Welcome to ECHBU
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THE EVER-CHANGING HBU FRONTIER
Where the existing use may or may not be riding into the sunset—
and the new alternative use may or may not witness a — sunrise

THE ECHBU LANDSCAPE

- Real estate markets that are changing more rapidly or in a different direction then the asset's designed and/or intended use
- Aging multi-tenant office, large single tenant office complexes, certain industrial, retail with large and outdated anchors, oversized big-box
- Characteristics may include; persistent, protracted or the potential for long periods of vacancy; physical qualities lacking market demand and/or high conversion costs; redevelopment pressure; private and/or public restrictions; other obsolescence or unusual encumbrances

THE VALUATION QUESTION IS NOT WHAT THE PROPERTY MAY BECOME –
THE QUESTION IS WHAT DOES THE MARKET SUPPORT AS OF THE DATE OF VALUE –

FOUR PILLARS OF ECHBU

- **PHYSICALLY POSSIBLE**
  — Can the site and improvements support the use?
- **LEGALLY PERMISSIBLE**
  — Do zoning, leases and land controls allow it?
- **FINANCIALLY FEASIBLE**
  — Will the return justify cost, time and risk?
- **MAXIMALLY PRODUCTIVE**
  — Which feasible use produces the highest value?

POSSIBILITY AND ECHBU MAY NOT BE BEST FRIENDS ON THE FRONTIER

ECHBU'S CHALLENGES

- Dynamics for the use and usability of office space uncertain and evolving; lingering market impacts from a recent worldwide epidemic; fears over an unknown outlaw they call "AI"
- A shrinking universe of occupants/users for some retail formats; evolution to a variety of unproven and wide-ranging retail concepts
- Changes in consumer habits and preferences for online shopping
- Industrial properties with inferior CCHs, loading or locational issues, circulation and configuration issues as well as competition with modern properties in a market overbuilt in certain areas
- Redevelopment confronting physical and economic challenges

THE MARKET CAN CHANGE THE ECONOMICS BEFORE THE BUILDING PHYSICALLY CHANGES.

TWO ECHBU COWBOYS WALK INTO A SALOON…

- **AS THOUGH VACANT Cowboy asks:**

  “what the land would support if the existing improvements did not exist”

- **AS IMPROVED Cowboy asks:**

  “whether the existing improvements still contribute enough value to justify continued use”

The Answers are Related – Not Interchangeable
The Answers are Crucial – Often Overlooked

Understanding the Cowboy’s Perspectives, Applying Proper Market Analysis and Assigning Appropriate Relevance to the Question Asked Rule the Day in ECHBU

YE OLDE ECHBU HOMESTEAD

- An established residential neighborhood is experiencing a surge of redevelopment. Out-of-town buyers are purchasing older ranch homes, demolishing them, and replacing them with large multi-story custom homes featuring high-end amenities.

- Dolly, however, is perfectly comfortable in her well-maintained pink ranch. Her home remains functional and suitable for its current use, and she has no intention of selling, demolishing, or redeveloping it.

