			14-08-235-017	\$148.25	SUN INDUSTRIES			
			14-08-251-012	\$1,190,293.01	HICHA, GARY			
			14-08-251-019	\$2,676.13	ZIMMERMAN, ALMA			
			14-08-252-011	\$2,511.73	BRANTLEY, KEVIN			
			14-08-252-019	\$1,163.16	WILCOXON, ADRIEN			
			14-08-253-019	\$1,613.16	ELLIS, CHARLES			
			14-08-253-021	\$1,613.16	ELLIS, JAMES			

JACKSON COUNTY DELINQUENT REAL ESTATE TAX LIST

Table with columns: Parcel Number, Total, Name. Rows include property details for various owners like FIROUZI, MOHAMMAD ALI, ASLISON, JOHN, etc.

Table with columns: Parcel Number, Total, Name. Rows include property details for GRAND TOWER ENERGY CTR, LL, GRAND TOWER LAND HOLDINGS, etc.

Table with columns: Parcel Number, Total, Name. Rows include property details for Pomona area, listing owners like MAY, MICHAEL, CHIPPS, MICHAEL, etc.

Table with columns: Parcel Number, Total, Name. Rows include property details for Makanda area, listing owners like RICHARDS, RODNEY & PADOVAN, SANDERS, JORDAN & ALEXIS, etc.

Summary table with columns: Grand Tower, Parcel Number, Total, Name. Rows include GRAND TOWER ENERGY CTR, LL, GRAND TOWER LAND HOLDINGS, etc.

# JACKSON COUNTY DELINQUENT REAL ESTATE TAX LIST

19-17-103-012	\$216.99	VOLLMER, YVONNE	19-27-103-002	\$16.85	MILLARD, LAWRENCE	19-29-276-013	\$198.16	SCDEV, LLC
19-17-103-013	\$165.39	VOLLMER, YVONNE	19-27-151-003	\$77.88	MILLARD, LAWRENCE	19-29-276-014	\$10,121.02	KELLER, JOANN TRUST
19-17-103-014	\$165.39	VOLLMER, YVONNE	19-27-151-006	\$352.15	MILLARD, LAWRENCE	19-29-277-001	\$93.35	HARRY CARTER HOLDINGS, LLC
19-17-103-015	\$165.39	VOLLMER, YVONNE	19-27-151-007	\$306.02	MILLARD, LAWRENCE	19-29-277-007	\$203.18	SCDEV, LLC
19-17-103-016	\$165.39	VOLLMER, YVONNE	19-27-306-021	\$1,439.96	BREWER, MICHAEL & GRACE	19-29-426-005	\$244.12	SCDEV, LLC
19-17-103-017	\$165.39	VOLLMER, YVONNE	19-27-306-032	\$65.15	STANKIEWICZ, DAVID	19-29-427-001	\$245.00	SCDEV, LLC
19-17-103-018	\$165.39	VOLLMER, YVONNE	19-27-307-004	\$970.25	STANKIEWICZ, DAVID	19-29-427-010	\$657.71	HARRY CARTER HOLDINGS, LLC
19-17-103-019	\$207.09	VOLLMER, YVONNE	19-27-307-005	\$138.75	STANKIEWICZ, DAVID	19-29-477-001	\$83.90	SCDEV, LLC
19-17-103-020	\$110.99	VOLLMER, YVONNE	19-27-307-026	\$1,775.09	STANKIEWICZ, DAVID	19-29-477-009	\$494.42	SKAGGS, STEPHEN & PAMELA
19-17-126-012	\$182.57	VOLLMER, YVONNE	19-27-307-030	\$138.75	STANKIEWICZ, DAVID	19-30-151-008	\$992.95	MILLER, BROOKE
19-17-126-013	\$156.68	VOLLMER, YVONNE	19-27-307-038	\$24.69	STANKIEWICZ, DAVID	19-30-151-009	\$9,017.05	MILLER, BROOKE
19-17-126-020	\$156.68	VOLLMER, YVONNE	19-27-309-039	\$1,976.57	STANKIEWICZ, DAVID	19-32-100-011	\$5,250.72	SZARY, BARBARA A TRUST
19-17-126-021	\$156.68	VOLLMER, YVONNE	19-27-355-036	\$52.80	MILLARD, L J			
19-17-127-002	\$148.15	VOLLMER, YVONNE	19-27-355-056	\$98.72	MILLARD, LAWRENCE			
19-17-127-003	\$148.15	VOLLMER, YVONNE	19-28-101-001	\$370.17	SCDEV, LLC			
19-17-201-007	\$58.95	BARIL, JUSTIN	19-28-101-012	\$44.78	SCDEV, LLC			
19-18-200-010	\$3,571.61	MC MURPHY, PHILLIP & S AN	19-28-102-001	\$12,557.67	SCDEV, LLC			
19-19-100-002	\$171.39	VINCENT, ARTHUR	19-28-102-006	\$80.04	SCDEV, LLC			
19-20-100-012	\$500.25	HUGHEY, CHRISTOPHER	19-28-126-009	\$35.89	SCPROP, LLC			
19-20-300-024	\$157.49	FRANCIS, ELIZABETH	19-28-128-001	\$42.16	SCDEV, LLC			
19-20-400-005	\$439.52	SCDEV, LLC	19-28-351-008	\$44.78	HARRY CARTER HOLDINGS, LLC			
19-21-301-006	\$837.45	SCDEV, LLC	19-28-351-009	\$44.78	HARRY CARTER HOLDINGS, LLC			
19-21-326-018	\$65.05	SCDEV, LLC	19-28-427-012	\$193.52	BRIERTON, PATRICIA			
19-21-351-017	\$315.79	TRIVEDI, BHARGAV & GAYATR	19-28-427-014	\$1,829.39	BRIERTON, PATRICIA			
19-21-351-019	\$676.35	SCDEV, LLC	19-28-477-011	\$809.23	POST OFFICE EQUITIES, LLC			
19-21-376-002	\$992.95	HARRY CARTER HOLDINGS, LLC	19-29-226-001	\$553.11	SCDEV, LLC			
19-21-376-013	\$443.09	SCDEV, LLC	19-29-226-002	\$1,648.08	SCDEV, LLC			
19-21-378-001	\$51.15	SCDEV, LLC	19-29-226-007	\$37.33	SCDEV, LLC			
19-21-378-003	\$992.95	HARRY CARTER HOLDINGS, LLC	19-29-226-012	\$1,028.58	SCDEV, LLC			
19-21-400-015	\$53.85	SCDEV, LLC	19-29-276-004	\$80.04	SCDEV, LLC			
19-22-100-019	\$1,311.28	TOMAS, IRMA	19-29-276-005	\$7,748.50	SCDEV, LLC			
19-22-400-015	\$163.85	BROWN, CHRISTOPHER & STEV	19-29-276-006	\$10,017.57	SCDEV, LLC			
19-23-200-007	\$440.94	ZAPP, JOHN & MORRISSETTE-ZA	19-29-276-007	\$13,137.65	SCDEV, LLC			
19-24-251-008	\$171.08	SCHIMPF, KELLIE & RYAN	19-29-276-010	\$112.87	HARRY CARTER HOLDINGS, LLC			

## STATE OF ILLINOIS, SS COUNTY OF JACKSON

I, Elizabeth A Hunter, County Treasurer and Ex-Officio Collector of the County of Jackson aforesaid do solemnly swear that the foregoing is a true and correct list of lands, lots, tracts, railroad properties and the improvements thereon situated in the County of Jackson, upon which I have been unable to collect the taxes, levee and drainage taxes, special assessments, interest, penalties, and cost as set forth, and that said taxes remain due and unpaid as I verily believe.



ELIZABETH A HUNTER  
JACKSON COUNTY TREASURER  
EX-OFFICIO TAX COLLECTOR

128731  
**Estimate of Real Estate Redemption**  
**12/13/2021**

The amount required to redeem all the Tax Sale and all of its subsequent Tax Sales on the following property using current fees & the specified date is:

<b>Parcel Number:</b> 16-13-300-006 <b>Site Address:</b>  <b>Tax Year:</b> 2020 <b>Certificate:</b> 2020-00-755 <b>Sale Date:</b> 12/10/2021 <b>Township:</b> 14 <b>Property Class:</b> 0080	<b>Owner:</b> GRAND TOWER ENERGY CTR, LLC 1820 POWER PLANT RD  GRAND TOWER, IL 62942  <b>Tax Buyer:</b> JICTB, INC 1701 BROADMOOR DR SUITE 100 CHAMPAIGN, IL 61821
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Redemption amount calculated as of 12/13/2021

<b>Amount of Sale</b>		\$13,130.45
<b>Sale Interest</b>	0.00% x 1 period	\$0.00
<b>CLERK FEE</b>		\$72.00
<b>Total Redemption Amount</b>		<b>\$13,202.45</b>

\*\*\* AMOUNT CAN INCREASE AT ANY TIME \*\*\*

This estimate subject to correction

\*\*\* Personal Checks not Accepted \*\*\*

**Make Cashier Check Payable to the County Clerk**

**Tax Sales Redemptions will only be accepted in:  
CASH, MONEY ORDER, CASHIERS CHECKS**

**INTEREST WILL CHANGE ON THE FOLLOWING DATES**

06/11/2022

CERTIFICATE EXPIRES ON: 12/10/2023

Frank L. Byrd, COUNTY CLERK

CLERK: \_\_\_\_\_

DEPUTY: \_\_\_\_\_



128731  
**Estimate of Real Estate Redemption**  
**12/13/2021**

The amount required to redeem all the Tax Sale and all of its subsequent Tax Sales on the following property using current fees & the specified date is:

<b>Parcel Number:</b> 16-14-200-001 <b>Site Address:</b> 1820 POWER PLANT RD GRAND TOWER, IL 62942  <b>Tax Year:</b> 2020 <b>Certificate:</b> 2020-00-756 <b>Sale Date:</b> 12/10/2021 <b>Township:</b> 14 <b>Property Class:</b> 0080	<b>Owner:</b> GRAND TOWER ENERGY CTR, LLC 1820 POWER PLANT RD  GRAND TOWER, IL 62942  <b>Tax Buyer:</b> JACKSON COUNTY TRUSTEE, JOSEPH E 141 ST ANDREWS AVE. PO BOX 96 EDWARDSVILLE, IL 62025
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Redemption amount calculated as of 12/13/2021

<b>Amount of Sale</b>		\$2,260,238.69
<b>Sale Interest</b>	<b>18.00% x 1 period</b>	\$406,842.96
<b>CLERK FEE</b>		\$72.00
<b>Total Redemption Amount</b>		<b>\$2,667,153.65</b>

\*\*\* AMOUNT CAN INCREASE AT ANY TIME \*\*\*

This estimate subject to correction

\*\*\* Personal Checks not Accepted \*\*\*

Make Cashier Check Payable to the County Clerk

Tax Sales Redemptions will only be accepted in:  
CASH, MONEY ORDER, CASHIERS CHECKS

INTEREST WILL CHANGE ON THE FOLLOWING DATES

06/11/2022

CERTIFICATE EXPIRES ON: 12/10/2023

Frank L. Byrd, COUNTY CLERK

CLERK: \_\_\_\_\_ DEPUTY: \_\_\_\_\_

128731  
**Estimate of Real Estate Redemption**  
**12/13/2021**

The amount required to redeem all the Tax Sale and all of its subsequent Tax Sales on the following property using current fees & the specified date is:

<b>Parcel Number:</b> 16-14-200-002 <b>Site Address:</b>  <b>Tax Year:</b> 2020 <b>Certificate:</b> 2020-00-757 <b>Sale Date:</b> 12/10/2021 <b>Township:</b> 14 <b>Property Class:</b> 0020	<b>Owner:</b> GRAND TOWER ENERGY CTR, LLC 1820 POWER PLANT RD  GRAND TOWER, IL 62942  <b>Tax Buyer:</b> P & N PROPERTIES, INC PO BOX 632  TEUTOPOLIS, IL 62467
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Redemption amount calculated as of 12/13/2021

<b>Amount of Sale</b>		\$110.08
<b>Sale Interest</b>	<b>16.00% x 1 period</b>	\$17.61
<b>CLERK FEE</b>		\$72.00
<b>Total Redemption Amount</b>		<b>\$199.69</b>

\*\*\* AMOUNT CAN INCREASE AT ANY TIME \*\*\*

This estimate subject to correction

\*\*\* Personal Checks not Accepted \*\*\*

**Make Cashier Check Payable to the County Clerk**

**Tax Sales Redemptions will only be accepted in:  
CASH, MONEY ORDER, CASHIERS CHECKS**

**INTEREST WILL CHANGE ON THE FOLLOWING DATES**

06/11/2022

CERTIFICATE EXPIRES ON: 12/10/2023

Frank L. Byrd, COUNTY CLERK

CLERK: \_\_\_\_\_ DEPUTY: \_\_\_\_\_

128731  
**Estimate of Real Estate Redemption**  
**12/13/2021**

The amount required to redeem all the Tax Sale and all of its subsequent Tax Sales on the following property using current fees & the specified date is:

