Out of Home Advertising Association of America

Condemnation/Valuation

Message Points

- The payment of just compensation is required by the Highway Beautification Act
- Each billboard is an income producing entity/property
- Three approaches to estimating market value are:
  - The cost approach
  - The income approach
  - The comparable sales approach
- Relocation or replacement is not fair market value
- Essential compensable components include:
  - Leasehold or property interest
  - Billboard structure
  - Permit and other vested rights

Background

Government has the extraordinary power to acquire private property for public purposes (eminent domain). When government condemns billboards, it must compensate the owner of both the billboard and the property on which it is located. The fundamental law pertaining to billboard valuation is the Fifth Amendment: *"nor shall private property be taken for public use, without just compensation."*

In condemnation, contemporary appraisal and valuation methods are used to determine the market value as a basis for just compensation. Key factors include:

- ***Each billboard is an income producing entity/property.*** Billboards are permanent structures affixed to real estate and each structure is a unique property. Each structure and location generates revenues and should be acquired at its full "market value" as if the property is being sold.
- ***Relocation or replacement is not "market value" because the billboard is location-dependent.*** Highly restrictive billboard laws at all levels of government make each billboard structure uniquely valuable. Relocation of a billboard to another lawful location can be extremely difficult, if not impossible. Relocation is not a substitute for just compensation because it does not provide the owner of the billboard with anything he or she didn't already have.
- ***Numerous court decisions state that the "market value" formula to value billboards is the best appraisal tool, consistent with the provisions of USPAP (Uniform***

> ***Standards of Professional Appraisal Practice).*** Contemporary billboard valuation is guided by the same income capitalization, market valuation techniques, or gross income multiplier approach to determine "market value" that is applied to other governmental takings of property. There is no basis for distinguishing the appraisal techniques used to value billboards from those used for any other income producing property.

Thus, each billboard structure and location is an income producing property interest, and should be acquired at its market value as if the property is changing hands between a willing seller and a willing buyer. In other words, in eminent domain, fair market value of a billboard is the price it would bring in the marketplace. Essential components of a billboard interest include the:

- Leasehold or other property right
- Billboard structure
- Permit and other vested rights pertaining thereto

Billboards are heavily regulated, and permits are approved specifically for a designated location. Therefore, the vested rights pertaining to the billboard permits have significant value. The typical methods of valuation of real property interests are also applicable to establishing fair market value of sign locations in eminent domain cases. State courts have affirmed that these valuation methods are equally applicable to establishing fair market value of billboards in eminent domain cases:

- Income
- Cost
- Sales comparison

In addition, FHWA has issued policy clarifications (via letters to Senator Harry Reid and Representatives Bud Shuster and Nick Rahall in 2000) concerning valuation of billboards. Previously, FHWA recommended the use of the cost approach only to value billboards. The new policy allows federal reimbursement for any eligible, legal cost incurred by the state, including consideration of the market approach, cost approach, and income approach to determine market value.

Federal law requires just compensation to be paid for any billboard property interests removed where such locations are on Federal primaries or where Federal funds are involved. (HIGHWAY BEAUTIFICATION ACT 23 U.S.C.A. § 131; UNIFORM REAL PROPERTY RELOCATION AND ACQUISITION ACT (42 U.S.C § 4652).

Legal Precedent

Numerous court decisions have affirmed the market value approach for billboard condemnation. In a clearly worded ruling in 2006, the Wisconsin Supreme Court said that the fair market value (in eminent domain) of a billboard is the price of the combined assets of the lease, the permit, and the sign (Adams Outdoor Advertising v. City of Madison). Case law in other states is consistent with the Wisconsin ruling:

- Illinois DOT v. Drury Displays, Inc. and National Advertising, Co., 2002 IL App. Lexis 98 (Appellate Court of IL, Fifth District) (February 7, 2002)
- National Advertising Company v. State of Nevada, Department of Transportation, 116 Nev. Adv. Op. No. 10, No. 31570, 2/2/2000

- Morgan Signs, Inc. v. Department of Transportation, 676 A.2d 1284 (PA Cmwlth. 1996)

Resources

Billboard Appraisal: The Valuation of Off-Premise Advertising Signs, Paul Wright and Jeffrey Wright, published by the American Society of Appraisers, 2001

