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Clerk, Supreme Court of Appeals
Richmond, Va.

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Record Nos. 6917, 6918 6919, 6920, 6921, 6922

In the Supreme Court of Appeals of Virginia at Richmond

MYRON DAVY
v. Record No. 6917
COUNTY BOARD OF ARLINGTON COUNTY

N. E. SUPPLY CO., INC.
v. Record No. 6918
COUNTY BOARD OF ARLINGTON COUNTY

J. A. STONE
v. Record No. 6919
COUNTY BOARD OF ARLINGTON COUNTY

J. A. STONE
v. Record No. 6920
COUNTY BOARD OF ARLINGTON COUNTY

J. A. WATSON, JR.
v. Record No. 6921
COUNTY BOARD OF ARLINGTON COUNTY

S. K. CARTER
v. Record No. 6922
COUNTY BOARD OF ARLINGTON COUNTY

FROM THE CIRCUIT COURT OF ARLINGTON COUNTY

RULE 5:12—BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a.m.; Adjourns at 1:00 p.m.

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IN THE

eme Court of Appeals of Virginia

AT RICHMOND

Record No. 6917

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 6th day of March, 1968.

MYRON DAVY,

Plaintiff in error,

against

COUNTY BOARD OF ARLINGTON COUNTY,

Defendant in error.

From the Circuit Court of Arlington County
Paul D. Brown, Judge

Upon the petition of Myron Davy a writ of error is awarded him to a judgment rendered by the Circuit Court of Arlington County on the 17th day of July, 1967, in a certain proceeding then therein depending, (Law No. 11,529), wherein the said petitioner was plaintiff and County Board of Arlington County and another were defendants; upon the petitioner, or some one for him, entering into bond with sufficient security before the clerk of the said circuit court in the penalty of $300, with condition as the law directs.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 6918

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 6th day of March, 1968.

N. E. SUPPLY CO., INC.,

Plaintiff in error,

against

COUNTY BOARD OF ARLINGTON COUNTY,

Defendant in error.

From the Circuit Court of Arlington County
Paul D. Brown, Judge

Upon the petition of N. E. Supply Co., Inc., a writ of error is awarded it to a judgment rendered by the Circuit Court of Arlington County on the 17th day of July, 1967, in a certain proceeding then therein depending, (Law No. 11,530), wherein the said petitioner was plaintiff and County Board of Arlington County and another were defendants; upon the petitioner, or some one for it, entering into bond with sufficient security before the clerk of the said circuit court in the penalty of $300, with condition as the law directs.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 6919

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 6th day of March, 1968.

J. A. STONE,

Plaintiff in error,

against

COUNTY BOARD OF ARLINGTON COUNTY,

Defendant in error.

From the Circuit Court of Arlington County
Paul D. Brown, Judge

Upon the petition of J. A. Stone a writ of error is awarded him to a judgment rendered by the Circuit Court of Arlington County on the 17th day of July, 1967, in a certain proceeding then therein depending, (Law No. 11,531), wherein the said petitioner was plaintiff and County Board of Arlington County and another were defendants; upon the petitioner, or some one for him entering into bond with sufficient security before the clerk of the said circuit court in the penalty of $300, with condition as the law directs.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 6920

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 6th day of March, 1968.

J. A. STONE,

Plaintiff in error,

against

COUNTY BOARD OF ARLINGTON COUNTY,

Defendant in error.

From the Circuit Court of Arlington County
Paul D. Brown, Judge

Upon the petition of J. A. Stone a writ of error is awarded him to a judgment rendered by the Circuit Court of Arlington County on the 17th day of July, 1967, in a certain proceeding then therein depending, (Law No. 11,532) wherein the said petitioner was plaintiff and County Board of Arlington County and another were defendants; upon the petitioner, or some one for him, entering into bond with sufficient security before the clerk of the said circuit court in the penalty of $300, with condition as the law directs.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 6921

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 6th day of March, 1968.

J. A. WATSON, JR.,

Plaintiff in error,

against

COUNTY BOARD OF ARLINGTON COUNTY,

Defendant in error.

From the Circuit Court of Arlington County
Paul D. Brown, Judge

Upon the petition of J. A. Watson, Jr., a writ of error is awarded him to a judgment rendered by the Circuit Court of Arlington County on the 17th day of July, 1967, in a certain proceeding then therein depending, (Law No. 11,533), wherein the said petitioner was plaintiff and County Board of Arlington County and another were defendants; upon the petitioner, or some one for him, entering into bond with sufficient security before the clerk of the said circuit court in the penalty of $300, with condition as the law directs.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 6922

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 6th day of March, 1968.

S. K. CARTER,

Plaintiff in error,

against

COUNTY BOARD OF ARLINGTON COUNTY,

Defendant in error.

From the Circuit Court of Arlington County
Paul D. Brown, Judge

Upon the petition of S. K. Carter a writ error is awarded him to a judgment rendered by the Circuit Court of Arlington County on the 17th day of July, 1967, in a certain proceeding then therein depending, (Law No. 11,534), wherein the said petitioner was plaintiff and County Board of Arlington County and another were defendants; upon the petitioner, or some one for him, entering into bond with sufficient security before the clerk of the said circuit court in the penalty of $300, with condition as the law directs.

STIPULATION

MYRON DAVY, Appellant,
Record No. 6917,

N. E. SUPPLY CO., INC., Appellant,
Record No. 6918,

J. A. STONE, Appellant,
Record No. 6919,

J. A. STONE, Appellant,
Record No. 6920,

J. A. WATSON, Appellant,
Record No. 6921,

S. K. CARTER, Appellant,
Record No. 6922,

vs.

COUNTY BOARD OF ARLINGTON COUNTY,
Appellee.

Counsel for Appellants and the Appellee in the above entitled matters hereby stipulate and agree that the record to be printed covering said matters be limited to the printing of Record No. 6917, styled, *Myron Davy* v. *County Board of Arlington County,* and the applications for refunds and the Answers thereto of the individual cases, and that all cases, Records No. 6917 through No. 6922 inclusive, will be decided on the basis of the record printed for Record No. 6917 and the aforesaid pleadings. This stipulation is entered into in the interest of time, expense and convenience to the parties and the Court.

Respectfully Submitted,

Lytton H. Gibson
Royce A. Spence
Attorneys for Appellants

William J. Hassan
Attorney for Appellee

Recd 5-15-68 HGT

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 16th day of October, 1968.

MYRON DAVY,
against Plaintiff in error,
COUNTY BOARD OF ARLINGTON COUNTY,
Defendant in error.

N. E. SUPPLY CO., INC.
against Plaintiff in error,
COUNTY BOARD OF ARLINGTON COUNTY,
Defendant in error.

J. A. STONE,
against Plaintiff in error,
COUNTY BOARD OF ARLINGTON COUNTY,
Defendant in error.

J. A. STONE,
against Plaintiff in error,
COUNTY BOARD OF ARLINGTON COUNTY,
Defendant in error.

J. A. WATSON, JR.,
against Plaintiff in error,
COUNTY BOARD OF ARLINGTON COUNTY,
Defendant in error.

S. K. CARTER,
against Plaintiff in error,
COUNTY BOARD OF ARLINGTON COUNTY,
Defendant in error.

From the Circuit Court of Arlington County

This day came again the parties, by counsel, and it appearing to the court that the order entered in each of these cases on June 12, 1968, does not correctly reflect the terms of the stipulation of counsel filed on May 15, 1968, it is therefore ordered that the said order be set aside, and the following order is hereby entered in lieu thereof:

On consideration of the stipulation of counsel filed herein in the cases listed above, Records Nos. 6917 through 6922, it

is ordered that the record to be printed covering said matters be limited to the printing of Record No. 6917, styled, *Myron Davy* v. *County Board of Arlington County,* and the applications for refunds and the answers thereto of the individual cases, and that all cases, Records No. 6917 through No. 6922, inclusive, will be decided on the basis of the record printed for Record No. 6917 and the aforesaid pleadings.

* * * * *

Record No. 6917

* * * * *

page 1 }

* * * * *

MYRON DAVY,
Applicant,
vs.
THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA and COLIN C. MacPHERSON, Treasurer of Arlington County, Virginia

APPLICATION FOR REFUND OF TAXES

1. The applicant, Myron Davy, is the owner of a certain parcel of real estate located in Arlington County, Virginia, and described as:

28,710 square feet of Waterloo

The Defendant, Colin C. MacPherson, is and was the Treasurer of Arlington, County, Virginia, to whom the applicant paid the taxes upon the assessment herein complained of. The Defendant, The County Board of Arlington County, Virginia, is the political corporation which has received and used the taxes so paid.

* * * * *

page 2 } 6. The purported assessment was inequitable and was not assessed uniformly with other real estate in Arlington County.

* * * * *

Filed in the Clerk's Office the 3 day of November, 1968, Teste: H. Bruce Green, Clerk, Virginia Green, D. C.

* * * * *

page 5 }

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MYRON DAVY,
Applicant
vs.
THE COUNTY BOARD OF ARLINGTON COUNTY, et al,
Defendants

ANSWER

COME NOW the defendants, The County Board of Arlington County, Virginia and Colin C. MacPherson, by counsel, and by way of answer to the application for refund of taxes heretofore filed in the above cause, represent as follows:

* * * * *

6. The defendants deny the allegations contained in Paragraph 6 of the application.

* * * * *

Filed Nov 23, 1966, H. Bruce Green, Clerk, Circuit Court, Arlington County, Va., By: VG, Deputy Clerk

* * * * *

Record No. 6918

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page 1 }

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N. E. SUPPLY CO. INC.
Applicant
vs.
THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA and COLIN C.
MacPHERSON, Treasurer of
Arlington County, Virginia

APPLICATION FOR REFUND OF TAXES

1. The applicant, N. E. Supply Co., Inc. is the owner of a certain parcel of real estate located in Arlington County, Virginia, and described as:
81,772 square feet of Waterloo

* * * * *

page 2 } 6. The purported assessment was inequitable and was not assessed uniformly with other real estate in Arlington County.

* * * * *

Filed in the Clerk's Office the 3 day of November, 1966.
Teste: H. Bruce Green, Clerk, Virginia Green, D. C.

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page 5 }

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N. E. SUPPLY CO., INC.,
Applicant
vs.
THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA, et al,
Defendants

ANSWER

COME NOW the defendants, The County Board of Arlington County, Virginia, and Colin C. MacPherson, by counsel, and by way of answer to the application for refund of taxes heretofore filed in the above cause, represent as follows:

* * * * *

page 6 }

* * * * *

6. The defendants deny the allegations contained in Paragraph 6 of the application.

* * * * *

Filed Nov. 23, 1966, H. Bruce Green, Clerk, Circuit Court Arlington County, Va., V.G., Deputy Clerk.

* * * * *

Record No. 6919

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page 1 }

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J. A. STONE,
Applicant
vs.
THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA and COLIN C. MacPHERSON, Treasurer of Arlington County, Virginia

APPLICATION FOR REFUND OF TAXES

1. The applicant, J. A. Stone, is the owner of a certain parcel of real estate located in Arlington County, Virginia, and described as:

68,589 square feet of Waterloo

The Defendant, Colin C. MacPherson, is and was the Treas-

urer of Arlington County, Virginia, to whom the applicant paid the taxes upon the assessment herein complained of. The Defendant, The County Board of Arlington County, Virginia, is the political corporation which has received and used the taxes so paid.

* * * * *

page 2 } 6. The purported assessment was inequitable, and was not assessed uniformly with other real estate in Arlington County.

* * * * *

Filed in the Clerk's Office the 3 day of November, 1966, Teste: H. Bruce Green, Clerk, Virginia Green, D. C.

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page 5 }

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J. A. STONE,
Applicant
vs.
THE COUNTY BOARD OF ARLINGTON COUNTY, et al,
Defendants

ANSWER

COME NOW the defendants, The County Board of Arlington County, Virginia and Colin C. MacPherson, by counsel, and by way of answer to the application for refund of taxes heretofore filed in the above cause, represent as follows:

* * * * *

6. The defendants deny the allegations contained in Paragraph 6 of the application.

* * * * *

Filed Nov. 23, 1966, H. Bruce Green, Clerk, Circuit Court, Arlington County, Va., By: VG, Deputy Clerk.

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Record No. 6920

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page 1 }

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J. A. STONE
Applicant
vs.
THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA and COLIN C. MacPHERSON, Treasurer of Arlington County, Virginia

APPLICATION FOR REFUND OF TAXES

1. The applicant, J. A. Stone, is the owner of a certain parcel of real estate located in Arlington County, Virginia, and described as:

24,340 square feet of Waterloo

The Defendant, Colin C. MacPherson, is and was the Treasurer of Arlington County, Virginia, to whom the applicant paid the taxes upon the assessment herein complained of. The Defendant, The County Board of Arlington County, Virginia, is the political corporation which has received and used the taxes so paid.

* * * * *

page 2 }

6. The purported assessment was inequitable and was not assessed uniformly with other real estate in Arlington County.

* * * * *

Filed in the Clerk's Office the 3rd day of November, 1966, Teste: H. Bruce Green, Clerk, Virginia C. Green, D. C.

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page 5 }

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J. A. STONE,
Applicant
vs.
THE COUNTY BOARD OF ARLINGTON
COUNTY, et al,
Defendants

ANSWER

COME NOW the defendants, The County Board of Arlington County, Virginia and Colin C. MacPherson, by counsel, and by way of answer to the application for refund of taxes heretofore filed in the above cause, represent as follows:

* * * * *

6. The defendants deny the allegations contained in Paragraph 6 of the application.

* * * * *

Filed Nov. 23, 1966, H. Bruce Green, Clerk, Circuit Court, Arlington County, Va., By: V. Green, Deputy Clerk.

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Record No. 6921

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page 1 }

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J. A. WATSON, JR.
Applicant
vs.
THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA and COLIN C. MacPHERSON,
Treasurer of Arlington County, Virginia

APPLICATION FOR REFUND OF TAXES

1. The applicant, J. A. Watson, Jr., is the owner of a certain parcel of real estate located in Arlington County, Virginia, and described as:

156,764 square feet of Waterloo

The Defendant, Colin C. MacPherson, is and was the Treasurer of Arlington County, Virginia, to whom the applicant paid the taxes upon the assessment herein complained of. The Defendant, The County Board of Arlington County, Virginia, is the political corporation which has received and used the taxes so paid.

* * * * *

page 2 } 6. The purported assessment was inequitable, and was not assessed uniformly with other real estate in Arlington County.

* * * * *

Filed in the Clerk's Office the 3 day of November, 1966, Teste: H. Bruce Green, Clerk, Virginia C. Green, D. C.