<b>Parcel Number:</b> 16-14-400-001 <b>Site Address:</b>  <b>Tax Year:</b> 2020 <b>Certificate:</b> 2020-00-758 <b>Sale Date:</b> 12/10/2021 <b>Township:</b> 14 <b>Property Class:</b> 0020	<b>Owner:</b> GRAND TOWER LAND HOLDING,LLC 1820 POWER PLANT RD  GRAND TOWER, IL 62942 <b>Tax Buyer:</b> P & N PROPERTIES, INC PO BOX 632  TEUTOPOLIS, IL 62467
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Redemption amount calculated as of 12/13/2021

<b>Amount of Sale</b>		\$166.93
<b>Sale Interest</b>	7.00% x 1 period	\$11.69
<b>CLERK FEE</b>		\$72.00
<b>Total Redemption Amount</b>		<b>\$250.62</b>

\*\*\* AMOUNT CAN INCREASE AT ANY TIME \*\*\*

This estimate subject to correction

\*\*\* Personal Checks not Accepted \*\*\*

**Make Cashier Check Payable to the County Clerk**

**Tax Sales Redemptions will only be accepted in:  
CASH, MONEY ORDER, CASHIERS CHECKS**

**INTEREST WILL CHANGE ON THE FOLLOWING DATES**

06/11/2022

CERTIFICATE EXPIRES ON: 12/10/2023

Frank L. Byrd, COUNTY CLERK

CLERK: \_\_\_\_\_ DEPUTY: \_\_\_\_\_

128731  
**Estimate of Real Estate Redemption**  
**12/13/2021**

The amount required to redeem all the Tax Sale and all of its subsequent Tax Sales on the following property using current fees & the specified date is:

<b>Parcel Number:</b> 16-14-400-002 <b>Site Address:</b>  <b>Tax Year:</b> 2020 <b>Certificate:</b> 2020-00-759 <b>Sale Date:</b> 12/10/2021 <b>Township:</b> 14 <b>Property Class:</b> 0080	<b>Owner:</b> GRAND TOWER ENERGY CTR, LLC 1820 POWER PLANT RD  GRAND TOWER, IL 62942  <b>Tax Buyer:</b> AS - IS PROPERTIES, LTD, PO BOX 126  METROPOLIS, IL 62960
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Redemption amount calculated as of 12/13/2021

<b>Amount of Sale</b>		\$217.93
<b>Sale Interest</b>	0.00% x 1 period	\$0.00
<b>CLERK FEE</b>		\$72.00
<b>Total Redemption Amount</b>		<b>\$289.93</b>

\*\*\* AMOUNT CAN INCREASE AT ANY TIME \*\*\*

This estimate subject to correction

\*\*\* Personal Checks not Accepted \*\*\*

Make Cashier Check Payable to the County Clerk

Tax Sales Redemptions will only be accepted in:  
CASH, MONEY ORDER, CASHIERS CHECKS

INTEREST WILL CHANGE ON THE FOLLOWING DATES

06/11/2022

CERTIFICATE EXPIRES ON: 12/10/2023

Frank L. Byrd, COUNTY CLERK

CLERK: \_\_\_\_\_ DEPUTY: \_\_\_\_\_

128731  
**Estimate of Real Estate Redemption**  
**12/13/2021**

The amount required to redeem all the Tax Sale and all of its subsequent Tax Sales on the following property using current fees & the specified date is:

<b>Parcel Number:</b> 16-23-200-001 <b>Site Address:</b>  <b>Tax Year:</b> 2020 <b>Certificate:</b> 2020-00-760 <b>Sale Date:</b> 12/10/2021 <b>Township:</b> 14 <b>Property Class:</b> 0080	<b>Owner:</b> GRAND TOWER ENERGY CTR, LLC 1820 POWER PLANT RD  GRAND TOWER, IL 62942  <b>Tax Buyer:</b> SI RESOURCES LLC P. O. BOX 3074  CARBONDALE, IL 62902-3074
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Redemption amount calculated as of 12/13/2021

<b>Amount of Sale</b>		\$171.38
<b>Sale Interest</b>	0.00% x 1 period	\$0.00
<b>CLERK FEE</b>		\$72.00
<b>Total Redemption Amount</b>		<b>\$243.38</b>

\*\*\* AMOUNT CAN INCREASE AT ANY TIME \*\*\*

This estimate subject to correction

\*\*\* Personal Checks not Accepted \*\*\*

**Make Cashier Check Payable to the County Clerk**

**Tax Sales Redemptions will only be accepted in:  
CASH, MONEY ORDER, CASHIERS CHECKS**

**INTEREST WILL CHANGE ON THE FOLLOWING DATES**

06/11/2022

CERTIFICATE EXPIRES ON: 12/10/2023

Frank L. Byrd, COUNTY CLERK

CLERK: \_\_\_\_\_ DEPUTY: \_\_\_\_\_

128731  
**Estimate of Real Estate Redemption**  
**12/13/2021**

The amount required to redeem all the Tax Sale and all of its subsequent Tax Sales on the following property using current fees & the specified date is:

<b>Parcel Number:</b> 16-24-101-001 <b>Site Address:</b>  <b>Tax Year:</b> 2020 <b>Certificate:</b> 2020-00-762 <b>Sale Date:</b> 12/10/2021 <b>Township:</b> 14 <b>Property Class:</b> 0080	<b>Owner:</b> GRAND TOWER ENERGY CTR, LLC 1820 POWER PLANT RD  GRAND TOWER, IL 62942  <b>Tax Buyer:</b> METRO LIENS, INC, PO BOX 126  METROPOLIS, IL 62960
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Redemption amount calculated as of 12/13/2021

<b>Amount of Sale</b>		\$146.82
<b>Sale Interest</b>	0.00% x 1 period	\$0.00
<b>CLERK FEE</b>		\$72.00
<b>Total Redemption Amount</b>		<b>\$218.82</b>

\*\*\* AMOUNT CAN INCREASE AT ANY TIME \*\*\*

This estimate subject to correction

\*\*\* Personal Checks not Accepted \*\*\*

**Make Cashier Check Payable to the County Clerk**

**Tax Sales Redemptions will only be accepted in:  
CASH, MONEY ORDER, CASHIERS CHECKS**

**INTEREST WILL CHANGE ON THE FOLLOWING DATES**

06/11/2022

CERTIFICATE EXPIRES ON: 12/10/2023

Frank L. Byrd, COUNTY CLERK

CLERK: \_\_\_\_\_

DEPUTY: \_\_\_\_\_

128731  
**Estimate of Real Estate Redemption**  
**12/13/2021**

The amount required to redeem all the Tax Sale and all of its subsequent Tax Sales on the following property using current fees & the specified date is:

<b>Parcel Number:</b> 16-13-300-004 <b>Site Address:</b>  <b>Tax Year:</b> 2020 <b>Certificate:</b> 2020-00-754 <b>Sale Date:</b> 12/10/2021 <b>Township:</b> 14 <b>Property Class:</b> 0020	<b>Owner:</b> GRAND TOWER ENERGY CTR, LLC 1820 POWER PLANT RD  GRAND TOWER, IL 62942 <b>Tax Buyer:</b> PEACEOFMIND ALERT, INC 1102 W JEFFERSON  EFFINGHAM, IL 62401
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Redemption amount calculated as of 12/13/2021

<b>Amount of Sale</b>		\$173.26
<b>Sale Interest</b>	0.00% x 1 period	\$0.00
<b>CLERK FEE</b>		\$72.00
<b>Total Redemption Amount</b>		<b>\$245.26</b>

\*\*\* AMOUNT CAN INCREASE AT ANY TIME \*\*\*

This estimate subject to correction

\*\*\* Personal Checks not Accepted \*\*\*

**Make Cashier Check Payable to the County Clerk**

**Tax Sales Redemptions will only be accepted in:  
CASH, MONEY ORDER, CASHIERS CHECKS**

**INTEREST WILL CHANGE ON THE FOLLOWING DATES**

06/11/2022

CERTIFICATE EXPIRES ON: 12/10/2023

Frank L. Byrd, COUNTY CLERK

CLERK: \_\_\_\_\_ DEPUTY: \_\_\_\_\_

128731  
**Estimate of Real Estate Redemption**  
**12/13/2021**

The amount required to redeem all the Tax Sale and all of its subsequent Tax Sales on the following property using current fees & the specified date is:

<b>Parcel Number:</b> 16-13-100-001 <b>Site Address:</b> 1703 POWER PLANT RD GRAND TOWER, IL 62942 1501 POWER PLANT RD <b>Tax Year:</b> 2020 <b>Certificate:</b> 2020-00-752 <b>Sale Date:</b> 12/10/2021 <b>Township:</b> 14 <b>Property Class:</b> 0080	<b>Owner:</b> GRAND TOWER ENERGY CTR, LLC 1820 POWER PLANT RD  GRAND TOWER, IL 62942  <b>Tax Buyer:</b> JICTB, INC 1701 BROADMOOR DR SUITE 100 CHAMPAIGN, IL 61821
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Redemption amount calculated as of 12/13/2021

<b>Amount of Sale</b>		\$933.01
<b>Sale Interest</b>	0.00% x 1 period	\$0.00
<b>CLERK FEE</b>		\$72.00
<b>Total Redemption Amount</b>		<b>\$1,005.01</b>

\*\*\* AMOUNT CAN INCREASE AT ANY TIME \*\*\*

This estimate subject to correction

\*\*\* Personal Checks not Accepted \*\*\*

Make Cashier Check Payable to the County Clerk

Tax Sales Redemptions will only be accepted in:  
CASH, MONEY ORDER, CASHIERS CHECKS

INTEREST WILL CHANGE ON THE FOLLOWING DATES

06/11/2022

CERTIFICATE EXPIRES ON: 12/10/2023

Frank L. Byrd, COUNTY CLERK

CLERK: \_\_\_\_\_

DEPUTY: \_\_\_\_\_



128731  
**Estimate of Real Estate Redemption**  
**12/13/2021**

The amount required to redeem all the Tax Sale and all of its subsequent Tax Sales on the following property using current fees & the specified date is:

<b>Parcel Number:</b> 16-13-300-001 <b>Site Address:</b>  <b>Tax Year:</b> 2020 <b>Certificate:</b> 2020-00-753 <b>Sale Date:</b> 12/10/2021 <b>Township:</b> 14 <b>Property Class:</b> 0080	<b>Owner:</b> GRAND TOWER ENERGY CTR, LLC 1820 POWER PLANT RD  GRAND TOWER, IL 62942  <b>Tax Buyer:</b> SABRE INVESTMENTS LLC PO BOX 3074  CARBONDALE, IL 62902
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Redemption amount calculated as of 12/13/2021

<b>Amount of Sale</b>		\$261.90
<b>Sale Interest</b>	0.00% x 1 period	\$0.00
<b>CLERK FEE</b>		\$72.00
<b>Total Redemption Amount</b>		<b>\$333.90</b>

\*\*\* AMOUNT CAN INCREASE AT ANY TIME \*\*\*

This estimate subject to correction

\*\*\* Personal Checks not Accepted \*\*\*

**Make Cashier Check Payable to the County Clerk**

**Tax Sales Redemptions will only be accepted in:  
CASH, MONEY ORDER, CASHIERS CHECKS**

**INTEREST WILL CHANGE ON THE FOLLOWING DATES**

06/11/2022

CERTIFICATE EXPIRES ON: 12/10/2023

Frank L. Byrd, COUNTY CLERK

CLERK: \_\_\_\_\_ DEPUTY: \_\_\_\_\_

128731  
**Estimate of Real Estate Redemption**  
**12/13/2021**

The amount required to redeem all the Tax Sale and all of its subsequent Tax Sales on the following property using current fees & the specified date is:

<b>Parcel Number:</b> 46-13-300-001 <b>Site Address:</b>  <b>Tax Year:</b> 2020 <b>Certificate:</b> 2020-00-935 <b>Sale Date:</b> 12/10/2021 <b>Township:</b> 14 <b>Property Class:</b> 4600	<b>Owner:</b> GRAND TOWER ENERGY CENTER 1820 POWER PLANT RD.  GRAND TOWER, IL 62942  <b>Tax Buyer:</b> JACKSON COUNTY TRUSTEE, JOSEPH E 141 ST ANDREWS AVE. PO BOX 96 EDWARDSVILLE, IL 62025
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Redemption amount calculated as of 12/13/2021

<b>Amount of Sale</b>		\$294.87
<b>Sale Interest</b>	18.00% x 1 period	\$53.08
<b>CLERK FEE</b>		\$72.00
<b>Total Redemption Amount</b>		<b>\$419.95</b>

\*\*\* AMOUNT CAN INCREASE AT ANY TIME \*\*\*

This estimate subject to correction

\*\*\* Personal Checks not Accepted \*\*\*

Make Cashier Check Payable to the County Clerk

Tax Sales Redemptions will only be accepted in:  
CASH, MONEY ORDER, CASHIERS CHECKS

INTEREST WILL CHANGE ON THE FOLLOWING DATES

06/11/2022

CERTIFICATE EXPIRES ON: 12/10/2023

Frank L. Byrd, COUNTY CLERK

CLERK: \_\_\_\_\_ DEPUTY: \_\_\_\_\_

1

1 PROPERTY TAX APPEAL BOARD  
 2 STATE OF ILLINOIS  
 3  
 4 IN RE THE MATTER OF: )  
 5 GRAND TOWER ENERGY ) No. 14-03445-I-3  
 6 CENTER, LLC ) 15-00452-I-3  
 JACKSON COUNTY, )  
 GRAND TOWER, ILLINOIS )

7  
 8 VOLUME I  
 9 PROCEEDING before the Property Tax Appeal  
 10 Board taken on May 21, 2018, commencing at 1:00 p.m.  
 11 at the Stratton Office Building, Room 402, 401 South  
 12 Spring Street, Springfield, Illinois, before  
 13 Elisabeth Collopy, CSR, RPR.