Nichols on Eminent Domain, “Condemnation of Billboard Interests,” Chapter 23, by Mark Ulmer, 2004

Smith, J. Allen, SettlePou, Dallas, TX; Chairman, OAAA Ad Hoc Valuation Committee, analysis of Adams Outdoor Advertising v. City of Madison, Case 2005AP508, Supreme Court of Wisconsin, decision issued July 13, 2006

The Appraisal of Outdoor Advertising Signs, Donald T. Sutte, Jr. MAI, published by the Appraisal Institute, 1994

Illinois DOT v. Drury Displays, Inc. and National Advertising, Co., 2002 IL App. Lexis 98 (Appellate Court of IL, Fifth District) (February 7, 2002) *(As referenced in the Legal Report from Rubin, Winston, Diercks, Harris, Cooke, (March, 2002)*

“Valuation of Off-Premise Outdoor Advertising Billboards in Eminent Domain; The Money Trail Concept Redux,” Rodolfo J. Aguilar, Ph.D., *Right of Way,* April 2004

“OAAA Taxes versus Taking Webinar,” November 2009

VALUATION OF BILLBOARDS - Illinois DOT v. Drury Displays, Inc. and National Advertising Company. 2002 Il. App. LEXIS 98 (Appellate Court of Illinois, Fifth District) (February 7, 2002)

In 1993, the Illinois Eminent Domain Act was amended to make it clear than the right to just compensation extends to the owner of lawfully erected outdoor advertising signs that "are compelled to be altered or removed under this Article or any other statue or under any ordinance or regulation of any municipality or other unit of local government…" This is the first court decision applying that statute.

In 1994, the Illinois DOT acquired a parcel of land from CSX to construct two new exit ramps on an existing Interstate. At the time, two billboard companies maintained signs on the acquired premises pursuant to leases that were terminable by either the lessor or lessee on sixty days written notice. Subsequently, the DOT filed a complaint in condemnation seeking to terminate the leasehold rights of both companies, but did not seek to condemn the sign structures.

Preliminarily, the Appellate Court noted that the billboards at issue in the case were attached to the land by 20 cubic feet of concrete and "…would last forever" if properly maintained. The State argued that since the subject signs themselves were personalty the only compensable interest is the sign owners' leasehold interest, which in this case was zero since there was no incremental value in the leasehold beyond the amount of the rent. In valuing these signs, the State's appraiser treated the subject signs as personalty assigning them no value at all, either as real estate or in terms of the value of the leasehold, since the appraiser could not find a "bonus" value attributable to the leasehold. The companies' first expert appraised the signs as leasehold improvements with outdoor advertising signs and valued the signs under cost, income and comparable sales formulas. A second industry appraiser treated the signs as a capital improvement to real estate, with a business value separate from the underlying property, again valuing the signs under the cost, income and comparable sales methods.

The Court made short work of the State's case, pointing out that the State had ignored the Illinois Eminent Domain Act. The Court held: "Billboard owners have a right to just compensation for any condemned sign" and that the measure of such compensation "is the amount that a willing buyer would pay to a willing seller in a voluntary sale." The Court rejected the State's argument that the State statute only applies to local exercises of the police power to remove signs without compensation. Finally, the Court held that treating this condemnation only in terms of the improvement to the land did not violate the "unit rule" since the State had already purchased the fee and the only unit relevant here was the leasehold as approved.

[NOTE: In this case, the lower Court excluded the testimony of Professor Charles Floyd as an expert for the DOT on the issue of the valuation of billboards and their treatment as realty vs. personalty. The Appellate Court sustained Outdoor System's motion in limine to exclude Floyd finding that Mr. Floyd "… is a professor of real estate, he is not an appraiser and not an attorney". As a result, the Court found his testimony on realty vs. personalty would be duplicative of the State's appraiser's testimony and further, that since he was not an appraiser, he was not qualified as an expert on valuation. Finally Mr. Floyd's proferred testimony on issues of statutory construction of the Eminent Domain Act was rejected as not proper matters for expert testimony, “even where the expert is an attorney”-(which, pretensions notwithstanding, Mr. Floyd is not. Ed].