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page 5 }

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J. A. WATSON, JR.,
Applicant

vs.

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, et al,
Defendants

ANSWER

COME NOW the defendants, The County Board of Arlington County, Virginia, and Colin C. MacPherson, by counsel, and by way of answer to the application for refund of taxes heretofore filed in the above cause, represent as follows;

* * * * *

page 6 }

* * * * *

6. The defendants deny the allegations contained in Paragraph 6 of the application.

* * * * *

Filed Nov. 23, 1966, H. Bruce Green, Clerk, Circuit Court, Arlington County, Va., By VG, Deputy Clerk.

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Record No. 6922

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page 1 }

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S. K. CARTER
Applicant
vs.
THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA and COLIN C. MacPHERSON, Treasurer of Arlington County, Virginia

APPLICATION FOR REFUND OF TAXES

1. The applicant, S. K. Carter, is the owner of a certain parcel of real estate located in Arlington County, Virginia, and described as:

29,428 square feet of Waterloo

The Defendant, Colin C. MacPherson, is and was the Treasurer of Arlington County, Virginia, to whom the applicant paid the taxes upon the assessment herein complained of. The Defendant, The County Board of Arlington County, Virginia, is the political corporation which has received and used the taxes so paid.

* * * * *

page 2 } 6. The purported assessment was inequitable

and was not assessed uniformly with other real estate in Arlington County.

* * * * *

Filed in the Clerk's Office the 3 day of November, 1966, Teste: H. Bruce Green, Clerk, Virginia C. Green, D. C.

* * * * *

page 5 }

* * * * *

S. K. CARTER,
Applicant
vs.
THE COUNTY BOARD OF ARLINGTON
County, et al,
Defendants

ANSWER

COME NOW the defendants, The County Board of Arlington County, Virginia and Colin C. MacPherson, by counsel, and by way of answer to the application for refund of taxes heretofore filed in the above cause, represent as follows:

* * * * *

6. The defendants deny the allegations contained in Paragraph 6 of the application.

* * * * *

Record Nos. 6917, 6918, 6919, 6920, 6921 and 6922

* * * * *

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* * * * *

MYRON DAVY, et als,
Applicants,

vs.

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA and COLIN C. MacPHERSON, Treasurer of Arlington County, Virginia

LAW NO. 11529 through 11534 incl.

ORDER

THIS MATTER came on to be heard on the 13th day of April, 1967, upon the Application for Correction of Erroneous Assessment of Real Estate, and for Refund of Payment thereof, filed by Myron Davy, N. E. Supply Co., Inc., J. A. Stone (two applications), J. A. Watson, Jr., and S. K. Carter; upon the answers thereto filed by The County Board of Arlington, Virginia, and Colin C. MacPherson; upon the memorandum and argument of applicants; upon the memorandum on behalf of the defendants; upon the appearance of parties by counsel; upon testimony offered by all parties; and upon argument of counsel.

WHEREUPON, The Court is of the opinion, considering each parcel and tract separately, that the real estate taxes were properly assessed and paid on each of the parcels and tract; that the applicants are not entitled to the relief sought and that the applications should be denied, whereupon, it is

ADJUDGED, ORDERED and DECREED that the applications filed in Law Numbers 11529 through 11534, inclusive, be, and the same hereby are, in all respects, dismissed and judgment is entered for the defendants, The County Board of Arlington, and Colin C. MacPherson, to which action of the Court, as well as all other rulings adverse to them, applicants, by counsel, object and except.

Paul O. Brown
Judge

ENTERED this 17th day of July, 1967.

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MRYON DAVEY
N. E. SUPPLY COMPANY, INCORPORATED
J. A. STONE
J. A. WATSON, JR.
S. K. CARTER
vs.
THE COUNTY BOARD OF ARLINGTON
COLIN C. MacPHERSON, Treasurer

LAW NO. 11529-11534

NOTICE OF APPEAL AND
ASSIGNMENT OF ERROR

Myron Davey, N. E. Supply Company, Incorporated, J. A. Stone, J. A. Watson, Jr. and S. K. Carter, by Counsel, hereby give notice of their intention to appeal from a Final Order entered in the above styled causes on July 17, 1967, by the Circuit Court of Arlington County by which Order the said Court did dismiss an application of Myron Davey, et al for Correction of Erroneous Assessment of Real Estate and for a Refund of Payment of said taxes and entered the right of said Myron Davey, et al for a correction and rejudgment for Defendants; said application asserting therein fund of certain real estate taxes on the grounds that the said taxes were not equitable or assessed uniformly with other like real estate in Arlington County.

Myron Davey, N. E. Supply Company, Incorporated, J. A. Stone, J. A. Watson, Jr. and S. K. Carter assign as error the following:

1. The Circuit Court's entry of a final order dismissing the said Application of Myron Davey, et al on the grounds that the said applicants had not carried the burden of proof with regards to the inequity and *lake* of uniformity of the tracts owned by Myron Davey, et al with other like property in Arlington County was erroneous in that the evidence produced before the Circuit Court clearly showed that the said properties had like or similar qualities with other like properties in the immediate area of the properties of Myron Davey, et al.

2. That the Circuit Court's finding that the action of the Board of Assessments with regard to the parcel
page 14 } owned by 1100 Eads Street was done through error of said Board was erroneous in that the evidence produced clearly showed that the said action was not in error but done with deliberation.

3. That the Circuit Court's exclusion of certain testimony with regard to the R. F. and P. spur tract lying on the easterly side of Jefferson Davis Highway was erroneous in that the said testimony was relevant and material to the issue of uniformity and equity.

4. The exclusion by the Circuit Court of certain testimony with regard to development of properties subsequent to January, 1966, in and about the properties of Myron Davey, et al was erroneous in that the said testimony was relevant and material to the issue of equality and uniformity.

5. That all the rulings and findings of the Court in ruling against the Applicants were erroneous in that they were contrary to the law and the evidence.

Respectfully submitted,

Myron Davey
N. E. Supply Company, Incorporated
J. A. Stone
J. A. Watson, Jr.
S. K. Carter

By: Royce A. Spence

* * * * *

page 1 }

* * * * *

MYRON DAVY, et als.,

Petitioners,

versus

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, et als.,

Defendants.

M. B. Hodges

At Law Nos. 11529 & 11534

Arlington, Virginia
Thursday, April 13, 1967

The trial commenced at 10:00 o'clock a.m.

BEFORE:
HONORABLE PAUL D. BROWN, Judge.

APPEARANCES:
ROYCE A. SPENCE, Esq., Gibson, Hix, Millsap & Hansberger, 311 Park Avenue, Falls Church, Virginia, counsel for the petitioners.

T. ALEXANDER HUGHES, JR., Esq., 1515 North Courhouse Road, Arlington, Virginia, counsel for the defendants.

Received by me this 19th day of September, 1967, H. Bruce Green, Clerk.

* * * * *

page 3 }

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Whereupon, M. B. HODGES was called as a witness on behalf of the petitioners, and having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Spence:

* * * * *

page 4 }

* * * * *

Mr. Hughes: We will stipulate as to his qualifications.
Mr. Spence: Very well.

M. B. Hodges

By Mr. Spence:

Q. Mr. Hodges, at my request, did you examine the properties of Mr. Davy's, Northeast Supply Company, Inc., J. A. Stone, J. A. Watson, Jr., and S. K. Carter?

A. Yes, I did.

Q. And from this examination, Mr. Hodges, do you have an opinion as to the value of these particular parcels that I have mentioned?

The Court: As of when?

By Mr. Spence:

Q. As of January 1st, 1966?

A. As to the value of the land, if I were to make a detailed appraisal of each of these properties as of that day, the value range would fall in between $6 and $10 per square foot.

Q. Now, would this be—how do you arrive at that particular value of $6 to $10 per foot?

page 5 } A. Principally, and almost entirely by direct comparison to sales of vacant or usable land, even though it may be unimproved or unimproved with existing buildings for commercial office use mainly in the C-O or C-O zoning classification throughout the closest section of Arlington to the Washington, D. C. boundary.

Sales in the Rosslyn subdivision, leases in the Rosslyn subdivision there are very few sales—one sale, only, that I can recall on the Jefferson Davis Highway and essentially several leases, long-term participation leases, of land suitable for, and ultimately rezoned C-O, even prior to 1966, along the Jefferson Davis Highway.

Q. Considering each of these parcels individually, do you have an opinion as to their value?

The Court: Excuse me, counsel.

Are all of these properties C-O?

Mr. Spence: No, these parcels are all zoned M-2.

The Court: All right.

The Witness: Yes.

All of the properties except two parts in the northern part of this block were, as of January 1, '66, zoned M-2.

page 6 } Again, though, in my opinion, the zoning of these lands in this whole Jefferson Davis corridor is almost completely immaterial. I say that on the basis that even

though the rights of the property owners under M-2 classification are to build depending upon the size of their tract up to seventy feet automatically without any site plan improvement or anything else, this is not the most productive use of the land—it isn't the use that the Market anticipates—it goes almost without saying, that this has not been done in recent years in that neighborhood; except, of course, for the Twin Bridges Marriott, which has added on a fifth or fourth floor for a banquet room, which building is only about four or five floors tall.

But the highest and best use in this whole neighborhood is a commercial office with a mixture of some apartments and motels and hotels and this is again proven by the most recent action of the market in the assembly with an option to purchase or lease directly east of the Jefferson Davis Highway from the subject block.

So I say again, zoning is really immaterial, even in spite of the land use plan which was updated and page 7 } amended as of the same date, January 1st, 1966—mainly, because the County of Arlington is interested in high revenue producing properties and interested in better planning and commercial modern buildings in this whole Jefferson Davis Highway corridor.

Q. Could you, perhaps at this point, indicate on the plan where these parcels are?

Mr. Hughes: Objection, Your Honor.

The map is not in evidence yet. It hasn't been offered.

Mr. Spence: If Your Honor please, I will withdraw that question at this time and I merely wanted to guide the Court as to where the properties were.

By Mr. Spence:

Q. Now, with regard to the opinions that you have expressed as to value, what facts, if any, did you consider in reaching this opinion?

A. Do you mean the opinion of $6 to $10 per square foot range in the subject block?

Q. Yes, sir.

A. This I should have added, too, that this estimate of a range of value in which my appraisal would fall in this block is very contingent on the assembly of four or five of these seven or eight properties for a contiguous total

page 8 } site plan request to the County Board—to the County Planning Commission.

Any one of these properties taken by itself, and the largest is about approximately one hundred and fifty thousand square feet, is too small and too irregular in shape and wedged in between there for other industrial uses to permit it to rise to the $6 to 10 per square foot level.

Taken as a whole, the block, I think would produce that range, but the individual properties, if any one of these were offered on the Market by itself, with no assurance whatsoever that others could be bought within a reasonable time and assembled with it, I don't think it would pass about above the $3 to $4 per square foot range.

So that my reasoning for—this is a little different type of necessity in land use; that is, the commercial office and the high density apartments and hotel uses in the closest in section of Arlington more or less turn the Market attitude towards land value around backward.

Generally, on strip commercial and crossroad commercial locations, the smaller sites, like a corner—fifteen thousand square foot corner, attracted to a gasoline company page 9 } or to a private operator, who would lease to the gas company—would pay more per square foot than a large inside tract like fifty or one hundred thousand square feet.

In the case of commercial office development in the Jefferson Davis Highway corridor, which I think will far surpass the following and planning of Rosslyn in time to come—the largest tracts are more attractive because the County simply cooperates to a much greater extent through the planning and zoning and densities and floor areas ratios.

So that, in this case, you can't just go out and buy a small piece like one acre or thirty thousand square feet of a minimum site to obtain C-O zoning and expect to get the best utilization, and therefore, you don't pay that high price.

The highest prices are paid for larger sites with depth, several hundred feet of depth from the frontage of the surface road and several hundred feet of width so that you can plan four to six or eight buildings in symmetrical or architectural and layout and design and expect to get the best production out of the land.

So this is how this differs today from what has page 10 } gone on in the past in commercial and office site uses in Arlington. Just as recent as four and five

years ago, when small sites in Rosslyn, with that magic minimum figure of thirty thousand square feet were bringing the highest prices.

I believe today that even slightly higher prices will be paid by the Market buyers for larger total assemblies that they can do something more with and, of course, this is again borne out by the Crystal City complex by the Charles E. Smith Company further south on U. S. 1, and by the now—the full zoned tract of assembly of five ownerships directly across the Jefferson Davis Highway from the subject block to the east, which has been placed under an option to Antonnelli & Gould, who are well-known—

Mr. Hughes: Objection, Your Honor.
Is this as of 1965?
The Witness: No, this was late 1966.
Mr. Hughes: Could you restrict your testimony to that?
The Witness: Yes.

By Mr. Spence:

Q. What other factors, if any, did you consider other than how they lend themselves to the assembly?

page 11 } A. Talked about size only so far. The other major factors are exposure to the public, accessibility to automobiles, transportation to and from the sites and here in Northern Virginia, I think we are still predominantly automobile borne public even to office locations.

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page 19 }

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Q. Now, referring to Petitioners' Exhibit No. 1,

page 20 } would you point out to the Court, please, where the subject properties are located and point out, also, if you will, the major methods of access to those properties?

The Court: Orient by rivers and highways.
The Witness: Here is the Potomac River, the airport and the River here (indicating).
The Court: All right.

The Witness: U. S. Highway No. 1 is different from the Shirley Highway here (indicating). It takes off in this direction (indicating).

The Court: All right.

The Witness: Here is Army Navy Drive, which has in the past years been made double-divided, four lanes, separating all of this privately owned property from the State and Federal right-of-ways and parking areas here (indicating).

The subject block lies between Eads on the west, the Army Navy Drive portion of Jefferson Davis Highway, which ends about here at the Potomac on the east and the Jeff Davis Highway on the east, 15th Street, South on the south and then, again, Army Navy Drive as it bends around the northern end of this block.

The block can best be identified by saying that
page 21 } the northwest corner of it is already occupied by
a very attractive looking office building, which we call the "paper clip building" because that seems to be the design of the outside of the window structures and it is already fully occupied at this location.

This land is still vacant here (indicating), but already zoned C-O, as is the land underlying the "paper clip building" and then the subject properties are starting from north to south, the four subjects that we are concerned with today are corridors that runs from the frontage on the Army Navy Drive back to this line (indicating), jumping over the vacant land of 1100 Fern Street, Incorporated, which is Cafritz into J. A. Stone, which runs from here to here (indicating).