14  
 15 PREPARED FOR:  
 16 PROPERTY TAX APPEAL BOARD  
 17 Mr. Edwin E. Boggess  
 18 Hearing Officer  
 19 Room 402 Stratton Office Building  
 20 401 South Spring Street  
 21 Springfield, IL 62706-0002

COLLOPY REPORTING SERVICE - (630) 926 7894

I N D E X

1  
 2  
 3 WITNESS: Page Line  
 4 **JONATHAN BEACH**  
 5 BY MR. NOVICK..... 32 5  
 6 BY MR. GINSBURG..... 50 23  
 7 BY ALJ BOGGESS..... 55 2  
 8  
 9 **ROBERT RAPENSKÉ**  
 10 BY MR. DOODY..... 60 19  
 11 BY MR. BRENNER..... 80 2  
 12 BY MR. GINSBURG..... 81 2  
 13 BY ALJ BOGGESS..... 90 4  
 14 BY MR. DOODY..... 94 18  
 15  
 16 EXHIBITS:  
 17 (No exhibits marked.)  
 18  
 19  
 20  
 21  
 22  
 23  
 24

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2

1 There were present at the taking of this  
 2 deposition the following counsel:  
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 12  
 13 STATE'S ATTORNEY'S OFFICE  
 14 JACKSON COUNTY, ILLINOIS  
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 22  
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 on behalf of the Intervenor.

**EXHIBIT B**

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4

1 ALJ BOGGESS: Good afternoon. My name is  
 2 Edwin Boggess. I'm your hearing officer this  
 3 afternoon. This is a proceeding before the State of  
 4 Illinois Property Tax Appeal Board pursuant to  
 5 Section 16-170 of the Property Tax Code. The  
 6 subject of this proceeding this afternoon is an  
 7 appeal from Jackson County Board of Review.  
 8 Property Tax Appeal Board docket numbers are  
 9 14-03445-I-3 and 15-00452-I-3.  
 10 For purposes of this proceeding,  
 11 those two PTAB docket numbers, we will have one  
 12 hearing, correct?  
 13 MR. DOODY: Correct.  
 14 ALJ BOGGESS: And I'll reserve the right to  
 15 issue separate decisions on each appeal.  
 16 Appearing on behalf of the  
 17 appellant this afternoon we have Patrick Doody,  
 18 attorney representing Grand Tower Energy Center,  
 19 LLC. And appearing on behalf of the Board of Review  
 20 we have assistant state's attorney representing the  
 21 Jackson County Board of Review Daniel Brenner.  
 22 Appearing on behalf of the intervenors Shawnee  
 23 Community Unit School District No. 84, we have  
 24 attorney Scott Ginsburg.

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1 value, there would have been less functional  
2 obsolescence and the value would have been higher.  
3 Dr. Lagassa's sales comparison  
4 approach provides what I believe to be the  
5 conclusive evidence of value in this case. In his  
6 2014 appraisal, Dr. Lagassa provides 18 sales of  
7 natural gas-fired combined cycle plants that  
8 occurred since January of 2009. These sales were  
9 for properties of similar size and similar vintage  
10 to the subject property and each took place after  
11 the change in the market conditions that shook up  
12 the electricity industry by replacing coal with gas  
13 as the fuel source of choice. In fact, we will look  
14 at one such sale that was of a nearly identical  
15 combined cycle power plant in Illinois for \$608 per  
16 megawatt. Dr. Lagassa's concluded value was equal  
17 to \$386 per megawatt.

18 In his sale comparison approach, 14  
19 of Dr. Lagassa's 18 sales sold for more than \$386  
20 per megawatt. Again, Dr. Lagassa took a  
21 conservative approach based upon ample  
22 contemporaneous, relevant market data and arrived at  
23 a value that was supported by the information  
24 provided in his report.

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1 Finally, in his income approach,  
2 although in January 1, 2014, the plant was coming  
3 off two great years, Dr. Lagassa estimates the  
4 future performance of this plant by looking not only  
5 at the good years but at the bad years. In  
6 conjunction with the information that he reviews and  
7 the recent trends in the property's performance and  
8 the trends in the market for the electric generation  
9 through natural gas, Mr. Lagassa does not swing for  
10 the fences and estimate that this plant should run  
11 at 50 percent or 35 percent or even 25 percent as it  
12 did in 2012. Dr. Lagassa concluded, based on the  
13 historical operations of the plant, even taking into  
14 account the years influenced by Ameren's business  
15 decision, that 9.5 percent was reasonable for 2014  
16 and 2015, a number that is lower than the plant's  
17 actual three-year and four-year average.

18 After considering all forms of  
19 revenue, appropriate deductions for operating  
20 expenses and developing a market-supported discount  
21 rate, Dr. Lagassa arrives at a value conclusion of  
22 \$231,220,000 under the income approach.

23 Due to the tight range of values in  
24 his appraisal, Dr. Lagassa was able to give equal

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1 weight to each of his approaches to value to arrive  
2 at a fair cash value for the subject property of  
3 \$220 million as of January 1, 2014, and \$200 million  
4 as of January 1, 2015.

5 ALJ BOGGESS: Before I turn over to you,  
6 Mr. Doody, for the case in chief, I would ask  
7 counsel if you have a different value you're  
8 requesting from '14 to '15 based on your appraisal  
9 experts or the testimony that comes out through the  
10 hearing, please highlight and pinpoint that out for  
11 me.

(Break taken.)

13 ALJ BOGGESS: We're back on the record.  
14 Mr. Doody, are you ready for your case in chief?

15 MR. DOODY: We are. Mr. Novick is going  
16 to --

17 MR. NOVICK: For our first witness, I'd like  
18 to ask for Jonathan Beach to take the stand.

19 ALJ BOGGESS: Mr. Beach, if you could spell  
20 your name for the record and you remain under oath.

21 THE WITNESS: B-e-a-c-h.

22

23

24

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1 JONATHAN BEACH,  
2 called as a witness herein, having been first duly  
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. NOVICK:

6 **Q.** If you could please state your name, by  
7 whom you're employed, and your position.

8 **A. Jonathan Beach. I work for Rockland  
9 Capital and I'm a principal.**

10 **Q.** What are your duties and  
11 responsibilities for Rockland?

12 **A. I'm on our investment team, so I focus  
13 on trying to find due diligence on and execute on  
14 investments in the North American power and  
15 available energy space.**

16 **Q.** Can you tell me a bit about your  
17 educational background, please?

18 **A. I have two degrees from Rice University,  
19 a degree in mathematical economic analysis and a  
20 master's degree in chemistry.**

21 **Q.** Have you after authored any articles?

22 **A. I've co-authored five articles during my  
23 education.**

24 **Q.** Can you tell me about your employment

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1 history, please?

2 **A. Yes. After I graduated from**  
3 **undergraduate, I took a job with investment bank**  
4 **Merrill Lynch in their two-year analyst program.**  
5 **Did that for two years. Then decided to go back to**  
6 **school, finish some science education. But at the**  
7 **end of that, I decided that I did want to pursue a**  
8 **career in investments.**

9 **So after receiving my master's, I was**  
10 **looking for jobs in investments. Took a job with**  
11 **Rockland Capital. This was in 2006. Came on as an**  
12 **analyst for them as well. Stayed on as an**  
13 **associate. And then in 2010, I took a job with a**  
14 **large Swiss investment manager and was looking at**  
15 **global infrastructure generally, not just U.S. power**  
16 **but still covering power and still covering the U.S.**  
17 **And then in 2013 returned to Rockland and again**  
18 **focused on U.S. power, and I've been there since.**

19 **Q.** And are you familiar with the Grand  
20 Tower Energy Center in Grand Tower, Illinois?

21 **A. I am.**

22 **Q.** How is it you became familiar with Grand  
23 Tower?

24 **A. Right after I came back to Rockland,**  
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1 **they had just submitted an indicative offer to**  
2 **purchase a portfolio of three plants Ameren was**  
3 **selling. Grand Tower was one of these plants, and I**  
4 **was staffed to lead the due diligence process.**

5 **Q.** If you could explain in layman's terms  
6 what exactly is an indicative offer?

7 **A. Typically when power plants are being**  
8 **sold, an investment banker is hired to run an**  
9 **auction process that they do in two stages. In the**  
10 **first stage, there's sort of limited information**  
11 **provided. You give a memo and some financial**  
12 **projections, and with that you're asked to provide**  
13 **an indicative offer for the buyer to consider,**  
14 **knowing that you haven't been able to conduct your**  
15 **full due diligence yet. And then with that**  
16 **indicative offer, they judge who they'd like to**  
17 **invite in to perform full due diligence and provide**  
18 **a final binding offer.**

19 **Q.** So at the conclusion of your due  
20 diligence, what sort of plant did you consider Grand  
21 Tower to be?

22 **A. Grand Tower is a little odd. I think it**  
23 **was talked about in the opening statements. It was**  
24 **a former coal plant where the steam turbines, around**  
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1 **2000 or 2001, had been paired with new combustion**  
2 **turbines. It's what we call a Frankenstein plant in**  
3 **the industry, which makes it a combined cycle**  
4 **natural gas plant, which typically operates at some**  
5 **reasonably high capacity factor, either based load**  
6 **or mid merit; but in this case, the market just**  
7 **didn't need very much of the power from Grand Tower,**  
8 **so it was operated as a peaking plant.**

9 **Q.** Again, in layman's terms, can you  
10 explain what a peaker is?

11 **A. Simplifying, you can divide power plants**  
12 **into three groups: Base loading units are running**  
13 **most or all of the time, mid merit units that maybe**  
14 **run half the time, and then peaking units that are**  
15 **really only running when there is, like, an abnormal**  
16 **system condition or when there is high demand.**

17 **Q.** And so why is Grand Tower run as a  
18 peaker?

19 **A. It's just what the market bears. The**  
20 **cost of Grand Tower is -- the system operator**  
21 **operates a competitive market, and you tell the**  
22 **system operator what your costs are; and if you'll**  
23 **be profitable to run, he's going to dispatch you and**  
24 **you're going to get the market price for power.**  
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1 **That is rarely the case for Grand Tower.**

2 **Q.** And you had mentioned that you returned  
3 to Rockland to lead the due diligence team. When  
4 was that?

5 **A. This was July of 2013.**

6 **Q.** Did you evaluate any other facilities at  
7 the same time?

8 **A. Yes. Ameren was selling Elgin and**  
9 **Gibson City as a package with Grand Tower.**

10 **Q.** And, specifically, what sort of things  
11 did you evaluate when you did your due diligence for  
12 Grand Tower?

13 **A. Really tried to understand Grand Tower**  
14 **as the potential as a stand-alone business and not**  
15 **just one asset inside of a broader company. So**  
16 **trying to look at its fixed cost structure, its**  
17 **variable cost structure, trying to understand the**  
18 **condition of it, you know, hiring consultants to**  
19 **opine on specialty items. Things like that. Trying**  
20 **to understand the abnormal environmental or other**  
21 **liabilities associated with it. Really trying to**  
22 **get a view of how the plant will separate and how**  
23 **much money it can make in the market it operates in**  
24 **over time.**  
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1 **Q.** What were your findings?  
 2 **A.** **Grand Tower had a lot of issues, tied a**  
 3 **lot to Ameren sort of neglecting the plant for many**  
 4 **years. It was way past due on a lot of maintenance.**  
 5 **Its forced outage rates were very, very high. Its**  
 6 **availability rates were very low. The condition was**  
 7 **generally kind of bad and there was several**  
 8 **environmental liabilities that a new owner was going**  
 9 **to have to deal with.**

10 **Q.** What type of environmental liabilities  
 11 did Grand Tower have?

12 **A.** **There's some asbestos related to the old**  
 13 **coal plant that's been retired in place. The**  
 14 **biggest one is there is an ash pond that was**  
 15 **mentioned in the opening statements that's connected**  
 16 **to its time as an old coal-fired facility, and the**  
 17 **new owner was going to have to remediate that with**  
 18 **the new regulations that has to do with coal waste**  
 19 **now.**

20 **There's also a river intake structure**  
 21 **that will eventually have to be demolished. The old**  
 22 **coal pile potentially needs some remediation.**  
 23 **Things that are a bit abnormal for a gas plant.**

24 **Q.** Now, you testified a moment ago that  
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1 Grand Tower had -- I believe your actual words were  
 2 very, very high forced outage rates. Again, in  
 3 layman's terms, what does that mean when you say  
 4 "forced outage rates"?

5 **A.** **I'm specifically referring to e4D, which**  
 6 **is an acronym for equivalent forced outage rate**  
 7 **demand. Essentially, it's something that means that**  
 8 **when the system wants your power or would want your**  
 9 **power if you were available, that you are not there,**  
 10 **not producing power. So for the year 2013, I**  
 11 **believe it averaged across all units of 58 percent**  
 12 **forced outage rate. So that means that about**  
 13 **58 percent of the time that the system operator did**  
 14 **want or would have wanted Grand Tower, it was not**  
 15 **able to operate.**

16 **Q.** And did you end up buying the portfolio?