Valuation of Off-Premise Outdoor Advertising Billboards in Eminent Domain: The Money Trail Concept Redux, April, 2004

Rodolfo J. Aguilar, Ph.D., PE/PLS, AIA, ASA, MAI, SR/WA

EXECUTIVE SUMMARY

In The Appraisal Journal of April 2003, Dwain R. Stoops, MAI[1], discusses the application of "The Money Trail" method of analysis to track the revenue generated by off-premise outdoor advertising billboards. Whereas the money trail method is a legitimate analysis tool for valuation purposes, in the author's opinion, Stoops applies it incorrectly to off-premise signs, as he does not differentiate the revenue attributable to the rental of the sign's face from revenue generated by non-space leasing activities, such as production related sales and expenses.

Clearly, if there is no sign, there is no income. Therefore, the issue at hand for the appraiser is to correctly identify and separate the revenue stream into its real estate and non-real estate components. This paper addresses this fundamental issue for the valuation of off-premise signs in eminent domain.

INTRODUCTION

Buyers and sellers trading in the free market economy set the value of off-premise outdoor advertising billboards in the United States. In recent years, due to industry consolidation and the limitations imposed on the issuance of billboard permits by state and local governments, the price paid for off-premise outdoor advertising structures of all types has increased considerably. From the buyers' and sellers' points of view, purchase price is inexorably linked to the billboard's income generating ability.

Whether viewed as real or personal property, the appraisal of off-premise signs must conform to the regulations of the Uniform Standards of Professional Appraisal Practice (USPAP), which require that the appraiser consider all three approaches to market value.

---

1. Dwain R. Stoops, MAI, "Billboard Valuation: Fundamental Asset Allocation Issues," *The Appraisal Journal* (April 2003): 156.

The author contributed an article to Right of Way Magazine published by the International Right of Way Association (IRWA) in its September/October 2000 issue, in which he discussed in considerable detail the recognized procedures for appraising this type of property[2]. In a recent article by Dwain R. Stoops, MAI, titled "Billboard Valuation: Fundamental Asset Allocation Issues" published in the Appraisal Institute Journal, he concludes: "As with all eminent domain valuation issues that must be addressed according to jurisdictional directives, there are many different situations in various states that pose difficult problems for appraisers. The purpose of this article is not to address all the problems and questions, but rather to stimulate serious debate on fundamental issues within the appraisal profession that will contribute to the enrichment of knowledge relating to the identification and allocation of assets of an outdoor advertising business operation. The money trail concept will work in identifying assets and allocating value because it is based on the principle of contribution, which is "The concept that the value of a particular component is measured in terms of its contribution to the value of the whole property, or as the amount that its absence would detract from the value of the whole."[3]

One must not forget, however, that the purpose of this type of appraisal is to develop the most reasonable estimate of the price, in terms of money, that a willing buyer would pay a willing seller as full compensation for the seller's property, that is, its market value. For an off-premise billboard, the property rights appraised are the fee simple interest in the structure, usually located on leased land, i.e., a leasehold; the land lease; and the permits.

Stoops[4] correctly states: "The typical outdoor advertising firm leases approximately 95% of all sign sites from landowners." Consequently, there are typically two parties involved in the ownership of an improved outdoor advertising site: The landowner, who holds the lease fee interest in the property (LESSOR), and the advertising company, which owns the leasehold interest (LESSEE), the structure, and the permits. Therefore, "The Money Trail" of the cash flow stream generated by an off-premise sign follows two separate yet related courses—money payments to the LESSOR, which is the rent paid for the right to use the land, and money revenue to the LESSEE, which the advertising company uses to defray all operating expenses and to compensate itself for its investment in the property, consisting of the leasehold, the structure, and the permits. In allocating "the Money Trail" flow to the advertising company, however, the appraiser must deduct all income and expense items not directly associated with the leasing of advertising space on the billboard's face, such as all production-related costs and revenues.