- **You’re the sheriff – what do you do with Dolly’s valuation?**

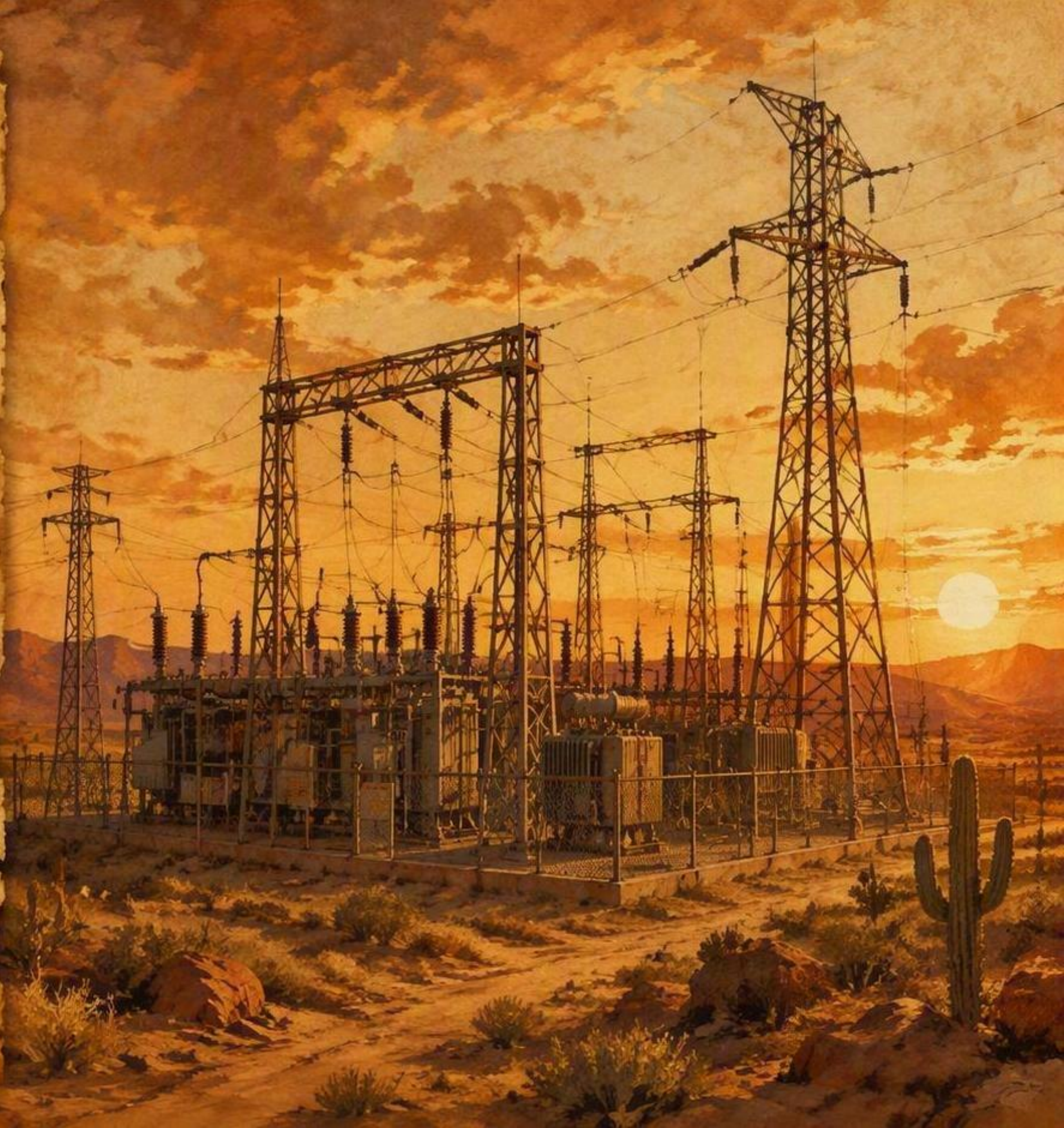
DON’T BURY THE BUILDING JUST BECAUSE THE DIRT IS VALUABLE.

THE SUBSTATION

PTAB 11-22978.001-I-2
Commonwealth Edison – Cook County

- ★ **Operating electrical substation - approximately 43 acres in Bedford Park**
- ★ **Intervenor argued the utility use was interim and proposed a large single-user industrial building**
- ★ **PTAB reasoned that the longstanding present utility use advocated by taxpayer was more persuasive; proposed redevelopment was not proven**
- **Intervenor's appraiser did not analyze or value the existing improvements properly**

UNDERUTILIZED LAND IS NOT A PROVEN CHANGE IN HIGHEST AND BEST USE.



THE SEARS SHOWDOWN

Bloomington Public Schools, District No. 87, McLean County, Illinois v. Illinois Property Tax Appeal Board, Sears Store No. 2840, and McLean County Board of Review, No. 4-07-0405 (Ill. App. Ct. 4th Dist. Jan. 31, 2008)

- **Involved Sears' Anchor store at Eastland Mall, Bloomington**
- **The Intervenor's appraiser emphasized the underlying land value and nearly full depreciation of the anchor improvements**
- **PTAB was not persuaded that the building had reached the end of its economic life**
- **Lease acquisition, reconfiguration, demolition and redevelopment costs were not adequately developed**
- **The four HBU tests were not fully applied to the property as improved**

A REDEVELOPMENT STORY FAILS WHEN THE ALTERNATIVE ECONOMICS ARE INCOMPLETE.