17 **A.** **We did.**

18 **Q.** And when did you enter into the purchase  
 19 agreement to buy the three facilities?

20 **A.** **September 30, 2013.**

21 **Q.** When did the deal close?

22 **A.** **Closed January 31, 2014.**

23 **Q.** What is the process by which power  
 24 plants typically sell?

1 **A.** **They typically sell in an auction**  
 2 **process.**

3 **Q.** And is that what occurred here?

4 **A.** **That's exactly what occurred here.**

5 **Q.** Can you describe the purchase process  
 6 for Grand Tower?

7 **A.** **Ameren hired a bank, Barclays. They**  
 8 **were well-known in the sector. They were a team**  
 9 **that was formerly at Lehman Brothers. That was one**  
 10 **of the big advisers in the power industry. They**  
 11 **then did the sort of two-stage process that I talked**  
 12 **about a little earlier where they contacted a wide**  
 13 **variety of potential bidders, both big public**  
 14 **companies and small and large private investors,**  
 15 **people not unlike us.**

16 **They then provided some limited**  
 17 **information to gauge people's interest and to see**  
 18 **how people were generally valuing facilities. Then**  
 19 **all these people submitted first what we call first**  
 20 **round or indicative offers, and from that group, we**  
 21 **were one of the ones admitted to perform full due**  
 22 **diligence and, you know, go visit the site, meet**  
 23 **with plant management and Ameren management.**  
 24 **Receive all sorts of records and things were that**

1 **posted in a data room and then spend several weeks**  
 2 **going through all this information to come up with**  
 3 **what our final binding offer would be and submit it.**

4 **Q.** And was the bidding process competitive?

5 **A.** **Very much so. Our final "offer" was for**  
 6 **\$143 million. After a few weeks of realizing that**  
 7 **we were not getting anywhere with Ameren, we raised**  
 8 **our offer by \$20 million to \$163 million. At this**  
 9 **point, Barclays reengaged with us and we began**  
 10 **trading back and forth a purchase agreement with**  
 11 **Ameren.**

12 **We thought the deal was ours. About**  
 13 **literally a day or two before the deal was ready to**  
 14 **sign, got a call from Barclays that another party**  
 15 **had increased their offer beyond ours and that we**  
 16 **would have to further increase our offer or they**  
 17 **were going to stop negotiating with us. We agreed**  
 18 **and met their demand and signed the purchase**  
 19 **agreement very shortly thereafter.**

20 **Q.** And when you were doing your due  
 21 diligence -- when you were evaluating Grand Tower,  
 22 did you use the sales prices of other power  
 23 generating facilities to determine what you should  
 24 bid?

1 **A. We did not.**  
 2 **Q.** Why not?  
 3 **A. It's just not relevant to any particular**  
 4 **plant what some other plant might or might not earn.**  
 5 **Grand Tower is sort of its own animal, a little bit**  
 6 **different than most other plants I've ever seen or a**  
 7 **lot different than a lot of them. Most notably of**  
 8 **importance is its market. Grand Tower operates in a**  
 9 **market where it can only get paid for what is in**  
 10 **that market, and other plants operate in markets**  
 11 **where they get paid for what is paid in that market,**  
 12 **and those can be widely different amounts.**  
 13 **Q.** So if you didn't use sales prices of  
 14 other power generating facilities to determine what  
 15 to bid, what did you use to evaluate what you would  
 16 pay?  
 17 **A. We did a discounted cash flow analysis.**  
 18 **Q.** If you don't mind, in layman's terms can  
 19 you tell me what a discounted cash flow analysis  
 20 would be?  
 21 **A. We're trying to project how much money**  
 22 **we think the plant might be able to earn based on**  
 23 **the market and its operating characteristics, trying**  
 24 **to predict its cost structure and understand its net**  
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1 **cash flows over time and then discount those back at**  
 2 **a discount rate to come up with a present value that**  
 3 **we use for the purchase price.**  
 4 **Q.** How did your projected discounted cash  
 5 flow analysis compare with your actuals for 2014 and  
 6 2015?  
 7 MR. GINSBURG: Objection. Irrelevant. The  
 8 discounted cash flow to which he's referring is an  
 9 appraisal. It's an appraisal that's not in evidence  
 10 and there should be no evidence on the record as to  
 11 what results came from his presale. They had an  
 12 opportunity to file that discounted cash flow  
 13 analysis as evidence, and they failed to do so.  
 14 It's irrelevant. We don't know who  
 15 prepared it. We don't when it's dated. He cannot  
 16 testified how it compares with the real world. They  
 17 have an appraisal. That appraisal does a discounted  
 18 cash flow analysis. They are left to rely on that  
 19 appraisal.  
 20 ALJ BOGGESS: Reply, Mr. Novick?  
 21 MR. NOVICK: Thank you. I mean, Mr. Beach is  
 22 testifying to how he actually valued the facility,  
 23 and that's the purpose of his testimony here today.  
 24 And certainly Mr. -- all of the appraisers are  
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1 making predictions -- especially since we're not  
 2 dealing with one year; we're dealing with '14 and  
 3 '15 -- about what years will be. Mr. Beach is just  
 4 testifying about what the actuals were because  
 5 that's what we're actually valuing is the actual  
 6 value of the property, not a speculative value which  
 7 is what the appraisers were putting on. So I think  
 8 it's relevant, certainly, to Mr. Beach's state of  
 9 mind.  
 10 MR. GINSBURG: No. He's testifying as to  
 11 what he projected the value of the plant to be based  
 12 upon its income earning capacity. That's what a  
 13 discounted cash flow is. That is an appraisal.  
 14 They have filed an appraisal. It resolves a value  
 15 of \$20 million. They are left to rely on that  
 16 appraisal. They cannot testify as to what they  
 17 predicted the value to be, particularly when that is  
 18 not of evidence. The PTAB has a specific rule  
 19 prohibiting testimony about an appraisal when that  
 20 appraisal is not of evidence.  
 21 MR. NOVICK: If I may respond very briefly.  
 22 The intention is not to have Mr. Beach testify to  
 23 what his discounted cash flow is. It's merely to  
 24 show that he did this discounted cash flow analysis  
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1 because that's what they used to value the property.  
 2 He was a bidder in the marketplace.  
 3 MR. GINSBURG: We'll stipulate to that point.  
 4 I agree a discounted cash flow is an important  
 5 matter that should be considered. I think we should  
 6 move on from what his discounted cash flow  
 7 projected.  
 8 MR. NOVICK: We didn't ask that question.  
 9 ALJ BOGGESS: Maybe I'm wrong. Didn't both  
 10 appraisers use a discounted cash analysis in the  
 11 income approach?  
 12 MR. GINSBURG: They did.  
 13 ALJ BOGGESS: So we'll have that testimony  
 14 from the experts. The testimony here is on the  
 15 acquisition of the property and what they considered  
 16 and what they used and how they came about to  
 17 determine the price, whether it be allocated or  
 18 total price for the portfolio. I'm going to allow  
 19 the testimony. The objection is overruled.  
 20 BY MR. NOVICK:  
 21 **Q.** The question that I had asked you,  
 22 Mr. Beach, if you remember, was how did your  
 23 projected discounted cash analysis compare with your  
 24 actuals for 2014 and 2015?  
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1 **A. We did significantly worse in 2014 and**  
2 **2015 than the projections.**

3 **Q.** And how much did you end paying for the  
4 three facilities?

5 **A. Paid \$168 million plus some adjustments**  
6 **for working capital.**

7 **Q.** To your knowledge, was Ameren forced to  
8 sell these properties?

9 **A. No.**

10 **Q.** And how did you actually arrive at the  
11 value for Grand Tower?

12 **A. It was an allocated value. The purchase**  
13 **agreement with Ameren states only a purchase price**  
14 **for the package of plants itself. And so to come up**  
15 **with how it was allocated, Ameren had had three**  
16 **appraisals done of each of the facilities. One of**  
17 **the appraisals had Grand Tower at a negative value.**

18 MR. GINSBURG: Objection. We're not -- he  
19 can't testify as to the contents of an appraisal  
20 that's not of record. It's the same objection.  
21 It's the same PTAB rule. They have an appraisal.  
22 It's a matter of public record that there were  
23 appraisals. Those appraisals were deliberately not  
24 filed with the PTAB and they shouldn't be testified

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1 about today.

2 MR. NOVICK: We're not asking for him to  
3 testify about the appraisals. We're basically  
4 showing the process by which Mr. Beach and his  
5 company came up with the \$47 million, which is what  
6 was allocated as part of this purchase price. And  
7 that's the only reason why -- it's not being offered  
8 to suggest that 47 million is the right price.  
9 We're literally offering the testimony to show this  
10 is the process by which we got to this number.  
11 Nothing more. We're not asking you to put that  
12 number on the property.

13 MR. GINSBURG: It's a matter of public record  
14 that there were appraisals and it's a fact that they  
15 did not file the appraisals. I think that's  
16 relevant and we should move on from this line of  
17 questioning as far as what the contents of the  
18 appraisals were.

19 ALJ BOGGESS: The witness is still testifying  
20 concerning the acquisition of the property, what  
21 they considered. Objection overruled.

22 BY MR. NOVICK:

23 **Q.** And, again, I'll start back at the  
24 beginning. How did you arrive at the value for

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1 Grand Tower?

2 **A. Well, we -- so the purchase agreement**  
3 **was for the three properties, but Ameren had had**  
4 **done on all three properties three different**  
5 **appraisals; and to agree upon what each property was**  
6 **going to get, we used those appraisals as a guide.**  
7 **And one of those had a negative value, one had sort**  
8 **of a minimal value, and then one had the 47 million.**  
9 **That was the highest, and we agreed with Ameren to**  
10 **use that as the basis.**

11 **Q.** And when you were bidding for the three  
12 facilities, did you value all the properties  
13 equally?

14 **A. No. Definitely not.**

15 **Q.** Can you tell me how you valued the three  
16 facilities since it was purchased in the single  
17 transaction?

18 **A. Elgin was clearly -- there's the three**  
19 **facilities. Elgin in northern Illinois and then**  
20 **Gibson City and Grand Tower in southern Illinois.**  
21 **Elgin was clearly more value than both of them**  
22 **combined, mainly because Elgin operates in a**  
23 **different grid. I think it was mentioned that Grand**  
24 **Tower operates in MISO; Gibson City does as well.**

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1 **Elgin operates in a market that is called PJM.**

2 **In PJM, there's what's called a**  
3 **capacity market that goes on over a three to four**  
4 **year rolling period, so you always know every three**  
5 **to four years you have a set stream of cash flows**  
6 **that you know you're going to receive with very high**  
7 **confidence as opposed to in MISO where it's between**  
8 **sort of zero and one year is your forward look. And**  
9 **historically the values for capacity have been**  
10 **almost nothing there in MISO as well.**

11 **So there's many, many, many million**  
12 **dollars that we knew were coming into Elgin over the**  
13 **first three to four years. Owning Elgin, it was**  
14 **very easy to ascribe a lot of value to those as**  
15 **opposed to Gibson City and Grand Tower where we had**  
16 **to just come up with our best estimate of what we**  
17 **think the market might do.**

18 **Q.** Now, you just testified that the Elgin  
19 facility had a certainty about capacity payments.  
20 Can you tell me what a capacity payment might be?

21 **A. Yes. So a grid operator -- when you're**  
22 **running a power plant, of course you're getting paid**  
23 **for the electricity you're producing, but a grid**  
24 **operator also in many grids -- and this is true in**

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1 **MISO and PJM -- provides a payment just for you to**  
 2 **be available so if they do need you, then you turn**  
 3 **on and you're ready to run.**

4 **Q.** And you mentioned that you considered  
 5 Elgin to be essentially the crown jewel of the  
 6 portfolio. Do you have any information that would  
 7 lead you to believe that others also valued the  
 8 plant similarly?

9 **A. Yes. The broker told us that they had**  
 10 **an offer for just Gibson City and Elgin that**  
 11 **exceeded our purchase price for all three.**

12 **Q.** And what sorts of steps have you taken,  
 13 if any, to improve the operations at Grand Tower?

14 **A. Done quite a bit trying to catch up on**  
 15 **all the past due maintenance. Really, just trying**  
 16 **to make Grand Tower as reliable as possible and**  
 17 **bringing it up to speed with, you know, where it**  
 18 **should be in its maintenance cycles on the steam**  
 19 **turbines and the combustion turbines.**

20 **Also implementing some new**  
 21 **procedures. We're recommissioning the duct firing**  
 22 **so that we can sell more capacity and potentially**  
 23 **make more money. And we reduced -- Ameren had been**  
 24 **starting up the machine so that -- I think it was**

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1 **said it took eight to nine hours to start both the**  
 2 **units at Grand Tower, and this start-up time is very**  
 3 **inefficient. You're burning lots and lots of gas,**  
 4 **but you're not producing a lot of power, so it's**  
 5 **very expensive to start.**

6 **If you could just turn it on and it**  
 7 **would be at full load, that would be ideal. We put**  
 8 **in a new procedure that allows the plant to start up**  
 9 **in about half the time, again trying to give it the**  
 10 **best chance as possible to operate and make a little**  
 11 **bit of money.**

12 **Q.** Was Grand Tower profitable in 2014?