---

2. Rodolfo J. Aguilar, Ph.D., MAI, "The Appraisal of Off-Premise Outdoor Advertising Billboards," *Right of Way Magazine* (September/October 2000): 12-19.
3. Stoops, 163.
4. Stoops, 157

BACKGROUND

This article explores appraisal issues that relate only to the valuation of off-premise outdoor advertising billboards in eminent domain. "Off-premise billboards" are defined as any out-door sign, display, figure, painting, drawing, message, plaque, poster, billboard, or any other thing which is designed, intended or used to advertise or inform, any part of which advertising or information content is visible from any place on the main travel course of any public right of way. The term "off-premise outdoor advertising," however, excludes signs advertising or identifying on-premise activities: Such on-premise advertising or identifying structures shall not be considered "outdoor advertising" structures for any purpose.

It is not uncommon for an outdoor advertising company to have an office and main shop facility in addition to its inventory of sign structures, which are commonly referred to in the industry as "THE PLANT." The plant consists only of the sign structures—the seven basic types of advertising signs described below—which are usually located on leased sites. The plant does not include the company office(s) and main shop facility. Outdoor advertising structures are generally classified as:

1. The Junior Poster (8-Sheet Poster Panel) - This display is approximately 6' high by 12' long. It is small-standardized advertising copy, printed on posting paper and pasted on the face of the sign. It is used frequently to achieve a targeted showing or coverage.

2. The Poster (30-Sheet Poster Panel) - A standard advertising copy is printed on posting paper and pasted on the face of the sign. Poster copies are standard throughout the industry. They are approximately 12' high by 24' long. Several identical poster copies may be purchased by a single advertiser and displayed throughout the market to achieve a targeted showing or coverage.
3. Rotary Bulletin - This sign has standard face sizes—10'-6" x 36', 14' x 48' and 20' x 60'—with varying types of support structures. The advertising copy is painted on panels or computer-printed on vinyls, which are rotated or moved among several locations at frequent intervals—typically 60-days—during the term of the contract with the advertiser. They are illuminated, and may include cutouts or embellishments. Advertising contracts for this type of sign run from six months to one year.

4. Permanent Paint – These types of structures frequently differ in size, shape and income. Usually, they have fixed term contracts for the advertising space. The message is permanently painted or printed on the physical substrate face of the sign or on a vinyl.

5. Spectacular or Special Sign – These are large, custom-made signs of unusual size and shape, located on prime sites along roads with heavy traffic counts and in major metropolitan areas. The display is often specially treated and may contain extensions. Long term contracts and high production costs are typical for this type of display.

6. Changeable Message Sign (Trivision) – These are generally bulletin-size—10'-6" x 36', 14' x 48' and 20' x 60', although occasionally they may also be poster-size—12' x 24', illuminated signs delivering three message faces that change at specific intervals. The displays are printed on rotating narrow

vertical panels made of triangularly shaped slats, changing placards, or rotating cubes. They are also normally situated on sites along heavily trafficked roads.

7. Changeable Message Sign (Electronic) – These are bulletin-size, electronic-display signs with light-configured messages grouped in cycles. The messages change at specified intervals— their turn period, called twirl period, is one to two seconds depending upon state criteria, and remain stationary between four to ten seconds, again, depending on state criteria. Display frequency and time are mandated by state and local regulations. They are high-cost structures that also are typically situated along heavily trafficked roads in metropolitan areas.

In his September/October 2000 articled published in Right of Way Magazine[5], the author arrived at several conclusions, which are summarized below:

For eminent domain purposes, off-premise outdoor advertising signs are in fact real estate with its concomitant real property rights. Consequently, all three approaches to the estimation of market value must be considered in accordance with the provisions of the Uniform Standards of Professional Appraisal Practice (USPAP).

Under eminent domain, in only two specific cases may the condemnor validly choose to pay *"cost-to-cure"* damages to the condemnee in the form of *"relocation"* cost, or *"relocation"* benefits. This form of compensation is equivalent to *"just compensation"* only if either of the following two site conditions is present:

1. The sign can be relocated within the remainder (residual) of the parent tract, i.e., on the same property;
2. the sign can be relocated on another parcel within the same trade area of the property taken, which was not previously available for an outdoor advertising structure, but became available as a result of the taking.

The cost approach reflects the sign owner's cost to enter the local market or trade area. In general, it generates the lowest indication of value, as the investor's principal incentive is to develop a property with a cost lower than the capitalized income value of the billboard. In investment terms, this would yield a positive net present value. If the sign meets current industry standards and local and state governmental regulations, reproduction cost is the appropriate measure for this approach. If it is old, it would not meet current standards and regulations and if, for example, has been grandfathered in on its site, replacement cost is the correct estimate.