By Mr. Spence:

Q. Could you identify those streets?

A. From Army Navy Drive on the east to Eads Street on the west, contiguous to Myron Davy and Northeastern Supply Corporation, which together run from Army Navy Drive on the east, to Eads on the west.

Q. Does Mr. Davy have any connection with the Northeast Supply?

A. Yes.

page 22 } He is the sole owner as I understand it. Contiguous next on the south to J. A. Watson, who owns the largest tract of the four and who fronts partly on Army Navy Drive and partly on Jeff Davis Highway on the east running clear back to Eads Street on the west. And the rest of this block, as shown by the brown line, is still

zoned M-2; although, as I say again, and I will say later why I think the zoning is absolutely, almost entirely, irrelevant to the Market's behavior and attitude towards this land.

Q. All right.

Can you give us a rundown—can you indicate to us what the frontage is on each of these subject parcels on their respective streets, then?

A. I would say that these frontage and depth figures are only approximate, because they might be one percent or three percent off as these maps may differ from current and more accurate property surveys.

The first property on the north, S. K. Carter, has approximately ninety-three feet or almost one hundred feet on Army Navy Drive and is rectangular.

Q. Can you tell us what that property was appraised at for tax purposes?

page 23 } A. The land?

Q. The land alone?

A. The land in S. K. Carter was appraised by the Reassessment Board to apply January 1st, '66, at $6 per square foot.

Q. All right.

A. Then, the next property to the south, but separated by 1100 Eads Street, a Cafritz owned property, is J. A. Stone, Jack Stone, and his—

The Court: Larger or smaller?

The Witness: I am going to give you the combination of both of them, because he owns both in the same name and there is simply a difference in the legal description of the two properties. But Stone seems to have—and I am going to scale this off—approximately one hundred and eighty-five feet of frontage.

The Court: How much?

The Witness: One hundred and eighty-five feet of frontage on Army Navy Drive as it serves as a service road in this location to the Jeff Davis Highway and approximately one hundred and twenty feet of frontage on Eads Street on its west.

page 24 } By Mr. Spence:

Q. Do you know what that property was assessed at for tax purposes

M. B. Hodges

A. Appraised for assessment purposes for January of '66 at a uniform rate of $6 per square foot on the land only.

Q. All right, sir.

A. The next property to the south—

The Court: That was by the County? The $6?

The Witness: $6.

The Court: You are quoting the County's figures, not yours?

The Witness: Yes, sir.

I have not made a detailed, comparative appraisal of the value of any properties in this neighborhood except the entire Cafritz-Tompkins Estate.

The next property to the south is the aggregate of Myron Davy's two properties contiguous they have unity of use and real ownership. One is called Myron Davy and Northwest Supply Company. They total nearly one hundred and sixteen thousand square feet—one hundred and seventeen thousand square feet.

page 25 They have on the east on the Jefferson Davis Highway, Army Navy Drive side, an effective tangential frontage of about one hundred and seventy-five feet.

You might call that a cord of about three arcs and on the west of approximately two hundred and forty-five to fifty feet or two forty-eight, nine ninety one, 248.91 feet, though that might be inaccurate on the Eads Street side.

Then the next and last—

Q. And what is that property assessed at for tax purposes?

A. Appraised for tax purposes in the same year at the same rate, $6 per square foot.

Then, the fourth and last property, fourth and last ownership to the south contiguous to Davy, would be the largest of the four, James A. Watson, who has about one hundred and sixty-three thousand square feet with an effective frontage going from point to point in the shortest direction of about two hundred and forty-five feet on the east against—mainly, against Jefferson Davis Highway just a little bit against the entrance to the Army Navy Drive, and then, effectively, on the rear against Eads Street, about three hundred and forty feet.

Q. And then, what is that property appraised at
page 26 } for tax purposes?

A. Appraised at the same rate of $6 per square foot.

Q. I think your testimony earlier was that individually—I am sorry.

Would you give your opinion as to value of these parcels, individually, again?

A. Taking individually if, for example, Watson put his property on the Market and Stone and Carter and others in the same block did not intend to, I would say their actual value, that one would not pay over about $650,000 for Watson's property.

$650,000, by the way, is about the largest sale that was ever made in the Rosslyn for the terms equivalent to cash for a site just a little over 30,000 square feet; specifically, the one at 1400 Wilson Boulevard, where the Architects Building is located now.

I would say, then, that—and this is subject to a more detailed analysis, but I would say that Watson probably would not be able to sell his land at more than about $4 per square foot if he, and he alone, placed his land on the Market for commercial office use.

And I believe it is a fact that the Planning Office would
testify to that. He has had a zoning application
page 27 } for over a year for C-O Zoning and it has not
been granted yet by the County, and as I understand it—

Mr. Hughes: Objection, Your Honor.

This is not 1967 here. I would like to restrict it, if possible.

The Witness: The application was made in early '66.

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page 28 }

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The Court: I just want to know economically if you can put C-O usage in M-2 use, why bother to change the zoning?

What is the practical effect as distinguished from legal?

The Witness: I will try to stick to the specifics, then. I am sorry.

The Court: All right.

The Witness: C-O Zoning is a new classification which is much more liberal in some respects than M-2.

First, you can, with site plan approval, go up to one hundred and twenty-five feet in building height as against only seventy-five feet under M-2.

Secondly, you are permitted a reduction in parking area requirements if you have a minimum of 30,000 square feet of land—for all office space, commercial office space above the fifth floor; specifically, a reduction of fify percent in parking requirements.

page 29 } By Mr. Spence:

Q. Does that mean you can use more of the land to, occupy more of the land with buildings, then?

A. Yes.

You can have a higher use of the land. You can build more total gross square footage, floor area square footage, on C-O land than you can on M-2 land, but not as a guarantee. Because all C-O uses are subject to site plan approval by the County, the Planning Department of the County Board.

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page 31 }

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The Court: Are you also saying that depending if one has C-O zoning, it depends on the dickering with the County as to whether he can get a 1.5 or 5.2 kind of ratio?

The Witness: Yes, it has mainly to do with traffic congestion, yes, sir.

page 32 } By Mr. Spence:

Q. You mentioned a floor ratio earlier in this area that you thought maybe a builder might obtain.

Do you have any guide on any existing building or buildings that were in existence or were being built as of January 1966, that would tend to support that figure?

A. Yes, sir.

The Charles E. Smith Company in the Crystal City complex for that portion of its land which was actually zoned—for that part of the entire Crystal City complex, which is

on land leased by the owners of the Washington Brick and Terra Cotta Corporation.

The C-O portion was given a floor ratio of 2.50. That—even a ratio as high as that has not since been granted in the Jefferson Davis Highway corridor.

More recently, the floor area ratio was reduced to 2.47 in this assembly, now under option to Antonnelli & Gould.

Mr. Hughes: Objection, Your Honor.

We are getting up to 1967.

The Court: He is pointing to a tract on Exhibit T-1 on the opposite side of Jefferson Davis Highway.

Now, your objection—

Mr. Hughes: My objection is that this is an
page 33 } assembly which took place within the last three months and it has no bearing or relevance on the question at hand which was done in 1965, as to whether it was uniform date not now—

The Court: Sustained.

Too remote at this time and because it was assembled.

Mr. Spence: Very well, Your Honor.

By Mr. Spence:

Q. In regard to the Watson property, you testified that you think that that would be $3 a foot, unassembled?

A. Not over about $4.

I don't think you could sell the Watson property, taken by itself, without any proposition by adjoining neighbors that they would come into the deal at more than about $650,000.

That is a lot of money and it results in a maximum of about $4 per square foot.

Q. All right.

Now, can you give your opinion, individually, as to the Davy property, Stone property and the Carter property?

A. The Carter property is the smallest of the
0age 34 } group. It is just a shade under 30,000 square feet. It has a most irrelevant shape, being quite deep but very narrow, something just under one hundred feet in width, I think, and it would be the least attractive of the properties in that block for separate and independent uses for an office building.

And you have to get a variance, which I assume you could get because the property is in excess of 29,000 feet to get your parking area reduction under C-O Zoning, but I don't

think that the Market is the least bit interested in buying a property such as Carter's for a single building.

In fact, I am almost certain that the Market is not presently interested.

The Court: Hold it to date and issue.

The Witness: As of January 1, '66, the Market trend had already gone to larger buildings in excess of 150,000 square feet of net rental space.

The Carter property by itself will not produce such a building. It is the least attractive and taken by itself, if this is the way it should be viewed, it would be worth something under $3 per square foot.

page 35 } By Mr. Spence:

Q. All right.

Turning to the Davy property?

A. The Davy's—

Q. Northeast Supply and Mr. Davy's?

A. Davy's and Northeast Supply is, as of January 1, '66, under unity of use with Jack Stone's property B. The two and one-story complex extend over both properties and join each other. They have unity of use. They have the same lessee.

The lessee has the same length of rights and time on both properties. If one of those properties, and they are both about the same in size, may talk about both of them are about same—I would put about the same value on one as the other.

If either one of those two properties were taken by itself and put on the Market, it would support a fairly large office building or perhaps two medium-sized buildings, but they would be directly next door to a heavy industrial use, at least for the first two and a half years, to Atlas Machine and Iron Works.

As a matter of fact, going back to January of '66, they would be next to Atlas Machine and Iron Works
page 36 } for three and a half more years. This would be a very poor location for a modern office building.

The view of the building surrounded entirely by industry and the view from the building surrounded by industry. I don't think that the Market would be interested in much over about $3 to $4 per square foot for either Davy's property or Jack Stone's property, taken separately and independently.

Q. All right.

Now, you have testified earlier that in arriving at your

opinion with regard to the value, that you have considered how the properties within themselves, assembly, the size of the properties, the view or the access, location regarding Washington and, perhaps, utilities.

Are there other properties in this area that, in your opinion, would be of a like or similar character?

The Court: Before you get to that Counsel, did you intend to cover the Stone property in your question?

Mr. Spence: I think he covered the Stone property along with the Davy property, if I am not mistaken.

The Court: I didn't understand it so.

You may go back to it.

The Witness: Yes, sir.

page 37 } In my last previous discussion, I asked the counsel and he nodded his head.

The Court: I was not looking at counsel. I am looking and listening to the witness.

The Witness: I asked if I might consider both Davy and Stone in the same breath, because they were contiguous. They were about the same size and I didn't think there was much difference in the value of one against the other and so I discussed that both were under the same lessee, under the same joint use.

The Court: Are you saying that both are next to the Atlas with the bad view?

The Witness: Atlas occupies both properties, Atlas Iron and Machine Works occupies both properties with one and two-store—

The Court: Within, you say, both properties.

You mean two of Stone's property and Davy's? You are very familiar with it. I am not. All I have heard on value so far is that Davy's Supply Company, if treated as two separate pieces of ground, one 28,000, the other, 81,000.

You value them at $3 to $4 per square foot. I have not understood you beyond that.

page 38 } The Witness: I didn't mean to separate Davy from Northeast Supply Corporation.

The Court: You treat them as one?

The Witness: I treat them as one property for evaluation.

The Court: That is the one—

The Witness: And I think that the same would apply to the two properties of Jack A. Stone; that is, his total assembly running all the way from Eads Street to Army Navy Drive, separated by the railroad track here.

This is Stone (indicating) and this is Davy (indicating) and Northeast Supply.

The Court: Where is Atlas?

The Witness: Atlas Machine and Iron Works occupies both properties with buildings on both.

The Court: All right.

Oh, I see. You mean Atlas is really in two Stone tracts—one Davy and one Supply Company tract?

The Witness: Yes, sir.

They are in all four of those—

The Court: All right.

The Witness: As tenants.

page 39 } The Court: Well, if there are buildings on there, how can Atlas exist and be seen? I mean, if either one were built up, Atlas was moved off this part—

The Witness: If Atlas was moved off this Stone and still kept in Davy and you built an office building on Stone, you would have not so an attractive view of the office building on Stone because of Atlas.

The Court: I see.

By Mr. Spence:

Q. Now, just briefly, could you give us your opinion with regard to the value of the Carter property alone, then?

The Court: I think he did that, under $3 per square foot.

The Witness: Yes, sir.

By Mr. Spence:

Q. And the Watson property?

A. The Watson property—didn't I take that up first?

The Court: $650,000, sold for a maximum of about $4 a foot.

Mr. Spence: I wanted to be sure that you had them.

By Mr. Spence:

Q. Now, the fact that you have—you *testifed* earlier that you considered how the properties lend themselves to assembly and the various things that went into that.

page 40 } Now, considering these things, are there other in your opinion, properties that are similar in character, in quality to these properties, to the subject properties in this area?

A. That are already assembled or that might be assembled?

Q. Either one?

A. Oh, yes, sir.

There are, just in the various subsidiary corporations or wholly-owned corporations of the Cafritz-Tompkins Estates, there are already four tracts zoned C-O and not yet improved with any structures lying on the west beginning with Hayes Street and going right through across Fern Street and against Eads Street, and lying against Army Navy Drive on the north.

Q. And you are referring, now, for the record to Petitioners' Exhibit No. 1?

A. Yes, which are a little over twenty-four acres in the aggregate already zoned and not yet improved.

Now, these are large tracts, the smallest of which is about 4.1 acre in size.

Mr. Hughes: Your Honor, I am going to object to these as being not comparable.

page 41 } The reason for the objection, they do not front on Jefferson Davis Highway. They do not go down to the position of the defendant—that they would be irrelevant to this C-O zoning.

Mr. Spence: The witness has testified that, in his opinion, the properties, the zoning of the properties, has little or no utility.

It would seem to me that whether or not they front on Jefferson Davis Highway would merely go to the weight of the evidence and not to the relevancy.

His opinion is that they are of like character and quality and I think that that is the best evidence—would go to the weight but not to the relevancy.

The Court: Objection is overruled.

By Mr. Spence:

Q. Are there other properties other than the four aggregate parcels of Cafritz that you have mentioned in the area that, in your opinion, would have like character and quality?

A. Yes.

The 1100 Eads Street Corporation owns a tract of 159,000 square feet, three and two-thirds acres directly separating Stone's property from Carter's property, which

page 42 } is structurally unimproved but, at least, in part for outside automobile storage and parking.

This is a Cafritz-Tompkins property. It would be just about the same size as J. A. Watson's property in total square footage, but a little bit better located, perhaps, by twenty-five or thirty or forty cents per square foot, in that it is further north, closer to Washington and; therefore, enjoys a little greater exposure to the traffic on the Shirley Highway and the Army Navy Drive side.

There is a greater traffic density on Shirley Highway than in the Jefferson Davis Highway.