13 **A. No.**

14 **Q.** How about 2015?

15 **A. No.**

16 MR. NOVICK: I have no further questions.

17 ALJ BOGGESS: Mr. Brenner, on behalf of the  
 18 Board of Review, do you have any crossing  
 19 examination?

20 MR. BRENNER: No, sir.

21 ALJ BOGGESS: Mr. Ginsburg?

22 CROSS-EXAMINATION

23 BY MR. GINSBURG:

24 **Q.** Mr. Beach, you said you made efforts to

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1 get duct firing up and running. Tell us what you  
 2 mean by that.

3 **A. That's a little bit technical. Might be**  
 4 **a better question for Bob.**

5 **Q.** What is duct firing?

6 **A. Duct firing is something tied to the**  
 7 **steam turbines where you can -- somehow it's burning**  
 8 **in the ducts to allow it to produce more capacity**  
 9 **that I can't give you a good answer on. But you're**  
 10 **getting more capacity. I can tell you that.**

11 **Q.** Rockland Capital doesn't actually  
 12 operate this plant, true?

13 **A. The operator is NAES, a third-party**  
 14 **operator.**

15 **Q.** That's NAES; is that true?

16 **A. That's correct, yes.**

17 **Q.** So Rockland is the owner and they hire a  
 18 third-party contractor. And that third-party  
 19 contractor, essentially, has people on the site, a  
 20 plant manager; and they're the ones that are giving  
 21 orders and getting the plant running and making, you  
 22 know, the trial and error to get the plant running  
 23 and trying to get it more efficient. That's all  
 24 NAES?

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1 **A. Well, NAES is the operator, but we are**  
 2 **internally what we call the asset manager. So we**  
 3 **oversee NAES. The new start-up procedure was all**  
 4 **based on work that people on Bob's team decided to**  
 5 **put in place and third-party consultants that they**  
 6 **had hired to figure out what to do and then instruct**  
 7 **NAES on implementing these things.**

8 **Q.** Okay. I'm going to hand you a document  
 9 provided to me by Mr. Doody in our production  
 10 request. Is this a document with which you are  
 11 familiar?

12 MR. NOVICK: If I could just object. You're  
 13 handing a document. Can we get copies, please?

14 ALJ BOGGESS: Mr. Ginsburg, can you show  
 15 counsel?

16 MR. GINSBURG: This was a document -- it was  
 17 the first document. We did a production request.  
 18 This document was provided to us. We're just trying  
 19 to establish its authenticity.

20 ALJ BOGGESS: This is the same document  
 21 you've handed the witness?

22 MR. GINSBURG: Yes.

23 BY MR. GINSBURG:

24 **Q.** Is this a document with which you're

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1 familiar?

2 ALJ BOGGESS: Hang on. We'll let Mr. Novick

3 examine the document, make sure there are no

4 problems.

5 MR. NOVICK: Is this part of a larger

6 document or is this --

7 MR. GINSBURG: We were provided a flash drive

8 with many, many documents. This was one of the

9 documents. This is also a document that is copied

10 and pasted into the Green review report. I'm just

11 trying to get a better understanding of what it is.

12 ALJ BOGGESS: Has this document been

13 previously submitted into the record?

14 MR. GINSBURG: It's copied in several -- most

15 of it is copied and pasted in the review reports.

16 That's one of the reasons I want to know what it is

17 so I can get a better understanding of what

18 Mr. Green did in his calculations.

19 ALJ BOGGESS: I guess I'm confused. Who

20 prepared the document?

21 MR. GINSBURG: That's what I'm asking.

22 That's my question.

23 ALJ BOGGESS: And this is something you

24 received from Mr. Doody's office?

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1 MR. GINSBURG: Yes.

2 ALJ BOGGESS: Your position?

3 MR. NOVICK: I think at this point there is

4 no foundation. We had quite a large document

5 request which we complied with. We actually

6 complied with it twice because we lost the first

7 flash drive. But when we complied with it, we were

8 assembling documents from all across Rockland

9 Capital.

10 I think if you're going to ask him

11 a question, did you prepare this document --

12 ALJ BOGGESS: Why don't we do this. Let's

13 see if we can lay a foundation and then go from

14 there. You may continue foundation questions.

15 BY MR. GINSBURG:

16 Q. Is this a document with which you are

17 familiar?

18 A. No.

19 Q. Okay. There's no trick question there.

20 That's really all I wanted to know.

21 MR. GINSBURG: I have no further questions.

22 ALJ BOGGESS: Just a couple questions, just

23 basic questions.

24

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1 EXAMINATION

2 BY ALJ BOGGESS:

3 Q. Mr. Beach, there's three basic types of

4 power plants, correct? A base load, peaking plant,

5 and what's the middle one?

6 A. Mid merit.

7 Q. Now, the base load-type of power plant

8 would run generally 24/7; is that correct?

9 A. Yes or very close to it.

10 Q. Now, the operating costs on a base load,

11 would that be high or low compared to the other two?

12 A. Typically the fixed costs on base load

13 units are very, very high and their variable costs

14 are lower. And then, conversely, on peaking plants,

15 the variable cost is very high, but its fixed cost

16 is very low.

17 Q. Mid merit, how long would that be

18 operating for generally?

19 A. I think officially somewhere between

20 like 25 and 50 percent or something like that.

21 Q. And a peaking plant, just during high

22 demand?

23 A. Somewhere between zero and 10 or

24 12 percent, maybe 15 percent.

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1 Q. Now, you testified a little bit about

2 the forced outage rates. Does the operator have any

3 control over those forced outage rates?

4 A. I mean, I think there is definitely an

5 influence of the operator, but it also has to do

6 with, I guess, the condition of the plant just

7 generally outside of whatever you're doing with it.

8 Q. Now, the subject, is that selling power

9 in a regulated or unregulated market?

10 A. Unregulated.

11 Q. And you're selling power based on a

12 bidding process a day ahead?

13 A. Yes. We offer in -- there's a day ahead

14 and real-time market, but we always offer into the

15 day ahead.

16 Q. Now, what would you do if you bid on a

17 day ahead, but then something broke and you couldn't

18 provide power when power was requested? That's a

19 forced outage, correct?

20 A. That's correct. Then you -- financially

21 what happened -- the grid operator, if they were

22 expecting 100 megawatts from a plant then and that

23 plant went down, they'll call another plant or

24 they'll ramp up another plant and they'll -- you

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1 **have to be buying at the real-time price whatever**  
 2 **your short position is. If you said I'm going to be**  
 3 **producing 100 megawatts and then you're down, you**  
 4 **have to buy back 100 megawatts.**

5 **Q.** Now, you talked about the portfolio sale  
 6 in brief. Were the other two plants in an  
 7 unregulated market also?

8 **A. Yes. Gibson City is in the same. It's**  
 9 **also in MISO zone 4. And Elgin is in what's called**  
 10 **ComEd region of PJM.**

11 **Q.** And Elgin is still unregulated, correct?

12 **A. That's correct.**

13 **Q.** Now, the subject, I believe you stated,  
 14 had an eight to nine hour start-up time; is that  
 15 correct?

16 **A. That's correct.**

17 **Q.** Is that the quickest of the three base  
 18 power plants, eight to nine hours?

19 **A. The three base?**

20 **Q.** I call them -- well, the three types,  
 21 base load, mid merit, and peaking.

22 **A. Well, that is -- a peaking plant**  
 23 **typically has a much faster start-up time. Eight to**  
 24 **nine hours is very much on the slow end of what**

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1 **would be a mid merit. For a base load unit, you**  
 2 **could have a combined cycle that's considered a base**  
 3 **load unit if it was in the right market and**  
 4 **operating enough of the time which could potentially**  
 5 **start a lot faster. But sort of the prototypical**  
 6 **base load units, the coal and nuclear plants, those**  
 7 **typically have much longer start-up times, but they**  
 8 **don't shut down. So it might take a day to start**  
 9 **up, but then it's going to continue running without**  
 10 **shutting down for weeks or months.**

11 **Q.** When you talk about the subject being a  
 12 peaking plant, is that your description based on  
 13 start-up or capacity?

14 **A. That is a description based on its**  
 15 **capacity factor. It is only operating a very small**  
 16 **percentage of the year because the market price is**  
 17 **only high enough to justify its operation. But,**  
 18 **technically, it is not -- you would not want to run**  
 19 **a combined cycle plant as a peaking plant.**

20 **Q.** Now, in '14, what was the subject  
 21 running as? A peaking plant?

22 **A. Yes.**

23 **Q.** In 2015, was it running as a peaking  
 24 plant?

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1 **A. Yes.**

2 **Q.** How many months of the year was the  
 3 subject operating in 2014, if you recall?

4 **A. Well, it -- when you say operating, it**  
 5 **was not officially retired or laid up at any point**  
 6 **in 2014. A significant percentage of the year it**  
 7 **was broken and not operational, but it was -- the**  
 8 **plant was supposed to be available the entire year**  
 9 **as opposed to before when it would take outages**  
 10 **during the winter.**

11 **Q.** I believe there's testimony or will be  
 12 evidence in the record that the subject operated  
 13 only during the summer months in 2008 or 2009. I  
 14 can't recall.

15 **A. I'm aware that Ameren at some point was**  
 16 **only operating it in the summer months.**

17 **Q.** But in 2014 that was not the case?

18 **A. No. Since we have owned it, we have**  
 19 **tried to have full year operation.**

20 ALJ BOGGESS: That's all I have. Any further  
 21 redirect, Mr. Novick?

22 MR. NOVICK: No, thank you.

23 ALJ BOGGESS: Board of Review, any questions?

24 MR. BRENNER: No, sir.

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1 ALJ BOGGESS: Mr. Ginsburg?

2 MR. GINSBURG: No, sir.

3 ALJ BOGGESS: Thank you. I believe you're  
 4 done, Mr. Beach. I'll leave that up to counsel to  
 5 keep you around or let you go.

6 Mr. Novick, next witness.

7 MR. DOODY: Our next witness will be  
 8 Mr. Robert Rapenske.

9 ALJ BOGGESS: Robert, if you could please  
 10 state your full name and spell it for the record.

11 THE WITNESS: Robert Rapenske,  
 12 R-a-p-e-n-s-k-e.

13 ALJ BOGGESS: Mr. Rapenske, you remain under  
 14 oath. Thank you.

15 ROBERT RAPENSKE,  
 16 called as a witness herein, having been first duly  
 17 sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. DOODY:

20 **Q.** Mr. Rapenske, by whom are you employed?

21 **A. Rockland Capital.**

22 **Q.** And what is your position there?

23 **A. I'm an asset manager, a vice president**  
 24 **in the asset management group.**

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1 **Q.** What were your responsibilities for  
2 Rockland in 2013 and '14?  
3 **A.** They were pretty much the same as today.  
4 I manage multiple plants, oversee the daily  
5 operation, talk to the plant managers, establish  
6 budgets, maintenance plans, things of that nature.  
7 I also participate quite a bit in the due diligence  
8 process on potential acquisitions.

9 **Q.** And did you participate in the due  
10 diligence process for the three properties that  
11 Rockland purchased from Ameren?

12 **A.** I did.

13 **Q.** Specifically, what was your  
14 participation in the Grand Tower facility?

15 **A.** It was the same for the other  
16 facilities. Basically, as Mr. Beach testified, we  
17 had access to a data room that Ameren provided with  
18 various documents. Operational, maintenance,  
19 regulatory, I reviewed all those. We had -- we were  
20 able to submit individual questions, obtain further  
21 documentation on a particular subject. We  
22 participated in a couple phone calls with the Ameren  
23 folks. Certainly they were very open and answered  
24 all of our questions for the most part.

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1 **Q.** And can you tell us a little bit about  
2 your educational background?

3 **A.** Sure. Most of my education comes from  
4 the Navy. I spent eight years in the U.S. Navy  
5 Nuclear Power Program. I went to Navy Nuclear Power  
6 School. I was on the USS Kamehameha as a reactor  
7 operator for four or five years. Four years.  
8 Onboard that ship, I maintained the reactor plant, I  
9 operated the reactor plant, maintained the reactor  
10 controls.

11 **After that, I was lucky enough to get**  
12 **a land-based job for four years. I became -- the**  
13 **Triton submarines had just come out. And before the**  
14 **crews could take control of that boat, especially**  
15 **the engineering department, it was of such a special**  
16 **design that they decided to send only --**  
17 **require sea-experienced personnel could man those**  
18 **boats. They had to have a lot of experience out to**  
19 **sea in order to get one of those billets, and then**  
20 **they send them to us for six weeks and we gave them**  
21 **a crash course up at the prototype plant on high**  
22 **power reactor physics, core construction, reactor**  
23 **protection, electronics courses, things like that.**

24 **Q.** What was your employment history after

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1 the Navy?

2 **A.** So after the Navy I went to work for  
3 Baltimore Gas & Electric at their Calvert Cliffs  
4 nuclear plants units 1 and 2. I did back to back  
5 refueling outages there as instrumentation  
6 technician.