> The income approach yields the best indication of market value for a single billboard. It is incorrect to assert that the income approach reflects the "business" value of a billboard. The expense data, which include all operating and management expenses, eliminate the "business" component from the income figures. Thus, the computed net operating income applies exclusively to the real estate, just as it would to any other type of income-producing realty. All activities of a sign owner are conceived and implemented for the specific purpose of leasing it to a tenant-advertiser—a purely real estate related function.

---

5. Aguilar, 19

A recent Nevada Supreme Court case[6] supports this conclusion and is particularly relevant when *"...billboards cannot be relocated to comparable, income-generating site. "*The Nevada Supreme Court goes on to state: *"...This approach is espoused in 8A Nichols on Eminent Domain Sec. 23.03 [5] [a], at 37-42 (3d ed. 1997, 1998), which recognizes the importance of location in the ability of a billboard to generate advertising income and the difficulty in relocating billboards under restrictive regulations."*

> The sales comparison approach and, specifically, the gross rent multiplier, is the method most relied upon by purchasers of groups of signs (the plant), as opposed to a single sign, to establish purchase price. Consequently, this approach is most indicative of the market value of a group of off-site outdoor advertising structures, the leases and the permits.

Two well-known publications on the subject support the author's conclusions: *"The Appraisal of Outdoor Advertising Signs,"*[7] by Donald T. Sutte, Jr., MAI, published by the Appraisal Institute in 1994, and *"Billboard Appraisal, The Valuation of Off-Premise Advertising Signs,"*[8] by Paul Wright and Jeffrey Wright, ASA, published by the American Society of Appraisers in 2001.

In his September/October article[9], the author states: "Off-site outdoor advertising signs are structurally secured to the land for strength and stability, which include such obvious considerations as resistance to wind and earthquake forces. Also, their value is preeminently location dependent. Therefore, sign structures, and the bundle of rights that attaches to them, amply qualify under the definition of real estate. Further, outdoor advertising signs are movable fixtures that become immovable by destination."

THE MONEY TRAIL

Stoops[10] states: "A close observation of the direction and derivation of the money trail associated with each asset will assist in its identification and allocation in the overall production process. Assets contribute value to the equity that is the recipient of their money flow."

It is the billboard's advertising revenues that generate all the money flow—no billboard, no money. All sign sites are unique, and the specific revenue from an individual sign site is identifiable and useful for both the income approach and the sales comparison approach. However, to properly assess the expenses attributable to an individual sign site, an examination of the local plant expense-to-income ratios is necessary, as individual expenses attributable to a specific sign site are difficult, if not impossible, to obtain due to the typical operations of local sign plants. Once the expense ratios are gleaned, the analysis can be applied to the specific site. This approach should not be construed as a departure from the focus on the individual sign site, but simply as a source for the expense component in the income analysis. **Therefore, by tracking the revenues as they flow through the advertising company, one can follow the money trail and establish where the money ends up.** An example with specific numbers can be very instructive and the following table[11] is provided.

---

6. Nat'l Adv. Co. v. State Dep't of Transp., 116 Nev. Adv. Op. No. 10, February 2, 2000, in the Supreme Court of the State of Nevada, No. 31570.
7. Donald T. Sutte, Jr., MAI, "*The Appraisal of Outdoor Advertising Signs*" (Chicago, Illinois: Appraisal Institute, 1994).
8. Paul Wright and Jeffrey Wright, ASA, CFA, *"Billboard Appraisal, The Valuation of Off-Premise Advertising Signs"* (American Society of Appraisers, The International Society of Professional Valuers, 2001).
9. Aguilar, 15.
10. Stoops, 156.
11. Summary of actual unaudited financial information of a Lamar Advertising Company plant disclosed in the public records of an eminent domain proceeding. The figures are rounded to the nearest $1,000 for ease of analysis.