Q. Do you have an opinion as to the Market value of that property as of January 1966?

A. If I were to make an appraisal of that, I believe I would come in the range of between four and, taken separately and by itself, between $4 and $5 per square foot for the 1100 Eads Street property, which runs all the way from Army Navy Drive on the east back to Eads Street on the west and borders the west and south boundaries of the S. K. Carter property.

Q. That was before—your value, again?

A. In the range of $4 to $5 per square foot and may I point out that in my discussing values or ranges of
page 43 } values in this case today, I am talking about values based on cash or terms equivalent to cash. No twenty-seven year deferred second trust subordinated to a permanent financing of twenty-one years, like I have heard recently, but terms equivalent to cash and typified by the Nottingham sale of the land to the Pomponio group of the Architects Building at 1400 North Wilson Boulevard.

The Court: Let me ask all of the witnesses.

I don't know what all of these buildings are and you gentlemen know them by name. I would appreciate you giving me the addresses as you just did, sir.

Will everybody do that?

Here we have got all of these wonderful buildings and nobody knows the names of them because they won't stick signs up.

All right.

By Mr. Spence:

Q. What would be your opinion or would you have an opinion as to the value of this Cafritz property, the 1100 Eads Street property you just referred to, if it were a part of an assemblage?

M. B. Hodges

A. If you could assemble the 1100 Eads property with Carter and Stone and the others—if you could assem-
page 44 } ble the entire block, you are going to have the greatest possible value. If you assemble the entire block, you still wouldn't come up with the total area that the Charles E. Smith Company assembled several years ago down at the Crystal City complex, and you would be subject to losing some of that to the future right-of-way widening for the Jefferson Davis Highway corridor, which is a problem that faces a lot of these properties on Jefferson Davis Highway,

But, as I say again, if you assemble Cafritz with the rest of them, you have a value, I think, of somewhere between $6 and $10 per square foot for the entire block as an overall average.

That was the same figure that I mentioned at the begining of this testimony.

Q. Now, if you would consider, then, for the Court or indicate to the Court your opinion as to how this property lends itself to assembly, as far as size and view and so forth go?

A. Yes, sir.

If this part of the block, less the 400 Army Navy Drive office building, that is owned by Ted Lerner and less these vacant lands, it might be—including, or you might want to in-
clude this small C-O zone for a vacant tract here—
page 45 } if this were all assembled, and again, it would be subject to *loosing* some more of its land to the future widening of the Jefferson Davis Highway, it would have an excellent location, I think, second only to the more untouched location against Army Navy Drive facing the Pentagon and second only to assembly here which would be closer to Washington.

In other words, I think this is the third best location in this whole general neighborhood. It wouldn't have quite the depth that the Crystal City complex has. This is after the Crystal City has built a service road and given this to the public area.

It still wouldn't have quite the depth but it has a little longer length and I think that the site plans or the master plans, possibly, to the same good degree that the Crystal City was master-planned, I don't think that an architect or a Market purchaser could find much difference, much real difference between this real total assembly and this total assembly, if he was master-planning as far as size and shape was concerned.

This is smaller than this or the net will be after the widening of the Jefferson Davis Highway.

Q. All right.

Do you have any opinion as to whether this
page 46 } property has like characteristics and quality with
the subject parcels?

A. I didn't understand.

Q. Does this, in your opinion, does this Cafritz property, 1100 Eads Street property, have like characteristics and qualities with the subject properties?

The Court: Point to 1100 Eads.

That is the smaller Cafritz tract adjacent to the Stone?

The Witness: Yes, sir. Yes, sir.

This lies directly between Stone and Carter.

I should have said in the beginning that all of the properties on this map have the service by all of the public utilities; that is, water, sewer, gas, and so on.

This 1100 Eads Street Corporation property has no different utilities except that it is larger than Carter and Stone. Therefore, it would be worth more than Carter and a little more than Stone, if taken separately, but as a part of the assembly, it would help to reduce the same overall average price.

By Mr. Spence:

Q. Do you know what the appraisal of this property is for
tax purposes?

page 47 } A. Yes.

The appraisal for tax purposes for 1966 was $3 per square foot.

Q. All right.

Now, directing your attention to the property of E. M. Smith, located on Jefferson Davis Highway, itself. This would be just to the north on the easterly side of Jefferson Davis Highway.

Would you have an opinion as to the value of the two E. M. Smith properties there, directing your attention first to the smaller of the two? Would you have an opinion as to the value of that particular parcel?

A. No, sir.

I hate to let you down, but I don't think I have any opinion as to its value as of January '66 on the Market. I didn't look at this individual small tract separately and independently to try to figure out what its use might be. I can only—

The Court: How many square feet is it?

The Witness: I can only tell you what it is appraised for as of '66.

By Mr. Spence:

Q. How many square feet does it have?

page 48 } A. According to the tax assessment map, it has 29,253 square feet and, for the record, it is located at the southeast corner of Jefferson Davis Highway and 10th Street.

Q. All right.

What frontage does that parcel have?

A. That parcel has almost two hundred feet of frontage on Jefferson Davis Highway and one hundred and thirty-four and a half feet on South 10th Street.

Q. Do you have an opinion as to how that property would lend itself to assembly as far as the factors you considered—the size and the accessibility and so forth are concerned?

A. This would be quite hypothetical because the Richmond, Fredericksburg and Potomac Railroad owns quite a bit of land in this block and it has, I would say, little possibility in the near future of being assembled with other properties.

RF&P Railroad probably wants to hold on to that property for a long time to come.

Q.. But if that property were to be assembled, how would that particular parcel lend itself to such an assem-

page 49 } bly.

A. It would lend itself very well. It would be a very important piece because it gives you the frontage and exposure on Jefferson Davis Highway.

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page 51 }

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So if one bought the E. M. Smith smallest property at the beginning of a long series of purchases here, he may have to wait awhile—perhaps, two or three years—to really get full service of the Jefferson Davis Highway frontage. He may have to wait two or three or four years before the railroad track is torn up.

page 52 } This is the least attractive area.

The most attractive area starts down at the overpass to the National Airport.

Q. Directing your attention to—I think there is a second parcel of E. M. Smith land located adjacent to 10th Street?

A. Yes, sir.

This is called Lot 1-D of the Cullinane Subdivision. It comprises 121,000 square feet, approximately the same size as Stone or Watson; that is, both pieces of Stone and both pieces of—not Watson, but both pieces of Davy and it is located, for the record, at the southwest corner of South 10th Street and Jefferson Davis Highway. And it is trapezoidal in size.

And it was appraised for tax purposes in 1966 at $3 per square foot.

Q. All right.

Now, considering the fact that you had earlier considered, relative to assembly, size and so forth, how would you view this property as compared to the two properties, the two subject properties that you have mentioned?

page 53 } A. The industrial uses surrounding it for atmosphere and neighborliness are almost as heavy as the industrial uses in the subject block.

If you purchased this independently and separately for commercial office space use or part office space and part apartments, you would have almost as distasteful a location as in the subject. Slightly better shape, of course, much more useable shape, more frontage—over three times the frontage on the public streets, but again, you would have to wait a few years for the redevelopment of all of the land along the Jeffer-son Davis Highway, so that you could dispense with the railroad track which lies between what used to be Clark Street and what is still Jefferson Davis Highway.

You have got plenty of access, but you haven't got the real full exposure. The railroad track is about anywhere from two to six feet up in the air and it does detract a little bit from the view of the property—not so much the view from the property, from say the third and fourth story, and higher, but you wouldn't have as good a view as you do, for example, of the 400 Army Navy Drive building.

* * * * *

page 57 } Q. All right.

Directing your attention to the parcel of property owned by the Dinwiddie Pine Corporation, would you

point that out to the Court, please, and do you have an opinion concerning this property for the same characteristics as the previous properties?

How would this property lend itself to the assembly?

A. The Dinwiddie Pine Corporation property, known as 1215 Jefferson Davis Highway and being 1.88 acres of Sebastian Springs Subdivision is quite long, that is deep. It is quite deep and quite narrow, about one hundred feet.

I think that it is by far the most *producive* use of this piece as to assemble it with adjoining properties and that taken by itself, it has a very low industrial value.

But the Market, again, would want to assemble it with the Hengen ABD Demolition Corporation and other people.

Q. Now, taking this property individually, you say—what do you think that the value would be as compared to the subject properties?

A. Again, I have not made an appraisal of any of these properties in this location but were I to make
page 58 } such an appraisal, I estimate right at this moment that this property taken by itself, if this were the only one offered on the Market, with no assurance of anything else to be assembled with it, would bring slightly under the $2.75 per square foot that it was appraised at for tax purposes in 1966.

Q. All right.

Do you feel—do you have an opinion relative to whether or not this particular parcel has alike characteristics and quality with the subject properties?

A. Only as to general neighborhood, location and as to public utilities and in no other respect is it quite similar to any of the subject properties because it is so long in respect to its width, but it is in the same neighborhood and has the same potential assembly characteristics.

Q. All right.

Now, considering its view, access, location with regard to Washington and so forth, would these be like characteristics?

A. Oh, yes.

In fact, it runs all of the way back to the RF&P Railroad on the east; therefore, it would provide an as-
page 59 } sembly which would have an unobstructed view overlooking the Potomac River and the Airport.

Q. All right.

Directing your attention to a parcel of property adjacent to the Dinwiddie Pine, owned by the Hengen Properties, Inc.

Do you have an opinion as to whether or not this particular parcel has like characteristics and qualities to the subject property?

A. Yes, sir, it does, particularly comparable to Gus Watson's property in size and area and in shape and in frontage; although, the rear frontage—the rear frontage of the Hengen property is not a road frontage but a frontage on a railroad.

The Hengen property is known as 1239 Jefferson Davis Highway and it has 137,000 square feet and it was appraised in 1966 and $3 per square foot for land. It is one of two ownerships in this block—one of the two largest area ownerships in the block and therefore commands a *dominate* position for future assembly and development and this *dominate* position is always an important thing on value.

And I would say that for value, the tax assessor—
page 60 } the Tax Assessment Board did not do an injustice at $3 per square foot, that by comparison, it was probably worth closer to $4 to an investor or entrepreneur at the beginning of the process of assembly planned for future development.

I think I mentioned that I thought Gus Watson's land was around four at the most.

The Court: When you say, "Gus,"—

The Witness: Mr. Watson's land was worth nearly $4 but not over that because of the total amount of money we are talking about.

I think that the Hengen property would probably come closer to $4 but not much more than that, because we are talking about $700,000 in money.

By Mr. Spence:

Q. In your opinion, does this property—the Hnegen property—have like characteristics and qualities with the subject properties?

A. Oh, yes, in many respects, practically all respects, because as soon as this is assembled with ABC Demolition, the railroad with other exceptions right down in the next block can be removed and this property can be redeveloped with full frontage on Jefferson Davis Highway.

In addition, any tall office buildings and apart-
page 61 } ment buildings built on the Hengen property or built on an assembly including Hengen's, would en-

joy the unobstructed view to the east overlooking the lagoons, flats, railroad property and so on.

Q. All right.

And you said that this property was appraised at what for tax purposes?

A. At $3 per square foot.

Q. Now, directing your attention to, I believe there are three parcels of land owned by Mr. Haddad?

A. Yes, sir.

Q. Could you point those out to the Court?

A. This map here, Your Honor, doesn't show that there are three properties making up—three legal properties—making up Mr. Haddad's total ownership of about 103,200 square feet, but they are known as Lots 1-A—Lot A, excuse me—Lot 1, Lot 2 and Lot A of Sebastian Springs.

It is also known as 1331 Jefferson Davis Highway and more popularly described as the ABC Demolition Corporation.

Q. In your opinion, does this property have like characteristics and qualities with the subject properties?

A. Yes.

page 62 } It is the second largest of the ownerships in this block directly to the east of the subject. It ia a little larger than Stone's two parcels and Davy's two parcels, not quite as large as Watson's, due to its nearly pie shape.

However, I don't think it should be separately developed as might Hengen. It should be researched for assembly with other people in the block and though it would be hard to prove it, but I think that an appraiser would say that the property is worth just a little less than Hengen, something under $4, perhaps $3.50 per square foot, and it was appraised in 1966 at $3 per square foot.

Q. Do you have an opinion with regard to the view and so forth of this property?

A. It helps provide a little frontage on the RF&P Railroad property, to the east which will stay there for many years to come and, therefore, an unobstructed view of the Airport and River.

It has—it helps provide a large frontage on Jefferson Davis Highway; although, the total frontage is not necessarily an asset because this just means that you have got to dedicate more land to the service road.

page 63 } You can't have access in the future plans for the Jefferson Davis Highway. You have got to have

service roads parellelling the highway. So this property has a larger frontage on Jefferson Davis than it has in its rear, and in proportion to its total area, it would have to give up more land for public road purposes upon approval on a site plan for modern development.

Q. All right.

And you say this was appraised for tax purposes in '66 for what value?

A. $3 per square foot.

Q. All right.

Directing your attention, then, to another parcel of property adjacent owned by the Union Iron Properties, do you feel that this property has like characteristics with the subject property?

A. Yes, sir.

It is under heavy industrial use at times. Well, just as Stone and Davy are under heavy industrial use.

It is quite similar to the Hengen property and it is known as 1401 Jefferson Davis Highway. It has 137,300 square feet, approximately, and runs all the way from Jefferson Davis Highway to the Richmond, Fredericksburg and Potomac Railroad.

page 64 } It has quite similar characteristics to J. A. Watson, not exactly the same shape, but almost as large a size.

It fronts on the same highway. It is one of the—it is the third largest single ownership that would provide the dominant assembly of that block. And, of course, it is quite similar to the subject, to all of the land of the subject property.

Q. All right.

Would you have an opinion with regard to the characteristics of access or location and so forth to Washington?

A. Well, it is on the going to Washington side of the road, but in the end, you are going to have to have service roads on both sides of Jefferson Davis Highway in the final development of any C-O package in this neighborhood.

I would say that it has almost identical location with respect to Washington, almost identical exposure to the public on the Jefferson Davis Highway, but the single advantage of not having any future buildings to its east, which would restrict its view overlooking the Potomac.