7 **After that, I decided to move back**  
8 **home. I had been away for quite a few years, and I**  
9 **decided to try my hand at residential construction,**  
10 **general contracting. I did that for six years along**  
11 **with some commercial contracting. The economy kind**  
12 **of died off around 1990, so I decided to get back**  
13 **into the power industry.**

14 **I went to work for a combined cycle**  
15 **facility in northern New Jersey, and I was there for**  
16 **16 years. I worked my way from instrument tack up**  
17 **to maintenance manager, operations manager, plant**  
18 **manager. Was plant manager there for several years.**  
19 **And it just so happens I was at Rockland's first**  
20 **plant that they bought. That was the first plant**  
21 **that they ever purchased.**

22 **Beyond there, I went to work for**  
23 **NAES, who has been mentioned here. At the time they**  
24 **were the world's largest third-party operator of**

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1 **independent power plants. I worked for them for**  
2 **about a year doing transitions as they acquired new**  
3 **facilities from different owners.**

4 **Beyond that, I went back to work for**  
5 **Rockland at a plant that they owned. It was a coal**  
6 **and oil-fired plant down in South Jersey. I was**  
7 **there for several years, probably up to seven years**  
8 **or so. And in 2010 when Rockland raised their first**  
9 **power fund, that's when I went to work directly for**  
10 **Rockland as a Rockland employee and have been on**  
11 **board ever since.**

12 **Q.** How did you become familiar with the  
13 Grand Tower energy plant?

14 **A.** Through the due diligence process that  
15 we had going on in 2013.

16 **Q.** Did you inspect the property?

17 **A.** I did from the records standpoint and I  
18 also -- after we signed the sale agreement, I was  
19 on -- I certainly went on a tour because it was  
20 going to become one of my facilities and, you know,  
21 from the time of acquisition to the time I  
22 transitioned it to another individual because I  
23 needed to head up a couple other plants, I was asset  
24 manager there.

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1 **Q.** What were the results of your  
2 inspection?

3 **A.** I was concerned.

4 **Q.** In what manner?

5 **A.** I had never in my 30-plus years in the  
6 power industry seen a couple things that really  
7 bothered me, and that was the high forced outage  
8 rate, the low capacity factor. I was concerned with  
9 those. I was trying to figure out what was driving  
10 those two numbers because those are things you don't  
11 really want to deal with. They're not typical.

12 The numbers were -- you know, the  
13 capacity factor, I think, long-term from 2001  
14 through 2013 was about 8 percent. That's a pretty  
15 low number for a combined cycle plant. I'll just  
16 say a combined cycle plant. It wasn't quite a  
17 combined cycle plant. It was a hybrid plant. And I  
18 think that's mostly its downfall.

19 **Q.** What do you mean by a hybrid plant?

20 **A.** Well, the plant itself, as others have  
21 testified to, was built back in the 1920s. There  
22 were units 1 and 2, coal-fired boilers, and then  
23 they got rid of them in the '70s, I think it was,  
24 for units 1 and 2. And in the '50s they added two

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1 more coal-fired units. Those coal-fired units,  
2 they're basically boilers fueled by coal, creating  
3 steam, running two steam turbines and a generator  
4 off of each steam turbine.

5 And those particular plants or those  
6 particular units were abandoned in place, but yet  
7 the steam turbines were reutilized in the combined  
8 cycle configuration. That's always a red flag when  
9 you reuse a steam turbine that's meant for a very  
10 slow start-up such as a very large coal boiler is.  
11 They're not meant for fast start-ups.

12 So you're actually taking a piece of  
13 technology that was really never -- it fits and it  
14 works from a theoretical standpoint, but it is not  
15 going to be a very efficient plant.

16 We looked at -- the concern here was  
17 nine hours on the start-up. I mean, that's unheard  
18 of because by the time this plant starts up, the  
19 need for its power is gone. So I was concerned  
20 about this long start-up time. I was concerned  
21 about the forced outage rates. I was certainly  
22 concerned about the capacity factor and how we were  
23 going to make a go of it.

24 I was also concerned and learned very

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1 late in the process about -- and this is just a  
2 fact -- that the plant runs out of water. The very  
3 first week we bought that plant, I remember standing  
4 next to my boss, a partner in the company, on the  
5 river intake structure and looking 37 feet down at a  
6 dry Mississippi in that particular area.

7 So we did our homework very quickly  
8 and found out that from 2001 through 2013 -- no --  
9 through the beginning of 2014, including that time I  
10 was standing right there and looking and there's no  
11 water to run the plant, it was 5,200 hours that this  
12 plant was down, either totally out of commission or  
13 had a reduced output because of a lack of water.

14 **Q.** And why is water necessary for a power  
15 plant?

16 **A.** Well, the steam goes into a steam  
17 turbine, and that steam needs to be condensed back  
18 into water and that water needs to go back into the  
19 heat recovery steam generator in the configuration  
20 that it's in now, or the old boiler let's say. And  
21 you can't pump steam, per se, so you needed to  
22 create -- condense it back into water. And the  
23 Mississippi, what it does is it provides a cooling  
24 medium for that steam.

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1 The water comes through an intake  
2 structure. It's sent through thousands and  
3 thousands of tubes. The steam comes down over the  
4 tubes. It gets condensed back into water, and then  
5 the hot water goes right back out to the  
6 Mississippi. But without that cooling medium,  
7 there's no way to run the plant.

8 **Q.** Is this common in the industry?

9 **A.** Not at all.

10 **Q.** Is it easily remedied?

11 **A.** Not at all.

12 **Q.** Why not?

13 **A.** Well, you can put in a cooling tower,  
14 which a modern combined cycle in most plants would  
15 require that that have a steam turbine nowadays, but  
16 that would add additional costs and most likely  
17 would trigger replacement of the steam turbines as  
18 well. So you have a steam turbine replacement plus  
19 a cooling tower cost, and the project probably to  
20 Ameren and most others would be cost prohibitive to  
21 do that.

22 **Q.** Was it cost prohibitive to Rockland?

23 **A.** To put in a cooling towers? Sure.

24 **Q.** Did you value the other two facilities

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1 that were part of the purchase?

2 **A. I did.**

3 **Q.** How did they compare to the subject  
4 property?

5 **A. Well, they're different plants. They're**  
6 **simple cycle plants. Very easy to start up, shut**  
7 **down, quick starting, and they were completely**  
8 **different and certainly stood head and shoulders**  
9 **above this plant.**

10 **Q.** Specifically, what sorts of things did  
11 you evaluate when you were doing your due diligence  
12 at Grand Tower?

13 **A. Well, in general, first I looked at**  
14 **maintenance, operations, and regulatory aspects, and**  
15 **I had concerns with all of them.**

16 **Q.** What were your concerns with  
17 maintenance?

18 **A. Well, with maintenance, there was a huge**  
19 **issue that we noted with historical statistics and**  
20 **things of that nature with the steam turbine or**  
21 **steam turbine controls. The steam turbine valves**  
22 **were a concern. There were a lot of electrical**  
23 **issues with the plant. You're taking -- a lot of**  
24 **electrical equipment was reused as well. Say the**

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1 **steam turbines each had a generator associated with**  
2 **them. That generator voltage, the output from it is**  
3 **stepped up before it goes out on the grid. We found**  
4 **generator -- transformer leads that had high voltage**  
5 **insulation around them that had deteriorated so**  
6 **badly that they were just duct taped, and that's not**  
7 **something you do at all. That's a safety factor.**

8 **We found out after we bought it -- we**  
9 **didn't find out during the due diligence process --**  
10 **that several leads for the number 3 generator were**  
11 **no longer functional and actually derated that**  
12 **generator.**

13 **The duct burners, which is 50**  
14 **megawatts of capacity on that plant -- let me**  
15 **rephrase that -- it's 55 megawatts capacity on that**  
16 **plant, were completely inoperable.**

17 **Q.** Do you know the cause?

18 **A. Lack of maintenance.**

19 **Q.** What were your other two concerns at the  
20 facility besides the physical deterioration?

21 **A. Well, the cooling water system itself.**  
22 **Any time that you run your river low and attempt to**  
23 **continue to run the plant, you destroy intake**  
24 **screens through debris that impacts them, that**

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1 **follows them. That was a real concern. That was an**  
2 **outstanding issue when we bought that. That was --**  
3 **that's another maintenance issue that was just**  
4 **totally ignored by Ameren.**

5 **Unfortunately, they didn't care about**  
6 **this plant a lot for several years. They didn't**  
7 **even have a plant manager, per se, in place at the**  
8 **time we bought it. They had a production**  
9 **superintendent. He had been there a long, long**  
10 **time. But his hands -- in my conversations with**  
11 **him, his hands were completely tied in what he could**  
12 **do on maintenance and what kind of money they would**  
13 **give him sometimes.**

14 **He had to report to another plant**  
15 **manager of a coal facility within Ameren, and if he**  
16 **needed a thousand dollars, he needed to pick up the**  
17 **phone and call somebody; and a lot of these things**  
18 **were half a million dollars, \$600,000 projects. He**  
19 **wasn't getting any support to do this.**

20 **Q.** And what is e4?

21 **A. e4 is equivalent forced outage rate. In**  
22 **simple terms, it's the time -- the amount of forced**  
23 **outage hours you are forced off line or unavailable**  
24 **in comparison to the hours that you're dispatched.**

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1 **Q.** And what was the e4 for the subject  
2 property?

3 **A. The e4 for the subject property -- I**  
4 **think what's more meaningful, that I look at, is**  
5 **e4D.**

6 **Q.** What is that?

7 **A. E4D is just a more complex look or a**  
8 **more macroscopic look at e4. When you're**  
9 **dispatched, you don't always make money. Some hours**  
10 **you're actually negative. And e4D takes a look at**  
11 **the hours that you're commercially in demand, in**  
12 **other words, are you making money and how many of**  
13 **those hours you're forced off line.**

14 **And what I found -- I mean, there**  
15 **were months that e4D was 100 percent. And in 2013,**  
16 **and I think Mr. Beach mentioned this, e4 was around**  
17 **58 percent for the year. But January through June**  
18 **of 2013, the e4D was, like, 65 percent. That's a**  
19 **big number. So throw that aside. Let's take a look**  
20 **at the long term. What was the long-term e4D for**  
21 **this plant since it's been repowered? In 2001 and**  
22 **2013, I think it was around 18 percent, which is an**  
23 **abysmal number. That's a huge number. And that**  
24 **number is used in determining how much capacity**

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1 **payments you get. It is a metric of, you know, are**  
 2 **you available when the market needs you. And it was**  
 3 **a very high number.**

4 **So your capacity revenue, which is**  
 5 **one of your large sources of revenue next to energy**  
 6 **revenue, you know, as e4D goes up, that number will**  
 7 **go down. Capacity revenue will go down.**

8 **Q. Who determines the e4D at Grand Tower?**

9 **A. Every plant greater than 20 megawatts**  
 10 **across the United States has to report the GADS**  
 11 **statistics. It's driven by the organization --**  
 12 **national organization called NERC. So the plant**  
 13 **supplies the GADS statistics, the raw data, to MISO**  
 14 **where it's calculated and then reported back up to**  
 15 **NERC.**

16 **Q. What would be an acceptable e4D rating?**

17 **A. Oh, we would love to see 4 percent, but**  
 18 **we'd accept 7.**

19 **Q. Is 7 considered high?**

20 **A. 7 is considered on the high end.**

21 **Q. And an e4D in the 50s, what is that**  
 22 **considered?**

23 **A. Say again.**

24 **Q. An e4D in the 50s, what is that**

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1 continue to operate the plant?

2 **A. No. We would have the same poor**  
 3 **statistics. I can't do anything from a commercial**  
 4 **standpoint. My job is to make sure that that thing**  
 5 **is ready to run from a maintenance standpoint and**  
 6 **operational standpoint.**

7 **Q. And during that two-year time period,**  
 8 **was it ready to run?**

9 **A. No. We had just scratched the surface**  
 10 **and just begun to identify the issues.**

11 **Q. How does e4D impact the capacity**  
 12 **payments?**

13 **A. Again, if it's high -- there is an**  
 14 **installed capacity rating or what we call ICAP.**  
 15 **That's the acronym for installed capacity. And**  
 16 **there's an installed capacity rating for every**  
 17 **plant, and then what they do is they said, well, the**  
 18 **capacity that you have for sale is basically that**  
 19 **ICAP times 1 minus your e4D. So if your e4D was**  
 20 **7 percent, you can sell 93 percent your installed**  
 21 **capacity. So again, when your e4D goes up, your**  
 22 **capacity will go down that's available for sale.**  
 23 **That doesn't establish a price, but it establishes**  
 24 **the number that you can sell.**

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1 considered?