TYPICAL COMPARATIVE STATEMENT OF OPERATIONS—TOTAL SALES				
TWELVE MONTHS ENDING DECEMBER 31				
	2002 YEAR TO DATE	**%**	**2001 YEAR TO DATE**	**%**
SPACE SALES:	$ 4,873,000	101%	$ 4,618,000	104%
SALES - POSTER PAPER	*$ 115,000*	*2%*	*$ 135,000*	*3%*
SALES – VINYL	*$ 187,000*	*4%*	*$ 111,000*	*2%*
GROSS ADVERTISING SALES	*$ 5,175,000*	*108%*	*$ 4,864,000*	*109%*
AGENCY COMMISSIONS	$ (373,000)	-8%	$ (411,000)	-9%
ADVERTISING SALES (INCLUDING PAPER & VINYL)	$ 4,802,000	100%	$ 4,453,000	100%
DIRECT EXPENSES:				
LABOR (EXCLUDING CONSTRUCTION & PRODUCTION)	$ 58,000	1%	$ 104,000	2%
LABOR – CONSTRUCTION & PRODUCTION	*$ 175,000*	*4%*	*$ 163,000*	*4%*
TOTAL LABOR	*$ 233,000*	*5%*	*$ 267,000*	*6%*
LEASES	$ 1,151,000	24%	$ 1,049,000	24%
MATERIALS (EXCLUDING VINYL & POSTER PAPER)	$ 8,000	0%	$ 21,000	0%
MATERIALS – VINYL	*$ 120,000*	*2%*	*$ 114,000*	*3%*
MATERIALS – POSTER PAPER	*$ 77,000*	*2%*	*$ 116,000*	*3%*
TOTAL MATERIALS	*$ 205,000*	*4%*	*$ 251,000*	*6%*
OTHER DIRECT EXPENSES	$ 167,000	3%	$ 155,000	3%
OTHER INCOME	$ (16,000)	0%	$ (41,000)	-1%
GENERAL & ADMINISTRATIVE EXPENSES	$ 958,000	20%	$ 941,000	21%
CAPITALIZED LABOR	$ (32,000)	-1%	$ (27,000)	-1%
TOTAL OPERATING EXPENSES	$ 2,666,000	56%	$ 2,595,000	58%

NET OPERATING INCOME (NOI)		$ 2,136,000	44%		$ 1,858,000	42%

For this specific operation, including sales of poster paper and vinyl (associated with production), gross advertising sales were $5,175,000 in 2002 and $4,864,000 in 2001. Agency commissions paid were $373,000 in 2002 and $411,000 in 2001, 8% and 9% of gross advertising sales, respectively (agency commissions are typically 15% to 16.67% of gross advertising sales, therefore, the commission costs experienced by this office run approximately 8% below market). The resulting advertising sales, net of agency commissions were $4,802,000 in 2002 and $4,453,000 in 2001. Including construction and production costs, and the cost of vinyl and poster paper, total operating expenses were $2,666,000 in
2002 and $2,595,000 in 2001, 56% and 58% of advertising sales, respectively, resulting in net operating income (NOI) or EBITDA (earnings before interest, taxes, depreciation and amortization) of $2,136,000 in 2002 (44% of advertising sales) and $1,858,000 in 2001 (42% of advertising sales). Lease costs were $1,151,000 in 2002 and $1,049,000 in 2001, or approximately 24% of advertising sales for each of those two years (typical lease costs, however, are 18% of advertising sales, therefore, the referenced office ground lease expense runs 6% above market). The lease expense is the portion of the money generated by the billboard that flows directly to the landowner (LESSOR).

Because the appraiser must identify the advertising sales generated only by the rental of space on the billboard's face, the appraiser must delete from the consolidated statement of operations all production related sales (shown in *highlighted italics*), such as the sale of poster paper ($115,000 in 2002 and $135,000 in 2001) and vinyl ($187,000 in 2002 and $111,000 in 2001), and all production related expenses, i.e., construction and production labor ($175,000 in 2002 and $163,000 in 2001), vinyl ($120,000 in 2002 and $114,000 in 2001), and poster paper ($77,000 in 2002 and $116,000 in 2001). The table below shows the restated consolidated statement of operations after deletion of construction and production related items. Note that the deletion of construction and production related items increases net operating income (EBITDA) as a percentage of advertising sales (excluding paper and vinyl) to 49% in 2002 and 48% in 2001, from the previous 44% and 42%, respectively).