Q. All right.

page 65 } And you said that this particular parcel was appraised at—

A. This property was appraised at $4 per square foot for its entirety.

The Court: You mean, the County put that on?
The Witness: 1965.
The Court: By whom?
The Witness: '65, Board of—
Mr. Spence: I am sorry, Your Honor.
I am informed by counsel that this should be $3.
This, perhaps, is an error in our map.
As I indicated earlier, we would be more than happy to take Mr. Austin's figure.
The Witness: May I ask a question?
Is this the figure that you found that I had an error awhile ago?
Mr. Austin: This was right.
Actually, the figure of $4 was put on there and the Board reduced that from $4 to $3, so I don't know how you happened to pick up the $4, but that is what happened.
The Court: Address yourself to the attorney's questions.

page 66 } By Mr. Spence:
Q. Now, would you have an opinion as to the value of the Union Iron property?
A. A rough opinion and this is certainly not a detailed, professional appraisal, is that it would be worth about the same as the Hengen property, something just under $4 per square foot.
It is not quite as large as Hengen, but is one of the three predominant parcels in this block.
Q. All right.
Now, directing your attention to the property owned by the Stokley Realty Corporation, that is the next property to the south?
A. Against 13th Street.
It has an address of 1421 Jefferson Davis Highway. It contains 108,000 square feet, approximately. It has 172 on Jefferson Davis and many hundreds of feet on South 15th Street, which appears not to be a full fifty-foot wide public street, perhaps, it is only a thirty-foot street in this location. I beg your pardon, sir. It is forty feet. It is ten feet shy of a minimum standard street here.
I had computed—maybe I am in error by ten cents that the property was appraised for land only at the $3.10

page 67 } rate. I don't think it is as important property to the assembly as Union Iron Works, ABC Demolition Corporation and Hengen, but it is the fourth largest in that block.

It has the additional frontage on 15th Street, but this, I don't think, is an important frontage because 15th Street doesn't go anywhere, except back to the RF&P Railroad, which is not a public right-of-way. And in the planning of a development of a site like this Crystal City, your street pattern is really your parking lot pattern and it is dictated by the parking lot pattern.

By Mr. Spence:

Q. Do you feel that this parcel has qualities that are like subject properties?

A. Yes, sir.

It is quite close to the subject block. It is a little further south by a couple of hundred feet than Mr. Watson's. It doesn't have as much a frontage on Jefferson Davis Highway as Mr. Watson's, but it—it is certainly a similar and comparable property, yes, sir.

Q. All right.

Does it have similar access, view or location, and so forth?

A. The ease of access in driving time perhaps page 68 } might be anywhere from fifteen to thirty seconds longer than getting across the railroad track, but in future time, as that track spur is pulled up and removed and as service roads are built, it should have about the same access from any direction; that is, from Alexandria City or from Maryland or from Washington, as would the subject.

A. All right.

And you say this was appraised at the $3.10 per square foot for tax purposes?

A. Yes, sir.

Q. I might have missed it, but did you give an opinion as to your value of the property?

A. I feel a little bit out of place giving rough opinions without having made thorough inspections of each of these pieces of land and I would like the Court to know that there might be some heavy demolition involved in any one of these tracts which I might be aware of.

It cost $9,000 and some odd dollars to demolish the Dolly Madison High School building when the apartment was to be erected down at the Army Navy Country Club. It might cost

twice that to erect, but as an consideration for any demolition cost, just the bare land value, as if it were vacant and would be in the approximate range of $3 to $3.50 per
page 69 } square foot, I think.

Q. All right.

Now, considering the property from the Stokeley Realty, Union Iron, the ABC Demolition, the Hengen property, Dinwiddie Pine and the first larger parcel of E. M. Smith, what effect, if any, would you feel that the railroad across the front of those properties would have on the value?

Q. If you assembled them to one package?

Q. Both as an assembly and as individual uses?

A. The railroad would have almost no effect if they were assembled because the service roads would be constructed as a part of the requirements on the developer and then the service road would connect at a given location or perhaps two locations to U. S. Highway No. 1, and perhaps, a track similar would be installed. That is, if they were assembled.

If they were taken separately and independently, each would be affected in, perhaps, different ways by the one spur track that remains in place there. That is a matter of time.

As I alluded to earlier, in this case, I think there are only three properties down in the next block to the south that still use this railroad spur. I believe there are only
page 70 } three.

The spur comes in a direction like this (indicating). I would have to check that by an actual field inspection. And as soon as these pre-property uses disappear in this block here (indicating), that spur can be removed from all the way about two blocks, except again, for Union Iron Works.

Union Iron Works, I believe, constitutes the fourth user of this spur.

Again, this is by memory from over nine months ago in my initial inspection.

Q. All right.

* * * * *

page 78 }

* * * * *

Q. Now, directing your attention to the parcel of property

fronting on Army Navy Drive, I think owned by Vasco, Inc., et al.

A. Is this the almost ten-acre property?

Q. Yes, sir.

Mr. Hughes: Objection, Your Honor.

That is two or three blocks away from the subject property.

Mr. Spence: I think this was objected to and ruled on before.

Mr. Hughes: I think we are talking about the—

The Court: It appears that what I have heard so far, that the potential for assembly is a part of the valua-
page 79 } tion much modified by the fact that something is not assembled.

Now, what I have heard from the witness is that there are groupings of property in the area that lend themselves to assembly. This is what he has previously referred to as the Morris Cafritz. He has referred to it as the Cafritz-Tompkins tracts, plural.

Ask him about one of them on that total picture of potential for assembly or ten acres. It seems to me that the evidence may be heard.

Obviously, the greater the distance, the less the relevancy.

Mr. Spence: Yes.

The Court: But I think it is relevant, so your objection is overruled.

By Mr. Spence:

Q. Would you have an opinion as to whether or not this particular 9.99 acre parcel would have like characteristics and qualities to the subject property?

A. Yes, sir, it does.

If you, first of all, assume that there is a possibility, and there is, of assembling three or four of the tracts in the sub-
ject block for rezoning to C-O and to site planning
page 80 } and modern development which is exactly what the County wants and what is what the County—

Mr. Hughes: Objection, Your Honor.

I don't believe he is qualified to testify as to what the County wants or doesn't want.

Mr. Spence: He is testifying as an expert and I think this is all part of his opinion.

M. B. Hodges

The Court: You may tell me what the County had recently done before January 1st, '66.

The Witness: All right, sir.

The Court: I think both of you will agree that the County was encouraging office building construction in the Rosslyn area.

The witness discussed certain differences that the Crystal City area so-called Charles Smith group was built then, was it not?

Mr. Hughes: In '65.

Mr. Spence: We have a photograph taken in October of '64 that indicates they were pretty much under construction at that time.

The Court: A portion therefore, then, but it was a granted situation. To that extent, I will hear the witness.

page 81 } The Witness: Taking the clue from the Court, I believe the first statement that should be made about this 9.9308 acres at the southeast corner for the record of Army Navy Drive and South Hayes Street, is that it was zoned as of 11-67—'66. It was zoned C-O and one of the requirements for its obtaining that zoning was that it was large enough to be a proper site plan.

It was vacant land. It has good front and on two streets. There would be no further requirement for widening either of the two streets on which it runs.

There would, of course, be requirements for interior street patterns, whether they be public or privately owned, I would not be able to answer at this time.

I beg your pardon. The property fronts on three streets because Fern Street is in there on the east, the street on the west is Hayes, the street on the north is Army Navy and the street on the east is Fern.

This, in my opinion, is one of the best sites for future development of commercial office, hotel, motel and apartment complexes, going a step further than Crystal City, which has, I believe, no motel in it but does have office and apartments.

page 82 } It fronts on Army Navy Drive, Hayes Street and Fern Street. It has an unobstructed view to the north overlooking the State and Federally-owned properties used by highways and defense buildings.

It is not likely that the land to its west will be used for anything except high area residential multi-family apartments and the same to its east for office and apartment uses

and its south boundary is against the two-story Western Electric light industrial building.

The Court: Point to that.

The Witness: The Western Electric two-story building is this heavily annotated line here (indicating) which sits on, by the way, the light industrially zoned ground.

The Court: All right.

The Witness: That land which is vacant totally unimproved and was already zoned C-O was appraised at $4 per square foot for January 1966.

By Mr. Spence:

Q. How would you compare these properties with view, access and so forth?

A. This property owned by a corporation called Ambassador, Incorporated is one of the best pieces of land for immediate adaptability to office use, large commercial

page 83 } office buildings ranging from two hundred to 400,000 square feet in feet rental space, with accompanying array of apartment, good quality apartment buildings in the whole Arlington County area.

I believe it is superior in many, many ways to anything that we have in Rosslyn because, first of all, they are not going to allow it to be developed to such a high floor area ratio.

I have discussed this many times with the County authorities. It doesn't have, therefore, the immediate future traffic congestion and shortage of parking facilities as we already now have in Rosslyn.

It is, we learned, the County learns, everybody learns as time goes on how to improve site planning and development for high density commercial apartment uses and its value is excellent for that purpose.

It is superior to the subject land because it has got a better shape. It has a better unobstructed view and it has a greater exposure to Shirley Highway, which has more traffic than the Jefferson Davis Highway has.

It is just as accessible and probably more so for the next ten-year period as is the subject block, because the subject block will be hampered from time to time in the

page 84 } reconstruction of the Jefferson Davis Highway.

Q. Based upon these things, would you have an opinion as to the value of this particular parcel?

A. I appraised it as a part of all of the commercial land

owned by that estate as of July 11, 1964 at $6.60 per square foot.

The Court: $6.60?

The Witness: $6.60 per square foot.

I can't help but believe that it would be worth more than that on the Market today.

By Mr. Spence:

Q. How about in January of 1966?

A. May I also say that the appraisal at $6.60 was predicated on dumping the entire twenty-four acres of C-O ground on the Market all at one time.

If you just took these ten acres and put them—put them on the Market as of January '66, I believe you could get somewhere in the neighborhood of $10 per square foot on terms equivalent to cash.

This is by comparison with the last good cash sales in the Rosslyn which were around $16 per square foot, but Rosslyn has a—did have a higher floor area ratio.

I don't think that the County will allow an
page 85 } average of over 1.5 or they are going to try to
keep it to 1.5. They haven't allowed—

Mr. Hughes: Objection, Your Honor.

The Witness: The density.

Mr. Hughes: There is no way of telling what the County is going to do in the way of density down there or anything else.

The Court: I heard the witness say that the County, in general, plans in the Crystal Plaza and so forth in the area, was a lower floor are ratio.

The Witness: It is a matter of record that the Crystal City—

The Court: But what the County is doing currently is not being discussed so the objection is sustained.

Your earlier testimony is in.

Gentlemen, this is a good time to recess for lunch.

Mr. Hughes, anything further you want to say about the view?

Mr. Hughes: I don't believe it is necessary, but if the Court would like to see the property?

The Court: I will at 1:30. Whose car?

(Whereupon, at 12:35 o'clock p.m., a luncheon recess was taken.)

page 86 } (The Judge and counsel departed and viewed the subject properties.)

(Afternoon Session, 2:30 o'clock p.m.)

* * * * *

M. B. HODGES resumed the stand and testified further as follows:

DIRECT EXAMINATION—(Resumed)

By Mr. Spence:

Q. I think we were talking about the three or four parcels that the Cafritz-Tompkins Estate has and turning to those, do you have an opinion as to whether or not these parcels are of like character and quality with the subject parcels?

A. They are if you assume, as I think I said before, that the subjects have to be viewed as a near future potential assembly of three or four, five properties comprising five or ten acres.

They are, then, in that case, they are quite similar and comparable.

Q. Comparing them as regard to size, view, access, location and utilities, and so forth, how do they compare under those aspects?

page 87 } A. All of the properties are served by all public utilities. The Ambassador, Incorporated, 9.9 acres has frontage on three streets, none of which would appear to need widening in case of site planning and C-O and are a 4. usage. It is presumed C-O, and it has an unrestricted view over the north toward the right-of-way on Shirley Highway and the Pentagon and other land owned by the Federal Government.

It has an unrestricted view to the west toward the River House and toward the other apartment buildings which could be built on the sixty-nine acres lying between here and the River Houses and it has a view to the east toward the new office building at 400 Army Navy Drive and other buildings that can be built on three other parcels that we haven't described yet.

It would be and, of course, it is large enough to be totally planned autonomously and approved by the County according to the site plan. So that it has, in my opinion, a higher value than the subject which hasn't got quite the size, even if assembled, and doesn't have the freedom from interruptions of access which all properties on U. S. 1 will have when that highway is put under construction.

page 88 } Q. Now, would you have an opinion as to the value of this particular parcel?

A. I mentioned earlier that I appraised it as a part of all twenty-four acres of C-O ground and as if all twenty-four acres were placed on the Market simultaneously as of July 11, 1964 at $6.60 and a detailed appraisal, I thought that this property—I think now that this property taken by itself as, say, ten acres and placed on the Market independent of all other listings on January 1st of '66, would be in the approximate vicinity of $10 per square foot overall.

Q. All right.

And what was this particular parcel appraised at for tax purposes?

A. At $4 per square foot.

Q. All right.

Now, directing your attention to a parcel of about four acres, I think that it is noted 1400 Eads Street, Incorporated property in that same area?

A. Yes.

Q. Point that out to the Court.

A. This is actually owned by a Corporation known as 1400 Eads Street, Incorporated.

page 89 } The Court: I am going to write—

The Witness: This is called 1400 Eads Street, Incorporated.

The Court: That is on the Army Navy.

The Witness: Yes, sir.

The Court: All right.

I will write 1400 Eads, is that a corporation?

The Witness: Yes, sir, a corporation.

The Court: Corporation. All right.

The Witness: For the record, that is on the southeast corner of Fern and Army Navy Drive and it comprises 4.185 acres or about 83,000 square feet.

It has almost 400—oh, excuse me, 83,000 square feet. This is wrong. Let me check the square footage again. I can see it now. It is 183,000 square feet.

The Court: And 4.184 acres?
The Witness: 4.185, 183,000 square feet.

By Mr. Spence:
Q. All right.
Now, would you have an opinion as to whether or not this parcel has like characteristics and qualities as the subject parcels?

A. Yes.

page 90 } Taken by itself, as a separate piece of land, it is a little bit larger than the largest piece on the subject block but, of course, smaller than an assembly of three or four of the subject block ownerships would provide, but still quite large, even if the County kept the floor area ratio down to 2 or 1.5, it would provide for a very good size, economic size, office building or two office buildings of moderate size.

And in all other respects, it is just as good as the property I previously described as the ten-acre tract.

Q. How do you describe this or compare this with regard to the subject property as far as size, view, access and so forth?

A. It has a better view, better exposure, better access to the predominantly automobile-borne traffic, which would work in such a building, if you built a building there and freedom from interruption of access from reconstruction of U. S. 1 and no requirements of dedication of additional land or service roads, because that is exactly what Army Navy Drive now constitutes for this and the adjoining properties.