2 **A. Pretty bad. Abysmal. It's called a**  
 3 **spotlight. It's something that requires further**  
 4 **investigation to figure out what the issues are so**  
 5 **that you can attempt to pull them apart one at a**  
 6 **time and try to figure out what to do with them.**

7 **Q. Did you do that at the subject property?**

8 **A. We certainly identified several of them**  
 9 **right upfront.**

10 **Q. And what were they?**

11 **A. Well, part of it is personnel and their**  
 12 **procedures that they were using as Mr. Beach**  
 13 **testified. The maintenance program was really**  
 14 **scrutinized, and we actually went through each one**  
 15 **of their maintenance tasks and we found out what was**  
 16 **deferred and what was not. The maintenance on, you**  
 17 **know, electrical equipment was non-existent for many**  
 18 **years. The leads on the generator were new, you**  
 19 **know, but nobody touched them.**

20 **The duct burners, obviously, were a**  
 21 **no-brainer to go after and try to fix. The intake**  
 22 **structures, the intake screens needed replacement.**  
 23 **Things of that nature need to be done.**

24 **Q. Could you ignore these problem and**

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1 **Q. How do capacity payments correlate to**  
 2 **value?**

3 **A. I don't -- I really don't get involved**  
 4 **in the value end of things.**

5 **Q. And Grand Tower doesn't run**  
 6 **continuously, correct?**

7 **A. It does not.**

8 **Q. Is it capable of running continuously?**

9 **A. No.**

10 **Q. Why not?**

11 **A. It's a peaking facility that -- it will**  
 12 **never run continuously because it's a peaking**  
 13 **facility that has a high heat rate. And the heat**  
 14 **rate is a measure of efficiency of the facility.**  
 15 **It's, you know, how many BTUs does it take to**  
 16 **produce a kilowatt hour? And it's just got a high**  
 17 **heat rate compared to any other combined cycle**  
 18 **facility. It's sort of in this no man's land**  
 19 **between a peaking facility and a combined cycle**  
 20 **facility. I mean, it just really doesn't fall into,**  
 21 **you know, any particular description.**

22 **Q. Is that common in the industry where you**  
 23 **have a facility that doesn't fall?**

24 **A. I've not seen an operational one of**

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1 **these other than this one.**

2 **Q.** You testified that it takes roughly  
3 eight hours to start up the subject property. What  
4 is a typical start-up or what is the desired  
5 start-up for a peaking plant?

6 **A.** **On a peaking facility, 30 minutes,**  
7 **40 minutes tops. A peaking facility, in my mind, is**  
8 **a combined -- is a simple cycle facility, which is**  
9 **just a combustion turbine. A combined cycle**  
10 **facility that this is up against, best is probably**  
11 **three hours cold nowadays.**

12 **Q.** Did you estimate clean-up costs for  
13 environmental problems?

14 **A.** **Yeah. We noted that there were two**  
15 **large environmental liabilities. They've been**  
16 **touched on so far in testimony. The ash pond. The**  
17 **ash pond, we estimate 8 to \$9 million for clean up.**  
18 **And then the asbestos was in the neighborhood of**  
19 **about 5 to \$6 million.**

20 **Q.** And how are the steam turbines or how  
21 did the steam turbines become an issue at the  
22 facility?

23 **A.** **Well, the way you start up this plant is**  
24 **you start the combustion turbine. You allow natural**

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1 **gas to go into the combustion turbine. It**  
2 **compresses air. It lights off. The hot air goes**  
3 **past this pinwheel, which is the turbine itself.**  
4 **That drives the generator by itself. That alone is**  
5 **a power plant. That's a simple cycle facility by**  
6 **itself.**

7 **But then you have -- so what I just**  
8 **described is basically a jet engine on the ground**  
9 **driving a generator. But you have all this exhaust**  
10 **heat coming out of this combustion turbine, so why**  
11 **not reuse it? So what they do is they direct it**  
12 **into a heat recovery steam generator, which is a**  
13 **fancy name for a boiler nowadays. And that recovers**  
14 **that heat and creates steam, and that steam is**  
15 **forwarded to the steam turbine.**

16 **Well, you're an hour into the**  
17 **start-up and you're trying to get the steam turbine**  
18 **on line and its valves don't work. Doesn't start.**  
19 **You abort the entire start-up. You're forced off**  
20 **line now. You have to buy replacement power. And**  
21 **there is no way to fix it yet because you have to**  
22 **cool down for a day or two in order to tear those**  
23 **valves apart and then send them out.**

24 **And after years of battling those**  
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1 **valves, we think we got a handle on them, but they**  
2 **had -- they -- a lot of those valves should have**  
3 **been replaced probably during the repowering**  
4 **project. That would have been my approach. But**  
5 **then again, it's never my money, so...**

6 **Q.** Were the steam turbines the original  
7 ones installed in the 1950s?

8 **A.** **They were. It was off of units 3 and 4.**

9 **Q.** Again, is that a common configuration?

10 **A.** **It is not a common configuration.**

11 **Q.** Why not?

12 **A.** **Because of the fact that those steam**  
13 **turbines don't have modern materials. They're not**  
14 **constructed such that they can start up quick and**  
15 **respond as quick as the front end of the plant,**  
16 **let's say, meaning the combustion turbine and the**  
17 **heat recovery steam generator. So, therefore, now**  
18 **it looks like to the market, in my view, that it's**  
19 **an old boiler. That's what an old boiler takes to**  
20 **start up.**

21 MR. DOODY: I have nothing further.

22 ALJ BOGGESS: Mr. Brenner?

23

24

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1 CROSS-EXAMINATION

2 BY MR. BRENNER:

3 **Q.** What value is this plant to Rockland?

4 **A.** **I questioned everybody on that.**

5 **Q.** So it has no value whatsoever?

6 **A.** **It doesn't have value in my mind.**

7 **Q.** Why would you think Rockland would buy  
8 it?

9 **A.** **Because it was part of the better**  
10 **package. We thought if we could resurrect it -- but**  
11 **each of the plants is a stand-alone company.**  
12 **Rockland doesn't own anything, by the way. We're**  
13 **not a bank. We don't have unlimited sources of**  
14 **income or anything like that. We have funds and**  
15 **we've dedicated and through the investment community**  
16 **vehicle, this got approved to purchase. We had**  
17 **nothing to lose to try and make it work.**

18 **Q.** Just to clarify, I thought Mr. Beach  
19 said it operates year round?

20 **A.** **It doesn't operate year round. We are**  
21 **manned year around.**

22 MR. BRENNER: Maybe that's what he meant.

23 That's all.

24 ALJ BOGGESS: Mr. Ginsburg?

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<p style="text-align: right;">81</p> <p>1 CROSS-EXAMINATION</p> <p>2 BY MR. GINSBURG:</p> <p>3 <b>Q.</b> You're familiar with the MicroGADS</p> <p>4 program, right?</p> <p>5 <b>A. Sure.</b></p> <p>6 <b>Q.</b> Are you familiar with the codes</p> <p>7 generated by MicroGADS?</p> <p>8 <b>A. The codes are generated by the</b></p> <p>9 <b>information that the plant puts in. They're not</b></p> <p>10 <b>generated by MicroGADS.</b></p> <p>11 <b>Q.</b> So what does the code "reserve shut</p> <p>12 down" represent?</p> <p>13 <b>A. It means that the market -- it's</b></p> <p>14 <b>available, but the market didn't need it.</b></p> <p>15 <b>Q.</b> So that has nothing to do with the</p> <p>16 maintenance of plant?</p> <p>17 <b>A. Absolutely not. All it means is the</b></p> <p>18 <b>plant is sitting.</b></p> <p>19 <b>Q.</b> Is reserve shut down indicative of a</p> <p>20 forced outage?</p> <p>21 <b>A. No.</b></p> <p>22 <b>Q.</b> You testified for a minute about the ash</p> <p>23 pond remediation that needs to be done?</p> <p>24 <b>A. Yes.</b></p> <p style="text-align: center;">COLLOPY REPORTING SERVICE - (630) 926-7894</p>	<p style="text-align: right;">83</p> <p>1 testimony is he didn't even inspect the plant until</p> <p>2 sometime in 2014.</p> <p>3 MR. DOODY: That's not his testimony.</p> <p>4 MR. GINSBURG: He testified that he didn't do</p> <p>5 an inspection for the sale. So he must have gone</p> <p>6 after the sale, which was after 2014, which means</p> <p>7 every single word he stated is based upon</p> <p>8 observations that took place after 2014.</p> <p>9 ALJ BOGGESS: What's the relevance of the</p> <p>10 status of the ash retention pond in '18 for '14 and</p> <p>11 '15 appeals, Mr. Ginsburg? How does it affect the</p> <p>12 value -- estimated value of the property.</p> <p>13 MR. GINSBURG: I guess I don't know, but he</p> <p>14 testified about it. I guess, you know, it's -- I'll</p> <p>15 withdraw the question.</p> <p>16 ALJ BOGGESS: You may continue.</p> <p>17 MR. GINSBURG: I don't think there's any</p> <p>18 relevance quite frankly, but his testimony.</p> <p>19 BY MR. GINSBURG:</p> <p>20 <b>Q.</b> What was Rockland's action plan when</p> <p>21 they purchased the plant? I suppose there was some</p> <p>22 capital expenditures and maintenance that Rockland</p> <p>23 was willing to put into the plant as soon as they</p> <p>24 bought it. What maintenance did they put into the</p> <p style="text-align: center;">COLLOPY REPORTING SERVICE - (630) 926-7894</p>
<p style="text-align: right;">82</p> <p>1 <b>Q.</b> Isn't it true that the subject is</p> <p>2 currently receiving variances from the Illinois EPA</p> <p>3 for the ash pond remediation project?</p> <p>4 <b>A. Totally untrue.</b></p> <p>5 <b>Q.</b> What's the status of the ash pond</p> <p>6 remediation right now?</p> <p>7 <b>A. There is no remediation effort that is a</b></p> <p>8 <b>physical remediation effort. We have presented them</b></p> <p>9 <b>with a ground water management zone application.</b></p> <p>10 <b>They required more testing, more wells in accordance</b></p> <p>11 <b>with the federal regulations, and we have just</b></p> <p>12 <b>completed that. We're assembling that.</b></p> <p>13 <b>They have asked for more modeling of</b></p> <p>14 <b>the various constituents for inground water and when</b></p> <p>15 <b>all that is done, we'll go back and present it to</b></p> <p>16 <b>them.</b></p> <p>17 <b>Q.</b> At this moment in time, there is no</p> <p>18 deadline by which the subject must complete an ash</p> <p>19 pond remediation?</p> <p>20 MR. DOODY: Objection. The years we're</p> <p>21 talking about are 2014, 2015. At this point in time</p> <p>22 we're in 2018, which is --</p> <p>23 MR. GINSBURG: Everything that he's testified</p> <p>24 about has happened after 2014. He didn't -- his</p> <p style="text-align: center;">COLLOPY REPORTING SERVICE - (630) 926-7894</p>	<p style="text-align: right;">84</p> <p>1 plant?</p> <p>2 <b>A. When we first bought it?</b></p> <p>3 <b>Q.</b> Yes. Early on.</p> <p>4 <b>A. I don't think there was a solid</b></p> <p>5 <b>maintenance plan or action plan at that point. I</b></p> <p>6 <b>think we were trying to figure out first where we</b></p> <p>7 <b>were going to get people to operate it because</b></p> <p>8 <b>Ameren had let many of these people go and had done</b></p> <p>9 <b>that over the previous several years because of the</b></p> <p>10 <b>seasonal operation.</b></p> <p>11 <b>Number two, I had three plants to</b></p> <p>12 <b>deal with in addition to other plants that I had.</b></p> <p>13 <b>So it was slow developing, you know, a game plan for</b></p> <p>14 <b>that plant, but there was no particular that I'm</b></p> <p>15 <b>aware of. I mean, we probably put some maintenance</b></p> <p>16 <b>money in the long-term budget that wasn't earmarked</b></p> <p>17 <b>for anything in particular.</b></p> <p>18 <b>Q.</b> It's my understanding that several of</p> <p>19 the complaints that you had about the prior owner</p> <p>20 personnel were personnel procedures, maintenance.</p> <p>21 These are -- those were the discretionary decisions</p> <p>22 of Ameren, right?</p> <p>23 <b>A. Sure.</b></p> <p>24 <b>Q.</b> And it's your -- and are you saying that</p> <p style="text-align: center;">COLLOPY REPORTING SERVICE - (630) 926-7894</p>

1 you kept those the same or that's -- you took action  
 2 to change those immediately?  
 3 **A. They have been changed over the years,**  
 4 **yes. I am no longer the asset manager for the**  
 5 **facility. I know --**  
 6 **Q.** But you were at the time?  
 7 **A. Yes.**  
 8 **Q.** When they took over the plant, when did  
 9 they change the personnel, the procedures, the  
 10 maintenance issues that you found to be so  
 11 problematic for this plant?  
 12 **A. I don't think we even addressed the**  
 13 **operating procedures while I was there. But the**  
 14 **maintenance procedures, we started looking at those**  
 15 **right away.**  
 16 **Q.** So am I correct to understand that you  
 17 basically kept the plant running the same way that  
 18 Ameren kept the plant running?  
 19 **A. You can't change things overnight. In**  
 20 **fact, when you do an acquisition on a facility,**  
 21 **probably your first six months is geared towards**  
 22 **trying to get your Internet connections in there,**  
 23 **your business networks, you know, getting your**  
 24 **personnel familiar with their new employer. I'm not**

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1 **their employer. Getting -- talking to NAES and**  
 2 **trying to establish a pattern. They did their own**  
 3 **audits. They provided their own audits on the**  
 4 **safety and environmental and maintenance and things**  
 5 **like that. All that stuff takes time.**  
 6 **Q.** What's is a hot gas path?  
 7 **A. Hot gas path is an inspection of the**  
 8 **turbine section and the combustion section of the**  
 9 **hot gas pack of the combustion turbine.**  
 10 **Q.** Did Rockland complete a major hot gas  
 11 path upgrade or renovation or replacement in the  
 12 Grand Tower facility in 2014?  
 13 **A. No. We did a combustion inspection.**  
 14 **Q.** What is a combustion?  
 15 **A. A combustion inspection is an inspection**  
 16 **of the combustion section.**  
 17 **Q.** What was the cost for that?  
 18 **A. I don't remember.**  
 19 **Q.** Millions or hundreds of thousands?  
 20 **A. I would say for the labor portion of it,**  
 21 **probably \$250,000.**  
 22 **Q.** In 2014, I have estimates of  
 23 expenditures of about 2 to \$3 million. Does that  
 24 sound about right to you?