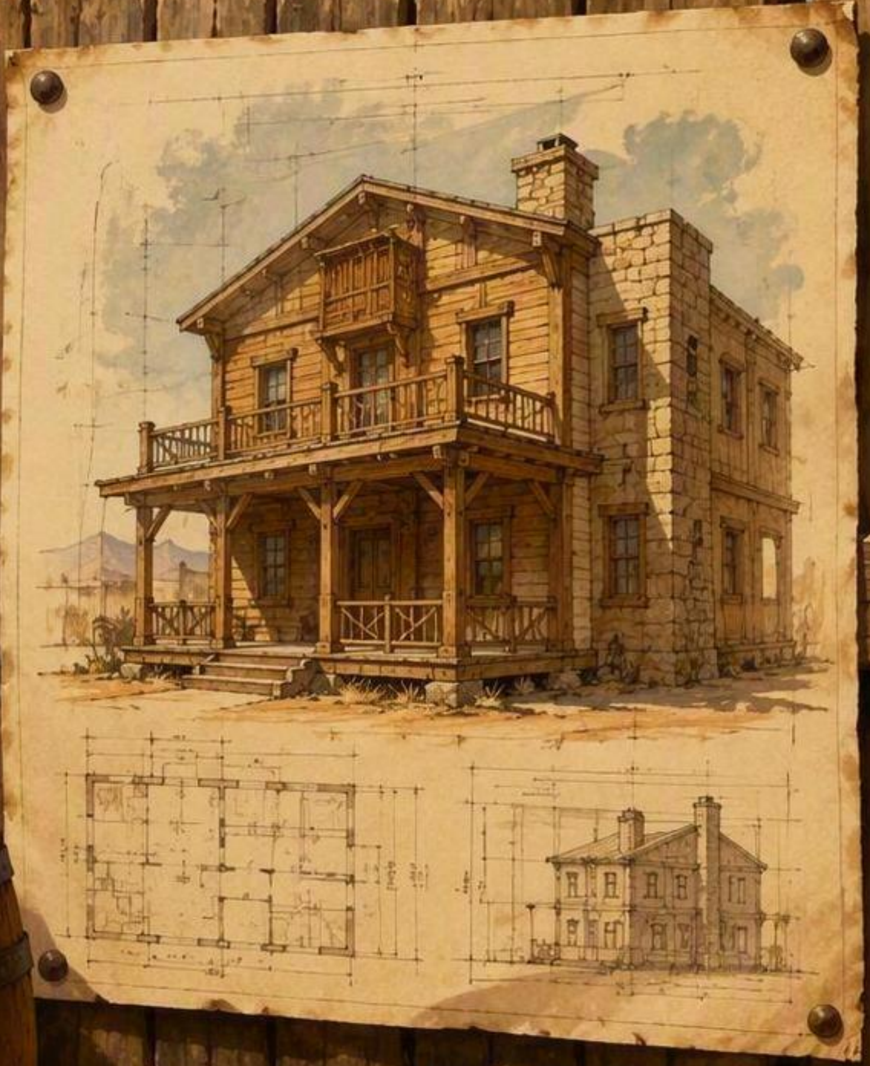
YOU CAN'T VALUE THE GOLD MINE BEFORE ANYONE FINDS GOLD

- A proposed future use must be reasonable, probable and proximate enough to affect present market value.

- No demolition plans existed in the Sears matter, and no redevelopment analysis was presented.

- A hypothetical "better use" is not necessarily the current Highest and Best Use.

A FUTURE BETER USE IS NOT NECESSARILY THE AMNSWER TO THE VALUATION QUESTION BEING ASKED.