Q. And would you have an opinion as to the value of that particular parcel as of January 1966?

page 91 } A. If you just marketed four and a fifth acres without regard of any other land on the Market, took this by itself on the Market in this location, it should bring something a little more than $10, perhaps, $11 or $12 per square foot overall, and I am talking about as of January 1, '66.

That was at the same time the cash Market value of total assembly in Rosslyn was then about $16 per square foot.

Q. Directing your attention now to another four-acre parcel, I believe directly adjacent to this to the east, would that be the Arna-Eads, Incorporated, I believe, parcel?

A. Yes, sir.

This is owned legally by an organization called Arna,

A-r-n-a Eads, Arna-Eads, Incorporated and it has 4.137 acres or 168,000 square feet. And as of the 1st of January of '66, no part if that property, to my best memory, was as it is now under lease or permit to Lerner and his friends for an additional parking for his office building at Army Navy Drive. It was totally vacant land.

It has a long—for the record, it is at the southwest corner of Eads Street and Army Navy Drive and it has a long frontage on both of those two streets.

page 92 } It is nearly rectangular and immediately—immediately developable and, of course, zoned C-O.

Q. Do you have an opinion as to value of that particular parcel as of January 1966?

A. Again, even though this sounds monotonous, if you put this property by itself on the Market somewhere in the vicinity of $10 to $12 per square foot overall on a cash equivalent basis.

Q. All right.

Now, directing your attention to a 5.9 acre behind the two parcels you have previously discussed, do you have an opinion as to whether or not this property is of like character and quality as the subject properties?

A. That is the—this rectangular piece here, which is owned for the record by 1101 Fern Street, Incorporated and that is 5.9392 acres or 259,000 square feet, approximately.

I forgot to give you the tax assessment on the prior property.

Q. I am sorry, go ahead.

A. Your Honor, can we back up to the Arna-Eads, Incorporated, and may I say that was appraised for tax purposes at $4 by the Reassessment Board?

Now, this larger tract, 5.9392 acres has frontage

page 93 } both on the east on Eads Street and the west on Fern Street, approximately 375 lineal feet on each one and it does not have direct frontage on Army Navy Drive.

In my several inspections of this property in the past nine months, I am concluded that this would be the second most valuable location for office buildings in this entire neighborhood because it does not have direct exposure from the traffic on Shirley Highway, but excellent access and good location and good view and would, perhaps, by itself put on the Market bring somewhere in the neighborhood of from $8 to $10 per square foot. And it is bigger, of course.

If you sold that on the Market, actually, you don't have to sell any of these properties to realize the value. I think the proper thing here is a long-term lease or perhaps deal; nevertheless, we are talking about somewhere in the neighborhood of $1,900,000 to two and a half million dollars worth of land, which would be the biggest single land transaction—vacant land transaction, whether by lease or by sale—that I have heard of, other than the Charles E. Smith lease in Rosslyn and the Charles E. Smith lease along U. S. 1 at the Crystal City; that is, in the County.

page 94 } Q. And what is the appraised value of that for tax purposes?

A. $3 per square foot.

Q. All right.

Now, earlier, I think in your testimony, you indicated that, in your opinion, some parcels or some blocks of parcels were more valuable than others.

What parcel do you think or block of parcels do you think is the most valuable of the areas you have discussed in your testimony?

A. Pointing to the small scale map, the most valuable land in my opinion—

Q. Petitioners' No. 1?

A. Petitioners' Exhibit No. 1, the most valuable land is the several hundred feet of depth against Army Navy Drive, just south of Army Navy Drive.

The second most valuable land, in spite of the railroad, which can be crossed by a grade crossing construction, is the M-2 zoned land closest to the Twin Bridges Marriott Hot Shoppe, closest to Washington, D. C., with tremendous exposure on U. S. 1—U. S. 1 and the Shirley Highway because they come to a confluence there.

page 95 } The third most valuable land, since I have arbitrarily broken this down into about five parts, is that land fronting on Eads, Fern and Hayes Streets, but not directly fronting on Army Navy Drive and therefore not having quite as good a view, that is the other portion, say about twelve acres of the Cafritz Corporation ground.

The fourth most valuable would be, and would vary within twenty-five to fifty cents a square foot of each other, would be the assemblies of land on U. S. 1 south of Army Navy Drive, that is the subject block, the block across the street, and the blocks going down to and including Crystal City. And just as you pass Crystal City, you may have a slight

rise of value again against the overpass to National Airport, because a lot of traffice will be using that overpass, and it is convenient to the Airport.

In fact, that would be an ideal spot to build a combination motel-hotel, office and apartment building; that is, the property further south owned by John Machine.

Q. As comparing the blocks containing the subject properties with the area that you have indicated as most valuable, do the subject properties have more or less or about the same chances for assembly?

A. Well, I would have to start first with a statement that industries cannot afford to live with land that
page 96 } they have to pay rent money or fee value at much over about $2 to $3 per square foot. They will move further out to Shirlington to the Edsall Industrial Park, to Springfield, to Reston, to Tyson's Corner. They will move somewhere where they can get land at a cheaper rate. They can't afford to live on $5 or $10 per square foot land, as witnessed by many dozen of heavy-light industries in commercial enterprises that moved out of Rosslyn as soon as the initial tax assessment went to a pretty uniform rate of $5 per square foot; that is, appraisal for assessment purposes.

Now, with that background, I think that these property owners without having to admit that I know exactly what they are doing, I think it would be prudent of them not to extend any leases for such heavy industries as the steel company that is now there at less than profitable rates. And the income that these folks are deriving from that steel company at that iron and—Atlas, it is called, Machine and Iron Works, just by way of example, if the subject two properties—meaning Stone and Davy and Northeastern Supply—if they were valued at only $3 per square foot, and you collected rent on the basis of eight percent of the total value of this land at $3 per square foot, you would have to
page 97 } collect more rent than Atlas and Machine Company now pays, not only for the land but for the buildings that are owned by Stone and Davy.

The capitalized value of the rental money that Atlas Machine and Iron Works pays even provides less than $3 per square foot value on the ground. So it would be prudent not to extend any leases with Atlas and, of course, you couldn't get Atlas to pay twice their present rent.

They would move elsewhere. They have, in fact, they have

a big plant out near Centreville at the end of U.S. 66 construction there—not Centreville, but Gainesville.

They have a plant in Maryland and they are continuing to relocate in the suburbs and cover their clientele and they can't afford and other industries cannot afford to live with expensive land.

So, knowing these things, you could expect that these properties could and would be assembled as soon as the Market demand reaches the $6 to $8 to $10 plateau for office uses and it is there now in this neighborhood.

And, of course, in Rosslyn, it was even higher than that and it is higher than that today. Rosslyn, however, got larger subdivision by way of streets and sidewalks and zoning and FAR and so on.

I don't know what else to say.

page 98 } Q. Comparing this area of the Cafritz properties with the subject properties, is this more or less of the same value?

A. This would be less valuable even if assembled.

Q. The subject properties in this block even if the four of them were assembled together would provide approximately 450,000 square feet of ground, would be less valuable than any similar size tract of already zoned C-O ground on Army Navy Drive.

And, again, I am not trying to imply that the C-O zoning in this neighborhood has anything to do with value. I have no doubt but that the County Board would zone a larger enough piece for proper site planning upon a simple request from the property owner and it wouldn't cost them any delay in time or legal fees, or anything.

Mr. Hughes: Objection, Your Honor. Speculation.

He doesn't know what the County Board is going to do.

Mr. Spence: I think it all goes to the expert opinion. This is expert testimony. He is entitled to his opinion.

The Court: Your opinion, that you are giving now, relates again to January 1, '66?

page 99 } The Witness: Yes, sir.

The Court: It is received as having relevancy to the subject.

By Mr. Spence:

Q. Now, directing your attention to the parcel of M-2 land in the area just south of the Marriott Motel, comparing this

area with the area of the subject property, would that have more or less or the same opportunities there to be assembled as the subject properties?

A. I cannot accurately answer that question.

Opportunity to assemble depends upon what the owners—how the owners are encumbered with lease arrangements with their tenants.

Q. All right.

A. From a geographical standpoint.

Q. Let me restate the question.

Would these two areas that we are comparing have more or less or the same of those characteristics and qualities that would lend themselves into development?

A. Physically and geographically, there isn't much difference between one side and the other; that is, our subject lot and the other side of U.S. 1 closer to Washington.

page 100 } Physically and geographically, they have about the same capabilities.

Q. Now, comparing the value of these two areas would the subject properties be more, less or about the same value as this area next to the Marriott?

A. I think that the Market would pay a little more, like twenty-five to fifty cents a square foot, maybe seventy-five cents a square foot more to get closer to Washington and the sight of the highway wouldn't make much difference, because on the other side of the highway there are more interchanges.

So, this would be the closest they could get to Washington and still be on the highway.

Q. All right.

Now, comparing the subject properties with the block directly across, directly east across U. S. 1, would those properties, taken as a block and comparing them to the subject property as a group, would they have more or less of the same characteristics that would lend themselves to assembly and development?

A. They have almost identical characteristics. They have the same number of ownerships and about the same total number of areas. Other than legal ties to the fee or

page 101 } leasehold on those lands, they have the same capability, but they have, perhaps, a little more value because they have the unrestricted view due east or southeast overlooking the Federally-owned parkways and the marsh areas and the lagoons in the Potomac River.

Q. All right.

Now, comparing the subject properties in that block with the area on the easterly side of Jefferson Davis Highway, with the southerly from the block we have just discussed, would that particular block as compared to the subject block, have more, less or the same characteristics that would lend themselves to assemblage and development?

The Court: You are talking about the block that has the wall—

Mr. Spence: Yes, sir.

The Witness: I would say that the subject block would attract the Market to a little greater value per square foot, because during the interruptions for construcion of U. S. 1 and that is where most of them will come, right down there, starting there, and going on south, you can still get to the subject land from the street to the west side, which is Eads Street, and you are stuck with construction and

page 102 } detours and traffic congestion to what is happening on U. S. 1 during the reconstruction and your access to that fairly long and not so deep lot that you have just described.

Q. All right.

Now, comparing the value of that particular block with the subject block, would it have more or less or the same value?

A. I think the subject block would be a little bit more valuable if everything else were equal.

The legal possiblility of assembling land down there and vacating, if you could get Ball Street vacated, and I think you could just as soon as required all the land or the leasehold and did away with the necessity for the railroad spur that goes down through the middle of it.

But since there is more time and trouble involved in doing all of this eliminating the spur, getting Ball Street vacated, I believe that the Market would pay a little bit more to be in the subject block which has a greater freedom from such difficulties.

Q. I am not sure that I asked you before, but returning for a second to the block containing the Hengen and the Haddad and the Union Iron properties directly east across Jefferson Davis, does that property have more or less

page 103 } or the same value as the subject property?

A. I believe I just answered that by saying that the, not that the Hengen, Union Iron Works, Haddad and

other potentials—it is almost identical, just as similar as you could find in the way of ownerships and the total of land that you could put together would have just a little slightly higher value than the subject, because it has an unrestricted view to the east where the subject does not.

Q. And you would say that, considering the fact that the railroad runs along to the westerly side of this property?

A. Just one track runs along the westerly edge of these properties and that tract can be navigated by fighting with the Arlington County State Highway Department. By proper planning you can have your crossovers wherever it is deemed advisable until the track is entirely moved.

The track either will be moved or—

Mr. Hughes: Objection, Your Honor.

It is pure speculation.

The Court: Sustained.

Mr. Spence: I think the witness' testimony is expert opinion, based upon what is happening at the Crystal City area.

The railroad track was removed.

page 104 } The Court: He stated earlier that in his view that the lease ran out and other uses—not that the length of the railroad would get shorter and shorter, starting down in the block of the Washington Cold Storage, but to say what will happen now and will happen in the future—

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page 107 }

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Q. All right.

Now, turning to the subject property, I believe just to refresh the Court's memory and to make sure that we have this correct, on the Myron Davy tract, your appraisal was $3 to $4, is that correct, as of January 1, '65-'66?

A. This is a very rough appraisal.

Q. All right.

Now,—

The Court: That is joining it with—

The Witness: Northeastern Supply and Davy.

The Court: All right.

By Mr. Hughes:

Q. All right.

Now,—

A. That is taking it by itself.

If it were combined with all of the other properties in the block and made into a good assembly.

page 108 } Q. That is a separate piece of ground?

A. Yes.

Q. This applies to the John A. Stone tract, taking it separately as of January 1, 1966. Your opinion is that it would have more than $3 to $4 per square foot?

A. Yes, sir.

Q. Now, this is both Stone properties, but sold separately, is that correct?

A. Yes.

This is the total of the 92,929 square feet, as if it, by itself, were put on the open Market.

Q. Now, on the Watson property, as of January 1, 1966, you said that the maximum would have been $4, in your opinion?

A. I think it would be around $4, yes, sir.

It is the most usable piece on that block.

Q. Now, when you get down to the S. K. Carter property, you stated it was an irregular piece of ground, the smallest of the six subject properties. It was the least attractive and it would need a variance at that time to be developed?

A. Taken by itself.

Q. As one, just the way it was?

page 109 } A. Yes.

It didn't have the 30,000 square foot magic figure for the parking reduction amounts above the fifth floor, should it have been used for an office building.

Q. You placed the value of that at under $3 per square foot?

A. Yes, sir.

Q. Well, now, Mr. Hodges, this is again the Fair Market value it would bring on the open Market, if you are a buyer who was not forced to buy it and a seller who was not forced to sell it?

A. Yes, sir.

Q. All right.

Mr. Hodges, in 1963, the Carter property was sold for the consideration of $255,000?

Mr. Spence: I am going to object to this on the basis of relevance.

That is three years prior to the time that we are concerned about. I think that is too far in the future to have any relevance in regard to the question before the Court.

Mr. Hughes: I believe on direct testimony, we already got into a period of time which was 1965. Property
page 110 } certainly hasn't gone down in value and if the man states it is worth—

The Court: Then you had better lay that ground work in your question.

Mr. Hughes: All right.

The Court: I will wait and see what the other questions are first, Mr. Spence.

Mr. Spence: Very well.

By Mr. Hughes:

Q. When you made your appraisal of these properties, did you take into consideration the comparable land values of the parcels in the adjacent area?

A. I was quite familiar with this $255,000 sale with a building on it.

In 1963, yes, sir, I looked at every industrial and commercial sale of big tracts in the whole County. But let me say that I did that in connection with appraising all the land in the Cafritz-Tompkins Estate.

I think I have repeated several times in this Court today that my appraisals in the cases today are just rough estimates. I have not typewritten prepared a narrative, detailed, documented for an appraisal; although, I am quite aware of the next question you are going to ask about the
page 111 } sale of the Carter tract.