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1 **A. After parts and that whole debacle,**  
 2 **yeah.**  
 3 **Q.** Certainly not close to \$12 million in  
 4 capital expenditures, true?  
 5 **A. Not that I'm aware of.**  
 6 **Q.** You would know, right?  
 7 **A. Right.**  
 8 **Q.** If Rockland spent \$12 million to upgrade  
 9 this plant, that's something you would be aware?  
 10 **A. I would know.**  
 11 **Q.** Has Rockland spent \$11 million,  
 12 \$12 million total in capital expenditures?  
 13 **A. I can't tell you that.**  
 14 **Q.** Does the Grand Tower plant have a  
 15 problem shutting down once it's up and running? I  
 16 know it has problems getting up and running. But  
 17 once it's up and sailing, does it keep on going?  
 18 **A. Yeah. It had -- any plant will have**  
 19 **issues while it's running.**  
 20 **Q.** But while it's -- but a problem with  
 21 this plant is not that it's up and going at full  
 22 bearing load and then it just shuts down, right?  
 23 The issues go with the start-up and getting it  
 24 started up, right?

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1 **A. Majority of our issues were with**  
 2 **start-ups, yes.**  
 3 **Q.** My understanding was correct, that you  
 4 did not inspect this plant prior to the purchase,  
 5 physically inspect the site and the actual facility?  
 6 **A. I did not. Rockland did, though.**  
 7 **Q.** Your estimate of the 2001 through 2013  
 8 capacity factor was 8 percent. Is that what your  
 9 testimony was?  
 10 **A. Correct.**  
 11 **Q.** What work did the plant owners do with  
 12 the Army Corps of Engineers to resolve the dry  
 13 Mississippi River problem?  
 14 **A. That we did?**  
 15 **Q.** Yeah. What did you guys do to work with  
 16 the Army Corps of Engineers to get that problem  
 17 resolved?  
 18 **A. We had to call, get a permit, and then**  
 19 **we're allowed to dredge for a certain amount of time**  
 20 **with a crawler sitting on the bank as far as out as**  
 21 **it could reach. We weren't allowed to go out in the**  
 22 **river. And it's true today because we just had to**  
 23 **dredge a couple months ago, and that sand has to**  
 24 **stay right on the side of the river.**

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1 **Q.** So with some extra effort, you were able  
 2 to resolve the water problem, and that's something  
 3 that has been permitted by the federal government?  
 4 **A.** **It is a short-term solution. It does**  
 5 **not solve the problem. Ameren had been down that**  
 6 **route with the Army Corps of Engineers prior to us**  
 7 **coming onboard and they went through a several year**  
 8 **effort with the Army Corps and they put -- I believe**  
 9 **it's called -- some type of weir out in the channel**  
 10 **so that hopefully it would redirect the sand away**  
 11 **from Grand Tower, and it never did. And it's out of**  
 12 **operation for 10 to 14 days when this happens every**  
 13 **time.**

14 **Q.** I saw a note somewhere in the record  
 15 that the duct burners were out of service at some  
 16 point?

17 **A.** **When we fired the facility, they were**  
 18 **out of service and non-functional and had been for**  
 19 **many years.**

20 **Q.** Are they currently in service?

21 **A.** **I believe they are, yes.**

22 **Q.** Do you know at what point they came into  
 23 service?

24 **A.** **I do not know. I could tell you it's**  
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1 **not '14 and it wasn't '15. Let's put it that way.**

2 MR. GINSBURG: I have no further questions.

3 EXAMINATION

4 BY ALJ BOGGESS:

5 **Q.** Mr. Rapenske, I believe you testified  
 6 you were part of due diligence, staging, purchasing  
 7 the subject property?

8 **A.** **That's correct.**

9 **Q.** This was part of a three-plant portfolio  
 10 sale; is that correct?

11 **A.** **That's correct.**

12 **Q.** Did you have the option or was there  
 13 discussion about buying one, two, or all three of  
 14 the properties or you had to take it as a whole  
 15 package?

16 **A.** **You had to take it as a package was my**  
 17 **understanding. I did not have those discussions**  
 18 **with Ameren. That was relayed to me by Jon and**  
 19 **others.**

20 **Q.** And what was your role as part of the  
 21 due diligence stage?

22 **A.** **My role was to look at the maintenance**  
 23 **records, the operational records, the environmental**  
 24 **records and identify issues. Typically, if an issue**

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1 **is identified, we try and put a dollar amount on it.**  
 2 **If Jon and his team asked me to do that, I may go to**  
 3 **engineers for that type of information and things.**  
 4 **But if it's a regulatory issue or an environmental**  
 5 **issue, we pull in consultants who can advise us on**  
 6 **all those issues. And we try and understand what**  
 7 **the liabilities are with these -- whether it's a**  
 8 **maintenance, operational, or environmental issue,**  
 9 **and whether or not that -- those can be mitigated**  
 10 **with just dollars or whether it's a real liability**  
 11 **that may bankrupt the facility and cause us to lose**  
 12 **it.**

13 **Q.** And during your due diligence stage,  
 14 during your participation in that due diligence  
 15 study, what did you determine was causing the high  
 16 forced outage rates?

17 **A.** **There was -- there's a multitude of**  
 18 **things that cause forced outages, and sometimes they**  
 19 **don't repeat themselves. Sometimes an exciter**  
 20 **faults on a steam turbine generator. I remember one**  
 21 **of those that year. Several times that they had**  
 22 **them on one of the units. Whether it was a steam**  
 23 **turbine control valve sticking shut or open as the**  
 24 **case may be. There's hundreds of cause codes for**

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1 **these things. Over time, you know, you can rack up**  
 2 **hundreds of different reasons, but most of them are**  
 3 **maintenance related.**

4 **When you look into them and go what**  
 5 **did you do to prepare -- some of it is obsolescence**  
 6 **of equipment. What are you doing to prepare for**  
 7 **replacement of this equipment? What are you doing**  
 8 **to repair this equipment properly so this problem**  
 9 **never happens again? That type of thing.**

10 **Q.** So who would have been responsible for  
 11 inspecting the valves or determining that they  
 12 should have been changed in the steam generators or  
 13 the insulation on the generators?

14 **A.** **The plant staff.**

15 **Q.** Who would have been responsible for  
 16 that?

17 **A.** **The plant staff would have been**  
 18 **responsible under Ameren's reign to report it up to**  
 19 **Ameren.**

20 **Q.** Who would have been responsible for  
 21 those items in the due diligence stage?

22 **A.** **For identifying them?**

23 **Q.** Yes.

24 **A.** **That would have been me.**

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1 **Q.** That would have required a physical  
2 inspection, wouldn't it? How else are you going to  
3 see if the insulation on the generator is bad?

4 **A. There's reports that are in the data**  
5 **room. There's also other people that went to the**  
6 **facility from Rockland to inspect it. I just**  
7 **happened to be busy with my other facilities and**  
8 **couldn't make that trip. We're given one day, a**  
9 **couple hours, to go into a facility and look at it.**  
10 **This is not a long-term effort. The effort -- the**  
11 **long-term portion of that effort is the data room.**  
12 **You can't uncover everything. It's -- even in a**  
13 **visit, they're taking you and show you what they**  
14 **want to show you.**

15 **Q.** Right. But you certainly had some  
16 baseline to consider the subject, whether it was a  
17 good purchase or bad purchase, based on the reduced  
18 capacities and the number of forced outage days,  
19 right?

20 **A. Correct. I don't personally make the**  
21 **decision nor I do weigh in on the investment**  
22 **committee's decision to purchase anything. If it**  
23 **was my personal dollars and there was a way for me**  
24 **to steer clear of that plant, I would have.**

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1 **Q.** When you were purchasing the subject  
2 property, did you look at installed capacities?

3 **A. I'm sure we looked at capacities.**

4 **Q.** And would you be looking at what the  
5 potential capacity was of the subject property?

6 **A. Jon and his team forecast that.**

7 **Q.** And we talked a little bit about the ash  
8 pond clean up and the asbestos costs. Those were  
9 not remediated in any manner in '14 or '15; is that  
10 correct?

11 **A. We started to spend money on the ash**  
12 **pond acquisition. And what happens on the asbestos**  
13 **is, as we do work in those particular areas and**  
14 **those systems, we are required to remediate it.**

15 ALJ BOGGESS: I believe that's all I have.  
16 Mr. Doody, any redirect?

17 REDIRECT EXAMINATION

18 BY MR. DOODY:

19 **Q.** Although you weren't personally able to  
20 inspect the subject prior to the purchase, did  
21 Rockland hire an outside company to investigate it?

22 **A. We did. We hired NPR Associates and**  
23 **went on a site visit.**

24 **Q.** What was -- do you know what their

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1 findings were?

2 MR. GINSBURG: Objection. Hearsay.

3 MR. DOODY: Actually, no. It's a business  
4 record.

5 MR. GINSBURG: What business record? It's  
6 the opinion of somebody else told to somebody else.  
7 We don't even know if he's inspected it.

8 THE WITNESS: I've inspected their findings.  
9 It was very easy. We didn't have them write a very  
10 extensive report. They wrote key findings.

11 BY MR. DOODY:

12 **Q.** What were the key findings of that  
13 report?

14 MR. GINSBURG: Same objection. Hearsay. We  
15 haven't had a chance to review these findings. We  
16 have no idea the credibility of the findings, who  
17 made the findings. They could have filed these  
18 findings. Sounds like it would have benefitted  
19 their case to do so, but they chose not to.

20 ALJ BOGGESS: These findings haven't been  
21 submitted in the record, Mr. Doody?

22 MR. DOODY: They have not. They're only  
23 offered in response to the questions about that he  
24 didn't personally inspect the property, but I

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1 believe he'll testify that in the normal course of  
2 business they hire outside consultants to come in  
3 and perform some of this work. That's part of  
4 getting ready to purchase the property. It's a  
5 normal course of business if you're going to buy  
6 property.

7 It's no different than my hiring a  
8 house inspector to come in and tell me what's wrong  
9 with the house before I buy it. They don't find  
10 everything, of course, because as soon as you get in  
11 there, you find out they missed a leaky pipe or  
12 something. But it's no different in this business.

13 MR. GINSBURG: I've never heard of somebody  
14 else testifying as to what the inspector said. You  
15 bring the inspector to testify. You have the  
16 inspector testify about their report. This is  
17 someone else's business record. This is not  
18 Rockland's business record.

19 MR. DOODY: Actually, they are Rockland's  
20 business records because they're the ones that hired  
21 them and they're relying upon their recommendations  
22 and findings.

23 MR. GINSBURG: That's not how that works.

24 ALJ BOGGESS: This witness testified he

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1 relied upon those findings and you are testifying  
 2 concerning the inspections prior to and after the  
 3 purchase of the property. I'll overrule the  
 4 objection.

5 BY MR. DOODY:

6 **Q.** Do you remember the question?

7 **A. I do. What it was, as I recall, was a**  
 8 **two or three-page report, key findings. Asbestos,**  
 9 **gas turbine coolers undersized, the ash pond, the**  
 10 **long start-up times, the duct burners. They hit on**  
 11 **the same items pretty much that I've identified.**

12 MR. DOODY: Nothing further.

13 ALJ BOGGESS: Mr. Brenner?

14 MR. BRENNER: No, sir.

15 ALJ BOGGESS: Mr. Ginsburg?

16 MR. GINSBURG: No sir.

17 ALJ BOGGESS: Next witness.

18 (Whereupon the proceedings in the  
 19 above-entitled cause were  
 20 continued until 9 a.m. on the  
 21 22nd day of May, 2018.)

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1 STATE OF ILLINOIS)

) ss:

2 COUNTY OF C O O K)

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4 ELISABETH D. COLLOPY, CSR, RPR, being first  
 5 duly sworn, deposes and says that she is a Certified  
 6 Shorthand Reporter in Illinois, and reporting  
 7 proceedings in the Courts in said State;

8 That she reported in shorthand and thereafter  
 9 transcribed the foregoing proceedings;

10 That the within and foregoing transcript is  
 11 true, accurate and complete and contains all the  
 12 evidence which was received in the proceedings had  
 13 upon the within case.

14 IN WITNESS WHEREOF I have hereunto set my hand  
 15 this 17th day of June, 2018.

16

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18 ELISABETH D. COLLOPY, CSR, RPR  
 Illinois License No. 084-004192

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