THE RENDERING AT HIGH NOON

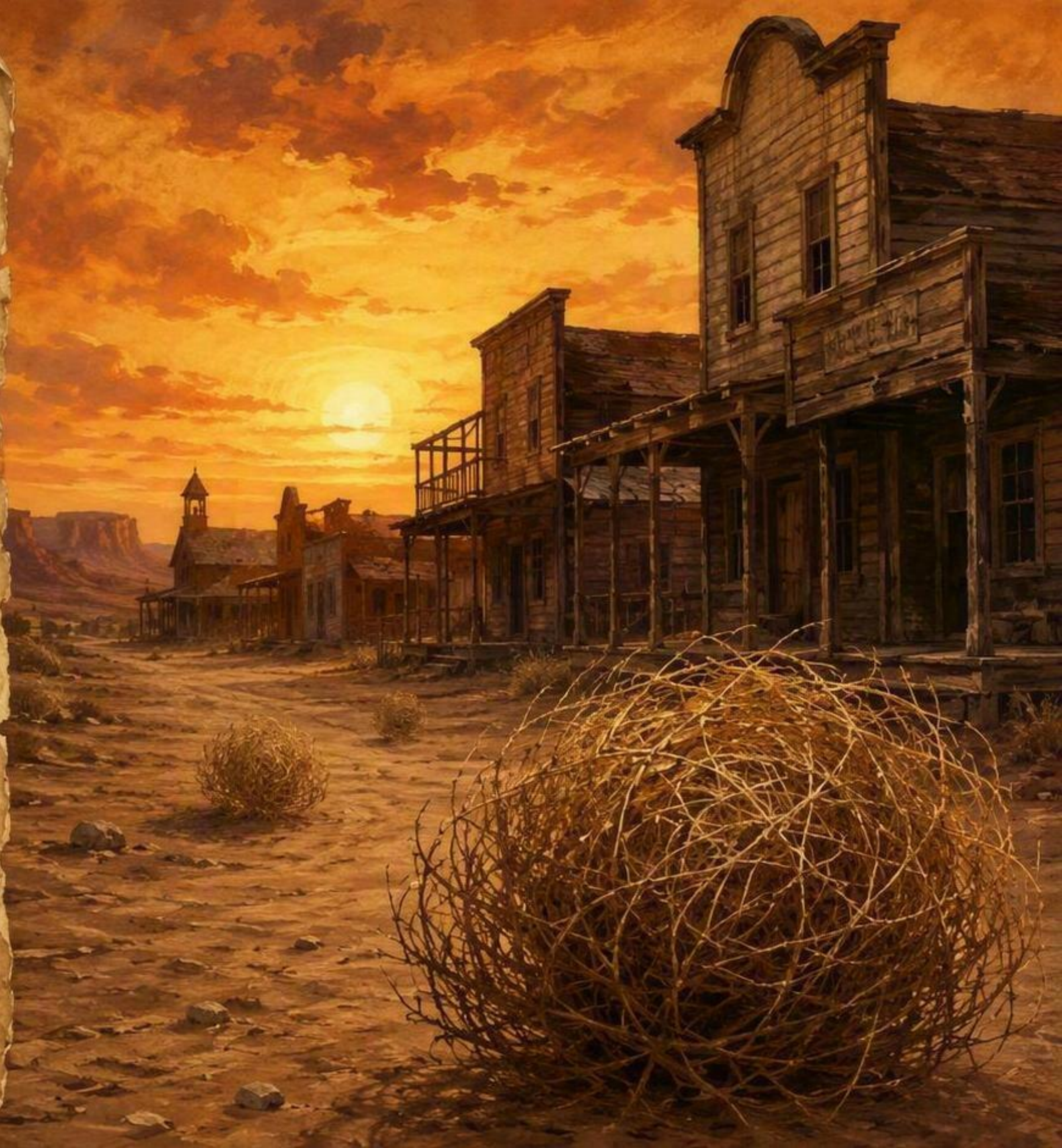
- LEGAL PATH — zoning, entitlements and reciprocal or operating easements.
- COST PATH — demolition, conversion, construction and developer profit.
- MARKET PATH — demand, absorption, effective rents and financing.
- EXECUTION PATH — plans, approvals, executed agreements and environmental work.

PRETTY RENDERINGS ARE NOT PROOF.

NOBODY'S HERE. NOW WHAT?

- Vacancy is powerful evidence—but doesn't dictate the highest and best use conclusion nor does it influence the nature of the assignment itself.
- Distinguish property-specific distress from market-wide obsolescence.
- Measure improvements and capital required merely to compete.
- Test vacancy, leasing history, effective rents, concessions and absorption.
- What's happening with how humans are using this type of property – can we really know how they best want to use it right now?

**VACANCY MAY BE A CONDITION;
IT DOES NOT CONTROL A CONCLUSION.**



THE SIX-SHOOTER TEST FOR OBSOLESCENCE

- ★ UTILITY — Does the space work for modern users?
- ★ CONFIGURATION — Is the layout efficient?
- ★ DEMAND — Is there meaningful buyer or tenant demand?
- ★ RENT & OCCUPANCY — Can it command rent and retain users?
- ★ CAPITAL — What investment is required to remain relevant?

OBSOLESCENCE IS DEMONSTRATED THROUGH MARKET EVIDENCE, NOT LABELS.