Q. Well, did you take into consideration the sale of the Carter tract?

A. Yes, sir, even in this rough appraisal that I made today, yes, sir, I did.

Q. And what was the sale of the Carter tract?

A. $255,000.

Q. How many dollars a foot did that work out?

A. Is this with the building?

Q. Whatever it was. It is 29,428 square feet.

Does that work out to over $8 per square foot?

A. Yes, sir, with a building on it, it would be—yes, about $8.50 per square foot.

M. B. Hodges

Q. In your discussion of the valuation of the area, a great deal was said about assembly and putting pieces together of each parcel that you gave a rough estimate and valuation on. You took into consideration the possibility of assembling and this was one of the main factors, as I recall, in your basis for valuation?

A. Yes.

Q. Now, are you aware of the traffic analysis parking situation in the Jefferson Davis Highway corridor,
page 112 } as a whole, from the Crystal House to the Marriott, this area?

A. I am aware that an awfully lot of study has been done, but I have not seen the analysis, the traffic surveys. I haven't even studied the detailed plans for reconstruction of Route 1, except that I know it is going to affect land on both sides of it.

Q. Do you agree that this is a factor to be considered—considered in the developing of the whole area?

A. I think it is a definite factor that a Market purchaser would consider for his typical, usual ten-year ownership.

The Court: The fact that there has been a study or—

Mr. Hughes: He answered that he did take into consideration the traffic analysis.

The Court: The study.

The Witness: And the State plans to reconstruct U. S. Highway 1.

By Mr. Hughes:

Q. Now, do you agree that all of this land cannot be assembled and put up in high density office buildings with the situation such as it is with the traffic patterns in there
page 113 } or as they could be developed?

A. Yes, sir, I agree to that.

Q. Then, you agree that the Planning Commission has a great deal to do with the way the whole area is developed?

A. The Planning Commission and the Commonwealth of Virginia Highway Department.

Q. And the County Board of Arlington?

A. Yes, sir.

Q. Now, getting over this C-O zone, if you have a C-O zoning on a piece of property without a site plan approval, just a straight C-O zoning, what are the capabilities and densities that you can go to?

A. I don't know without site plan approval.

Q. In other words, what would be the least density and height that you could go to, just for the straight C-O zoning?

A. I don't recall and I haven't got a copy of the zoning records with me. It may not be anything over forty-five feet or seventy-five feet.

Q. Is it thirty-five feet?

A. It could be thirty-five feet, three and a half stories, I think that is right.

Q. Now, are you familiar with the M-2 zone in
page 114 } Arlington?

A. Yes, sir.

Q. Now, what is the height on the M-2 zone?

A. Seventy-five feet, I believe.

Q. And this is without the site plan approval, is that correct?

A. Without anything, without the approval of—

Q. So your C-O zone has a possible potential of 125 feet?

A. Yes, sir.

Q. But it also has a possible potential of thirty-five feet?

A. Possible, but not probable.

Q. Well, again, isn't this up to the County Board and the Planning Commission?

A. Oh, yes, uh huh.

Q. And you agree that all of it can't be developed to the maximum density?

A. No.

I agree that it all cannot be developed to any particular allowable density within a single year or even within five years.

This all depends upon U. S. Highway 1, rapid
page 115 } transit and many other factors.

Q. So it is highly speculative as to what it could do in any way. Nobody knows, in other words?

A. Nobody knows who is going to develop first until it happens.

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page 117 }

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By Mr. Hughes:

Q. Turning to this 9.9 acre tract, part of the twenty-four

acres owned by Cafritz, I believe that you stated that this piece of land, in your opinion, was superior to Rosslyn and was superior to the subject land and that based upon this theory of assembly, since it was such a large tract of land, it was certainly more valuable.

Is that essentially what you meant?

A. More valuable than the subject, not more valuable than Rosslyn.

Q. Now, this idea of value, isn't there a difference between the instrinsic value and Fair Market value, at which you could sell.

In other words, what I am getting at is, isn't it harder to sell ten acres of ground than it is to sell one acre of ground? Don't you have more purchasers for the smaller tract?

page 118 } A. Oh, yes.

Q. And, therefore, doesn't the smaller tract essentially sell for a larger amount of money than the larger—than the larger tract?

A. Oh, if all of it has the same relative density or facility or utility, yes, you can get more per square foot per acre for smaller pieces than you can for big pieces. Everything must, of course, be equal, but you don't have to sell your fee simple interest to realize value.

You can lease it, lease it with an option to purchase or—

Q. But when we talk about Fair Market value, we are talking about sales price. We are not talking about lease or leasehold.

Now, did you take into consideration the location of the subject property on Jefferson Davis Highway as opposed to this nine acres being two blocks back off of Jefferson Davis Highway?

A. Oh, yes, it is two blocks off of Jefferson Davis but right off of Shirley against the Shirley—

Q. Isn't this based upon the possible future development of Shirley Highway?

page 119 } A. Yes.

The Shirley has been under construction for the last five years beginning at Woodbridge.

Q. And in 1966, your evaluation would have been $10 per square foot as opposed to $3 to $4 per square foot on the parcels that are the subject property?

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page 120 }

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Q. When you were discussing the railroad track, you mentioned that there was no telling how long it would be before it was taken up in front of any given piece of property and now you also—

A. Yes, sir.

In some cases, I believe I said it might be three or four years. I think I was probably too specific in—

Q. You also mentioned the fact that concerning this railroad track, that there was a line down in Shirlington that was to be taken up, is that correct?

A. Yes, sir, that is a part of a—quite a big line. That is the entire railroad company.

Q. Uh huh.

And how long can that be going on?

Mr. Spence: I don't think that has any relevance at this particular problem we have here.

We are talking about a spur line.

The Court: Sustained.

By Mr. Hughes:

page 121 } Q. When you did your evaluation on the piece of property immediately adjacent to Western Electric on the north side, did you take into consideration the fact that there was a railroad spur which runs from the Jefferson Davis Highway up to Western Electric that services that building?

A. Yes, sir.

Q. Does that railroad line also service other warehouses on the way from Jeff Davis Highway to the Western Electric?

A. Oh, yes, it serves quite a few of those little industries that are in the Cafritz warehouses between Eads and Fern.

Q. And does that railroad, if a car was to come from down at the Marriott, for instance in that area, to Western Electric, wouldn't it have to pass on tracks which would run in front of the E. M. Smith property, which is 29,253 square feet, South 10th Street?

A. It would have to pass across the tracks somewhere in some future development of this land, yes.

Q. Then, it is your opinion that all of these people might

possibly give up any contractual rights to the railroad and to the service and all agree to have this track lifted
page 122 } all the way from Western Electric to Jefferson Davis Highway all adjacent to the Jeff Davis Highway?

A. No, sir.

It would be more convenient in the case of some of those blocks if the tracks could be lifted because it would permit a more ideal plan and use of the block, particularly the block to the south and east of the subject block because there the spur goes down into the middle of the block and if—you can't get a good site plan on that block until you pull the railroad out of the middle of the block.

The subject block has a railroad going through the middle of it but about in the middle between the Cafritz and the Jack Stone property, the north central part of this block that would remain, of course, in place to serve the Cafritz warehouses which is still under long-term lease to some Government and private lessees.

So if you master-plan Stone, Watson, Carter and Davy properties in the subject block today, you would master-plan it around this railroad, but I don't think that the passage of freight cars, which is very seldom, would interfere with traffic going into or out of any traffic served by any one of these spur lines, because you just don't have that much
page 123 } traffic—even less than the Washington and Old Dominion used to have on its 4.2 mile stretch from Arlington County, from Rosslyn up to Bon Air Park.

If you recall, we had high density usage, commercial apartments and streets leading through those and crossing that track through many locations. We had four trains a day, I believe.

Q. On the properties which cross Jefferson Davis Highway on the opposite side of the subject properties, I believe the maximum value as which you put on there, was $3.50 and they ranged everywhere from $2.75 at Dinwiddie Pine on up to the $3.50 on one to an A lots of Sebastian Springs?

A. Are you quoting my evaluation or the Tax Assessor's appraisal?

Q. Your evaluation.

A. Let me please repeat, again, that these are approximate.

Q. All right.

Now, at that time, you said that in making this evaluation, a very critical point was the railroad running right in front of all of these lots?

Mr. Spence: I am not sure that is what he said at all. I am not sure he said it was critical.

page 124 } The Court: I didn't hear the word critical. Rephrase it.

By Mr. Hughes:

Q. At that time you said that a factor which you considered was the railroad?

A. I did. I do remember mentioning, Your Honor, that the appearance of office buildings and apartment buildings on such an assembly as Dinwiddie Pine, Hengen and Haddad and others would be enhanced if one did not have to look from the Jefferson Davis Highway at its present site onto the buildings across an elevated railroad between two to six feet.

I believe those were my exact words. Now, of course, if Jefferson Davis Highway will be rebuilt, it will be substantially up in the air and you won't even notice the track, if it is still there when looking to the elevated Jefferson Davis Highway or from these structures which might be on this property.

It is not a critical matter because the Highway Department of the County and the State and the engineers of the RF&P Railroad can always plan and build crossings as necessary to provide flow to the service—in front of these future commercial properties.

page 125 } Q. When you spoke about an assembly of the properties on a side opposite the subject properties of Jefferson Davis Highway, I believe you stated that the railroad would be of no effect, if assembled, due to the possibility of putting the service road—

A. (Interposing) Probably a definite requirement for a service road.

Q. Now, if you had a service road and the railroad remained there, then you, in effect, would not have frontage on the Jefferson Davis Highway, correct?

A. That is correct and you wouldn't anyway. You would have frontage on the service road, which then becomes a public right-of-way.

Q. But your access, as of January 1966, was over this railroad, is that correct?

A. Yes, sir.

Mr. Hughes: Your Honor, may we take a five-minute recess, or would you rather I finish up?

The Court: All right.

(A short recess was taken.)

The Court: On the record.

By Mr. Hughes:

page 126 } Q. Mr. Hodges, you stated you took into consideration the comparable sales in the area when you evaluated the S. K. Carter, Inc. property? You further stated, I believe, that you did take into consideration in 1963—

A. (Interposing) I took into consideration the 1963 sale. I didn't study the area in detail until the summer of 1966.

Q. Did you take into consideration a sale to S. K. Carter from Hargrove Displays, Inc. when you evaluated that particular piece of subject property?

A. No, sir.

Mr. Spence: May I inquire as to the date of that sale?

The Court: The date and the location of the property?

Mr. Hughes: 1965, Your Honor, 9,809 square feet, I believe I can show it to you.

It is a small piece.

For the record, it is on 11th Street, South immediately east of Eads Street.

The Witness: This piece right here (indicating).

Mr. Hughes: That is right.

Mr. Spence: For the record, you might show that is on Petitioners' No. 3.

page 127 } The Court: It is in the subject block. There was a sale of how many square feet?

Mr. Hughes: 9,809 square feet.

The Witness: I did not consider it.

It was similar, for example, to the 3,000 square feet that Dave Collins purchased in Rosslyn to round out an entire block.

By Mr. Hughes:

Q. I just asked you the question, did you consider it, and you said, no.

A. No.

Q. Do you know what the zoning on that piece is?

A. M-2.

Q. Is that in the block of the subject property involved?

A. Yes, it is in the north central part of the block.

Q. Do you know what it sold for?

A. No, sir.

Q. Now, you say you did take into consideration, however, the sales sprice to S. K. Carter, Inc., of the 28,000-plus square feet?

A. Yes, sir.

Q. And you stated that this would work out to
page 128 } over $8 per foot, is that correct?

A. About $8.50, including the building.

It had a large industrial and office-type plan building on it.

It was formerly owned by Albany Tractor Company.

Q. Was that building on there in 1965?

A. To my knowledge, it was, yes.

I mean, I would say that I was ninety percent certain that it was.

Q. Well, can you explain how your figure is less than $3 a foot when the land sold for more than $8 a foot?

Mr. Spence: Your Honor, I don't think that is the testimony at all.

He indicated the sales price plus the building.

The Court: Help me first point to the tract on E-1.

The Witness: This is the first one S. K. Carter purchased up to this public right-of-way (indicating).

The Court: All right.

The Witness: And your question, can I explain why the price amounted to an overall of $8.50 per square feet, more or less.

page 129 } By Mr. Hughes:

Q. Let me rephrase the question.

Why was your evaluation, which you gave, as under $3 per square foot? This is what you valued it when the property—how can you take into consideration the sales price of the property as being over $8 per square foot and then evaluated it at under $3 per square foot?

A. The answer to that is, of course, we are discussing land value, I think, and in no case today have I intended to approximately evaluate or appraise anything but raw land as if it were vacant and ready for redevelopment or assembly and redevelopment.

Q. You mean to say that none of the evaluations which you have given today have taken into consideration the value of improvements on the land?

A. That is true.

Q. They are all raw ground evaluations?

A. All raw ground evaluations.

You see, this is where most of the—this is where—anywhere from seventy-five to nienty-five percent of the assessment, it is in the raw ground and should we have been discussing total assessment and total value, then I could mathematically and easily show that the income page 130 } even from these subject improved properties isn't even such to capitalize the land value at $6, or even quite at $3.

Q. I don't understand what that has to do with the Fair Market value. That is what we are talking about, is Fair Market value, not income. But I don't understand and it is probably me, I don't understand how a man can pay $8.17 per square foot for land and then have it evaluated when three and four buildings are on it.

That is what he bought. He bought the buildings with the land underneath it. Maybe it is my economics.

No further questions.

Mr. Spence: I have no further questions of the witness, Your Honor.

The Court: All right. You can step down.

(Witness excused.)

* * * * *

Whereupon, FRANCIS AUSTIN was called as a witness on behalf of the petitioners, and having been pre- page 131 } viously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Spence:

Q. Will you please state your name and occupation for the Court, please?

A. Francis Austin, Director of Real Estate Assessment, Arlington County.

Q. And were you so employed on or about January 1, 1966?

A. Yes, sir.

Francis Austin

Q. And is it part of your duties or function to maintain the records as far as real estate assessments and appraisals go?

A. Yes, sir.

Q. And have you brought with you appraisals and assessments and so forth on the subject properties in this suit?

A. Yes, sir.

Q. And other properties?

A. Yes, sir.

Q. All right.

The Court: Right at this point, this record ought to make it clear that in this County, the Commissioner
page 132 } of Revenue, who is normally a required witness in this type of case, does not make the land assessments. Therefore, I take it both counsel agree that it is Mr. Austin's testimony which is essential to a showing in the case.