TYPICAL COMPARATIVE STATEMENT OF OPERATIONS—SPACE SALES ONLY TWELVE MONTHS ENDING DECEMBER 31						
	2002 YEAR TO DATE		**%**	**2001 YEAR TO DATE**		**%**
SPACE SALES:		$ 4,873,000	108%		$ 4,618,000	110%
AGENCY COMMISSIONS		$ (373,000)	-8%		$ (411,000)	-10%
ADVERTISING SALES (EXCLUDING		$	100%		$	100%

PAPER & VINYL)	4,500,000		4,207,000	
DIRECT EXPENSES:				
LABOR (EXCLUDING CONSTRUCTION & PRODUCTION)	$ 58,000	1%	$ 104,000	2%
LEASES	$ 1,151,000	26%	$ 1,049,000	25%
MATERIALS (EXCLUDING VINYL & POSTER PAPER)	$ 8,000	0%	$ 21,000	0%
OTHER DIRECT EXPENSES	$ 167,000	4%	$ 155,000	4%
OTHER INCOME	$ (16,000)	0%	$ (41,000)	-1%
GENERAL & ADMINISTRATIVE EXPENSES	$ 958,000	21%	$ 941,000	22%
CAPITALIZED LABOR	$ (32,000)	-1%	$ (27,000)	-1%
TOTAL OPERATING EXPENSES	$ 2,294,000	51%	$ 2,202,000	52%
NET OPERATING INCOME (NOI)	$ 2,206,000	49%	$ 2,005,000	48%

Further, the consolidated statement of operations must be adjusted to reflect market rate agency commissions (15% versus 8% to 10% of space sales) and leases (18% versus 25% to 26% of space sales). The adjusted consolidated statement of operations is given below.

ADJUSTED COMPARATIVE STATEMENT OF OPERATIONS—SPACE SALES ONLY				
TWELVE MONTHS ENDING DECEMBER 31				
	2002 YEAR TO DATE	**%**	**2001 YEAR TO DATE**	**%**
SPACE SALES:	$ 4,873,000	115%	$ 4,618,000	115%
AGENCY COMMISSIONS	**$ (653,000)**	**-15%**	**$ (600,000)**	**-15%**
ADVERTISING SALES (EXCLUDING PAPER & VINYL)	$ 4,220,000	100%	$ 4,018,000	100%
DIRECT EXPENSES:				
LABOR (EXCLUDING CONSTRUCTION & PRODUCTION)	$ 58,000	1%	$ 104,000	3%
LEASES	**$ 760,000**	**18%**	**$ 723,000**	**18%**

MATERIALS (EXCLUDING VINYL & POSTER PAPER)	$ 8,000	0%		$ 21,000	1%
OTHER DIRECT EXPENSES	$ 167,000	4%		$ 155,000	4%
OTHER INCOME	$ (16,000)	0%		$ (41,000)	-1%
GENERAL & ADMINISTRATIVE EXPENSES	$ 958,000	23%		$ 941,000	23%
CAPITALIZED LABOR	$ (32,000)	-1%		$ (27,000)	-1%
TOTAL OPERATING EXPENSES	$ 1,903,000	45%		$ 1,876,000	47%
NET OPERATING INCOME (NOI)	$ 2,317,000	55%		$ 2,142,000	53%

The final adjusted net operating income (EBITDA) is $2,317,000, or 55% of space sales, in 2002 and $2,142,000, or 53% of space sales, in 2001. Consequently, following the Stoops money trail results in the allocation given below:

1. Money Flow to Landowner (LESSOR)—ground lease payments of $760,000 in 2002 and $723,000 in 2001—18% of space sales net of agency commissions;
2. Money Flow to Billboard Owner (LESSEE)—net operating income (EBITDA), strictly attributable to space sales (real estate rental income), net of agency commissions, leases, and managerial expenses is $2,317,000, or 55% of advertising sales excluding poster paper and vinyl, in 2002, and $2,142,000, or 53% of advertising sales excluding poster paper and vinyl, in 2001.