THE MAY DEPARTMENT STORE LESSON

PTAB 04-27366: May Department Store Company

- An enormous aging industrial complex had recognized functional shortcomings.
- The appraisal record discussed future commercial or residential redevelopment.
- On the valuation dates, the appraisers and PTAB still treated continued industrial use as HBU as improved.
- Obsolescence and a change in highest and best use are distinct questions.

OBSOLESCENCE AND CONTINUED USE CAN COEXIST.

STILL STANDING DOESN'T MEAN STILL THRIVING

- A property can remain in its existing HBU while suffering substantial depreciation or obsolescence.
- Highest and best use is not a judgment that the property is healthy, modern or desirable.
- It asks which use is economically rational on the valuation date.

CONTINUED USE MAY BE RATIONAL EVEN WHEN DEPRECIATION IS SUBSTANTIAL.

WANTED: FINANCIAL FEASIBILITY

HANSEN — PTAB 07-05053

- ★ Hansen proposed alternative commercial or business uses for a car wash site.
- ★ Missing: vacant-land value compared with value as improved.
- ★ Missing: demolition and redevelopment costs.
- ★ Missing: present worth of the proposed future income stream.
- ★ Result: the alternative use was speculative; the appraisal was rejected.

YOU DON'T GET TO THE PROMISED LAND FOR FREE.

INTERIM USE: CAMPING BEFORE YOU BUILD THE TOWN

KATRIS — PTAB 19-07891

- ★ Katris involved a highly depreciated residence on approximately 24 acres.
- ★ The residence was treated as interim until commercial development became financially feasible.
- ★ Condition, market evidence and cost-based valuation supported the conclusion.
- ★ Future use informed value without pretending the future had already arrived.

INTERIM USE CAN ACKNOWLEDGE TOMORROW WITHOUT VALUING IT AS TODAY.

HANSEN V. KATRIS: DRAW!

- ★ HANSEN — Alternative use asserted; demolition, redevelopment and future-income economics were incomplete.
- ★ KATRIS — Future use identified; existing use treated as interim; condition and market evidence documented.
- ★ The dividing line is credible market, cost and feasibility evidence.

THE LESSON: PTAB REQUIRES PROOF.

HOW FAR DOWN THE TRAIL ARE WE?

- ★ RUMOR → CONCEPT → FEASIBILITY STUDY
- ★ ENTITLEMENT OR REZONING → FINANCING
- ★ EXECUTED CONTRACTS → DEVELOPMENT AGREEMENTS → CONSTRUCTION
- ★ Where did the property actually sit on the assessment date?

THE FARTHER DOWN THE TRAIL, THE LESS SPECULATIVE THE USE BECOMES.

YOU BE THE SHERIFF OF ECHBU

Property 1:
65% vacant office; residential zoning approved; no conversion plan; major conversion cost.

Property 2:
Big box vacant 3 years; buyer under contract; demolition bids; redevelopment agreement.

Property 3:
100% occupied old warehouse; 14-foot clear; below-market rents; no redevelopment plan.

Property 4:
Minimal-income residence; commercial growth surrounds it; developer land sales show demand.

EXISTING USE, INTERIM USE, ADAPTIVE REUSE OR REDEVELOPMENT—WHAT FACTS OR DATA MIGHT CHANGE YOUR OPINION?

ECHBU
GUIDING PRINCIPLES

The Four Pillars serve as our Foundation

A future use must survive all four tests

One must consider the value that exists, especially when speculating about some value that might exist

Vacancy and obsolescence are evidence—not warranting automatic conclusions

Redevelopment economics must account for cost, time, risk

Public and Private Restrictions must be accounted for in a logical, reasoned manner, reflective of actual market tendencies

Prospective uses demand stronger evidence that the market was already pricing them in

Beware a prospective valuation analysis not supported by specific market evidence.

HIGHEST AND BEST USE MUST EXIST IN THE MARKET—NOT MERELY ON THE HORIZON

CITED ILLINOIS CASELAW

- Commonwealth Edison, PTAB 11-22978.001-I-2 (Mar. 18, 2016).
- Bloomington Public Schools Dist. No. 87 v. PTAB, No. 4-07-0405 (Ill. App. Ct. 4th Dist. Jan. 31, 2008).
- May Department Store Co., PTAB 04-27366.001-I-3 through .019-I-3.
- John Katris, PTAB 19-07891.001-C-1 through .005-C-1.
- Terry Hansen, PTAB 07-05053.001-C-1.

Leaving ECHBU

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THANK YOU FOR VISITING

Questions