In his Right of Way Magazine article[12] the author states: “It is also incorrect to assert that the income approach, in any way, reflects the "business" value of a billboard. The expense data, which include all operating and management costs, effectively eliminate the "business" component from the income figures. Thus, the computed net operating income (NOI) applies entirely to the real estate, in the same manner that the NOI of a hotel, office building, or an apartment complex exclusively reflects the value attributable to the realty. An outdoor advertising structure is not a restaurant or a fast food outlet, where a separate and distinct business activity is conducted such as selling food and beverages. All activities of a sign owner relate directly to its being rented to a tenant-advertiser, a purely real estate related function.”

CONCLUSIONS

A careful reexamination of the “money trail” propounded by Dwain R. Stoops, MAI[13] leads to the following analysis-based financial conclusions in eminent domain:

1. Clearly, if there is no billboard, there is no revenue. Therefore, all of the revenue is generated by the off-premise sign;

2. The appraiser must only consider revenue and expense attributable to the leasing of space on the billboard's face; all revenue and expense not related to space-leasing activities, such as construction and production (poster paper, vinyl, artist, etc.), must be expunged from the consolidated statement of operations;

3. The space-generated revenue, net of agency commissions, flows to:
    a) The lease fee owner as ground rent (LESSOR)—typically 18% of space sales less agency commissions—and
    b) The leasehold owner (LESSEE), as a return on and a return of the LESSEE's investment in the signs, leases and permits, and to defray expenses to maintain and operate the signs, such as labor, materials, other direct expenses, and general and administrative costs—typically between 45% to 55% of space sales less agency commissions, but including lease expense.

The resulting net operating income (NOI), or EBITDA (earnings before interest, taxes, depreciation and amortization), is capitalized at a market-derived capitalization rate to arrive at the subject's indication of market value from the income approach.

---

12. Aguilar, 18

13. Stoops, 156

Space sales less agency commissions, which constitute the billboard's effective gross rent (EGR), multiplied by the market-derived gross rent multiplier (GRM); yield the subject's indication of market value from the sales comparison approach.

References

Rodolfo J. Aguilar, Ph.D., MAI, "The Appraisal of Off-Premise Outdoor Advertising Billboards," *Right of Way Magazine* (September/October 2000): 12-19.

Dwain R. Stoops, MAI, "Billboard Valuation: Fundamental Asset Allocation Issues," *The Appraisal Journal* (April 2003): 155-163.

Nat'l Adv. Co. v. State Dep't of Transp., 116 Nev. Adv. Op. No. 10, February 2, 2000, in the Supreme Court of the State of Nevada, No. 31570.

Donald T. Sutte, Jr., MAI, "*The Appraisal of Outdoor Advertising Signs*" (Chicago, Illinois: Appraisal Institute, 1994).

Paul Wright and Jeffrey Wright, ASA, CFA, *"Billboard Appraisal, The Valuation of Off-Premise Advertising Signs"* (American Society of Appraisers, The International Society of Professional Valuers, 2001).

Rodolfo J. Aguilar, Ph.D., PE/PLS, AIA, ASA, MAI, SR/WA, is chairman, president and CEO of Pyburn & Odom MCA, LLC, Architects, Engineers, Scientists, Planners, Surveyors, and of The Aguilar Group, Inc., Real Estate Appraisers, Analysts, Consultants. Both firms are located in Baton Rouge, Louisiana. He is also entrepreneur in residence and clinical professor of real estate finance and entrepreneurial management at the A.B. Freeman School of Business, Tulane University, New Orleans. Louisiana. He has consulted on, and/or appraised, a large number of outdoor advertising structures in Alabama, Arizona, California, Colorado, Connecticut, Illinois, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, Missouri, Nevada, Ohio, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, and West Virginia, for several outdoor advertising companies. He has also appraised many properties for right-of-way acquisitions by the State of Louisiana, Department of Transportation and Development. He earned a B.S. in Architectural Engineering, a B. Architecture, and an M.S. in Civil Engineering from Louisiana State University, Baton Rouge; an MBA from the A. B. Freeman School of Business, Tulane University, New Orleans; and a Ph.D. in Civil Engineering from North Carolina State University, Raleigh. He is a Professional Engineer, a Professional Land Surveyor, a Registered Architect, a Certified General Real Estate Appraiser, and a licensed Real Estate Broker in Louisiana. He is also a Certified General Real Estate Appraiser in Mississippi and Texas. Contact: (225) 766-6330; Fax: (225) 769-7680; rudi92836@aol.com.