Mr. Spence: Yes, sir.

The Court: All right.

By Mr. Spence:

Q. Now, directing your attention to the parcel of land held under the name of Myron Davy?

A. If you will quote square foot area, I can identify it very quickly.

Q. All right.

That would be 28,710 square foot parcel.

A. I have a 29,428 square foot parcel. We have a disagreement on this.

Q. I will take your figures.

A. Okay.

Let me, Your Honor, I think that I have the official record, front office record taken from it, and I believe you are right, 28,710.

Q. Yes, sir.

A. The map is wrong. This is the official record
page 133 } on—

Q. Looking up the figures for the pleadings, I did have two figures.

A. Okay, sir.

Q. All right, sir.

Do you have the appraised value for the parcel of land, then?

A. The appraised value of the land is $6 per foot.

Q. And do your figures show what that total is just for the land alone?

A. I have only the assessed value in front of me at this—let's see if I can find the other card.

Speaking of the assessed value rather than the appraisal, Your Honor, which—would you rather I speak of the appraisals or of assessed value?

Q. Possibley we could have both?

A. Okay.

I think I have them here.

Q. I don't mind what order we go in, whatever you have in your records there, if you would like. Of course, you have heard the testimony previously and if you could just go through and give us perhaps the square footage and the total and assessed and appraised figures, and in what order you care to go.

page 134 } A. I would like to take this one up before I go any further. Here we are. I have got it here right now. Okay.

I have both of the official records and the appraisal sheet.

Q. All right, sir.

A. The total assessed value—

Q. You are speaking now of the Davy property?

A. This is right. This is 28,710 square feet.

The Court: These are figures of January 1, 1966?

The Witness: 1966, yes, sir.

The total assessed value on land and building land being $68,900 building, $380, giving a total of $69,280.

By Mr. Spence:

Q. That is the assessed value?

A. That is right.

Q. What was the appraised value? Could we just say two and a half times that figure?

A. Yes, this is correct. The appraisal is two and a half times that or $173,220.

Q. All right, sir.

And do those sheets or records you have before you reflect the present—I am sorry. I think that has been

page 135 } admitted in the Pleadings, anyway, so—very well. What is the next parcel you have, then, before you?

Francis Austin

A. Well, I suppose that the Stone property would be as good as any. It is next, isn't it, the Stone is next?

Q. The 68,589 square feet?

A. That property is in two parcels, so, as far as the records are concerned, you have one parcel that is 68,589.57 square feet. There is another parcel with 24,340. The assessed value on the larger tract of 68,589 land, is $164,620, building, $40,420, a total of $2—

The Court: $40,420?

The Witness: On the building. Total value of $205,040.

On the smaller, or the 24,340 foot tract—

By Mr. Spence:

Q. Do you have the appraised value of that parcel?

A. Yes, sir.

The appraised value of the first parcel, total appraisal is $512,590.

Q. Do you have the appraisal for just the land alone?

A. Yes. $411,540.

Q. All right, sir.

A. The appraisal of the other small piece of
page 136 } land is $146,040.

Q. $146,140?

A. Uh huh.

Q. The assessed value, then, on the smaller parcel is that $58,420?

A. $58,420, that is correct.

Q. All right, sir.

The Court: That is an unimproved piece?

The Witness: Yes, that is right.

The Court: All right.

The Witness: The next parcel of property that I have here is the Union Iron Works Company.

The Court: How many square feet is that?

The Witness: It is 136,778 square feet.

By Mr. Spence:

Q. This is out of the subject property, is that correct?

A. Oh, yes, it is.

I have these cards and the map number and that is the reason for this.

The Court: Stay with the subject property until you finish.

The Witness: This is fine.

page 137 } This is 163,174 square feet, I believe.

The Court: Watson. I have a different square footage here—156,764. You can reconcile that.

The Witness: James A. Watson. The official record has that at 163,174 square feet.

Mr. Spence: I will accept that figure, Your Honor.

The Witness: The appraisal of the land again at $6 per foot.

The Court: You say, again.

Are all of these preceding—

The Witness: They were all at $6 per foot.

The Court: Is that true for all six parcels before they—

The Witness: Yes.

The Court: So the appraisal, therefore, was of the land?

The Witness: The land is $979,040, building, $83,020 or improvements, total appraisal of $987,360.

Now, I have the Carter property.

By Mr. Spence:

Q. Let's see, now. The assessment for taxes on the Watson property, would that be $391,620 for buildings?

page 138 } A. No, that is land.

Q. I am sorry, for land?

A. Land, $391,620.

Q. That is the assessment for taxation?

A. Right.

And the assessment on the—

The Court: Three once more.

Mr. Spence: Three hundred and—

The Witness: $391,620 on the land.

The Court: I am trying to record these—

The Witness: Sure.

The Court: (Continuing)—off of previous testimony so I can compare them and it takes me a moment to find my notes.

The Witness: And the building with improvements is $33,-020.

The Northeastern Supply Company property, containing 88,135.

The Court: The next one would be Carter, 29,428.

Mr. Spence: I think he took the Davy properties, Your Honor, individually. Mr. Davy has one parcel—I think there

is a parcel through a corporation that he controls.

page 139 } The Court: I beg your pardon.

This Northeast Supply would be one. Mr. Hodges treated them as one.

All right. Go ahead.

The Witness: 88,135.90 square feet.

The Court: You will have to go slow. I will never figure this out at the end.

The Witness: Northeast Supply Company. The area is 88,-135.91 square feet. This is appraised at $6 a foot, or $528,-820. The improvements are appraised at $22,450, a total of $551,270.

By Mr. Spence:

Q. And the assessed evaluation?

A. Pardon?

Q. The assessed evaluation for taxes?

A. The assessed evaluation on land is—

Q. Yes, sir.

A. (Continuing)—$211,520. The improvements, $8,980, a total of $220, 500.

Q. All right.

A. Now, I have this one other piece here of S. K. Carter, Inc., containing $29,428.

Q. Square feet?

page 140 } A. I mean—yes, square feet, excuse me, 29,428 square feet. The appraisal of the land again is $6 per foot, $176,570 on the land. The building, $13,880, a total of $190,450 and the assessed value is land, $70,620, improvements, $5,560, a total of $76,180.

Q. All right.

Now, taking all of these six properties together, the assessed—I am sorry, the appraised value at $6 per square foot, then?

A. This is correct.

Q. All right, sir.

Now, turning, I think, to the same order we went before to the parcel owned by Cafritz, which is between the Carter and the Stone properties, would you give us—

A. (Interposing) Yes, sir, if I can find it.

That is Lot 14-A, or it is known as 1101 Eads Street, Incorporated.

The Court: Let's see—all right.

What is the difference of 1101 Eads Street, Incorporated, all right.

The Witness: That is right.

The Court: All right.

page 141 } The Witness: This parcel of property—if I can find the official record here on this, I think this is pretty official, but I—there is 159,033 square feet. It is valued at $3 a foot. The total appraisal of the land is $477,100. The assessed value is $190,840, no improvements.

By Mr. Spence:

Q. All right.

I think the next parcel we took up began down on Clark Street with the smaller 29,253 square feet, E. M. Smith property?

A. 29,253 square feet, roughly.

The Court: Yes.

The Witness: Right.

The land is valued at $3 per foot.

Mr. Spence: If Your Honor please, I think perhaps Mr. Hughes is prepared to stipulate what Mr. Austin would testify to with regard to the appraised values and so forth and the assessed values as to all of the other parcels being as what Mr. Hodges has earlier testified to.

The Court: The E. M. Smith property is $3 per foot—E. M. Smith larger property? $3 per foot?

Dinwiddie Pine Corporation—

Mr. Spence: I think that was $2.75, right?

The Court: Right.

page 142 } Hengen, $3.

The Witness: Right.

The Court: Haddad, $3.

The Witness: Right.

Your Honor, I think we skipped one little strip back here. You may have it down there somewhere—that Arlington Mill Works at 1233 Jefferson Davis. There is—

The Court: I don't have that.

The Witness: All right, sir.

You go ahead.

The Court: Union Iron properties, $3.

The Witness: Yes, sir.

The Court: Stokley, $3 to $10.

Francis Austin

The Witness: Right.

The Court: South Washington Terra Cotta Corporation, several parcels, $1.75 to $3, some property in between.

The Witness: This is correct.

Mr. Spence: I think all that Mr. Hodges testified to on South Washington was that on the corner there, if I am not mistaken.

The Court: He described the area and he also described that corner nearest the subject property, $3.

page 143 } The Witness: That is correct.

The $1.75, actually, there is no breakdown here to exactly $1.75, may break down to this, the parcel just behind this corner piece that has a very narrow edge on it.

The Court: The witness wanted to show me the property immediately under discussion.

Mr. Spence: Which is the property that he is talking about? I am not sure.

The Court: We are talking about these right here (indicating) the $3 and this piece here (indicating) is where, undoubtedly, this $1.75 came up.

This next here by the railroad and I picked the ones that—

Mr. Spence: Do you want to put that in?

The Court: Counsel, you are trying to learn the case inside out and you have forgotten the poor old Judge, because you should have come in with a list of properties and square footage and assessments and everything else and stipulated ninety percent of it or taken a copy of this one and the things in which you do not—but another time, keep that in mind in front of Judge Brown.

Now, we can go on from there on the question of this immediate paper.

page 144 } I look at it immediately for the purpose of seeing the shape of the property described. It is hardly an hour glass, but it has two curves which converge to the middle of the property, thusly?

The Wintess: Yes, sir.

This is where the $1.75 is the combination of two factors here.

The Court: You had better wait until counsel asks you.

The Court: Continuing to the Washington Cold Storage property, $3.

The Witness: Yes, sir, that is correct.

The Court: Cafritz, 9.9 acres, $4.

Francis Austin

The Witness: I did not bring the official record on this tract, sir, but I am pretty sure this is correct.

The Court: You will have time to check it overnight, sir.

The Witness: Yes, sir.

The Court: Arna-Eads, Inc., 4.137 acres, $4.

The Witness: Let me get the cards on this.

The Court: Yes, sir.

The Court: That is the one across from the
page 145 } "paper clip building," I believe so-called. The
little parking area that has been paved since the assessment?

The Witness: Yes, sir, that is the Arna-Eads, Inc.

The Court: Is that $4?

The Witness: The assessed value is—let's see if I can find the appraisal sheet on it, sir.

Yes, sir, $4.

The Court: $4, all right.

1101 Fern Street, Inc., $3?

The Witness: 5.9392 acres, that is correct, sir. And that particular piece of property is—

The Court: Let's see the other properties mentioned.

The Witness: $3, that particular property is valued at $3.

The Court: Which one are you talking about, 1101 Eads Street?

The Witness: Yes, sir.

The Court: Does counsel want to inquire about Carter's first sale—Albany Tractor location, apparently, it was.

Do you want that square footage in there, or
page 146 } not?

Mr. Spence: No, Your Honor.

I would have no further questions of Mr. Austin.

The Court: All right, sir.

It is 4:30.

Mr. Hughes: I have no cross-examination.

Mr. Spence: That completes our case, Your Honor.

The Court: All right. Plaintiff rests.

We will pick up in the morning.

* * * * *

April 14, 1967

The second day of the trial commenced at 10:00 a.m.

* * * * *

page 149 }

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Whereupon, MR. F. M. AUSTIN was called as a witness by and on behalf of the County, and having been duly sworn, was examined and testified upon his oath as follows:

DIRECT EXAMINATION

By Mr. Hughes:

Q. Please state your name and address and occupation.

A. Frank M. Austin, Wayne Road, Falls Church, Director of Real Estate Assessment, Arlington County.

Q. How long have you been employed in this capacity?

A. I have been the Director since 1957, January 7.

Q. Prior to that time—

Mr. Spence: Your Honor, I stipulate that Mr. Austin is a qualified expert in real estate.

By Mr. Hughes:

Q. As Director of Real Estate Assessment, is it your duty to keep the records of the assessments for Arlington County?

A. That is correct.

page 150 } Q. Who places the assessments on the real estate?

A. During the year, reassessments—are you asking who places them or who makes them?

Q. Who makes the assessments?

A. The General Reassessment Board makes the assessments and made the assessments in question at this particular time.

Q. And directing your attention to the subject property, would you describe the land in the area which is in the same block as the subject property?

A. Describe the land?

Q. At the same time, would you refer to the evaluations which were put on the land by the Reassessment Board.

You can begin at one end of that block and go in the same order as yesterday.

The Court: I would suggest that I ask appraisal, assessment and foot-rate from which it all came for the six set parcels so you may want to have it narrowed to other parcels in that block.

Mr. Hughes: Yes, sir.

The Witness: Okay, sir.

We have on the southwest corner of Jefferson Davis Highway and Fifteenth Street, we have a tract of land
page 151 } owned by Mr. Smith, improved with a service station, and this land is valued at $6 a foot.

Just to the north of that—

The Court: Excuse me. The size of that tract, sir.

The Witness: Let me get my—I passed over that thing, Your Honor. Let me get my papers here.

The size of that tract is 17,560 square feet.

The Court: Could you point to it on P-1, so I can get it?

The Witness: Yes, sir.

It's in this tract right here, Your Honor. This is divided up into one, two, three, four parcels. You see, this is four pieces here that we're talking about, but for the Court's information, it's all $6 a square foot.

Mr. Spence: All one-ownership?

The Witness: No. There is one separate ownership in there.

The Court: Now, I'm a little confused and counsel is going to interrupt and separate, even this stuff out. That's the one I see, and Smith.

Mr. Spence: There are two others, Your Honor.

The Witness: This one on this side.

page 152 } The Court: 29,250 square feet?

The Witness: Yes, sir, these two. But there is three parcels to this other piece of land.

The Court: In one ownership?

The Witness: Three parcels belonging to Edward M. Smith and the area in each of those. Lot 1-A has 17,560 feet; Lot 2-A has 16,160 feet; part of Lot 4 has 43,582.2 square feet.

The Court: All are at $6 a square foot?

The Witness: All are at $6 a square foot. No, there's a separate one owned by Roy W. Wallach containing 10,000 feet and that's also $6,000, I mean, $6.

The Court: Is that in the same area?

The Witness: The same block, sir, divided up. It's all within this right here, sir.

Now, his piece is right across in there.

The Court: I see. Do I understand this item and Smith is shown on P-1?

The Witness: Which is this next strip here. The Americana Motel. That land is also valued at $6 a foot. Now, moving to the north end of this block, there is a piece of property known as Parcel A, really a subdivision, and it's owned by another known as the 400 Army-Navy Office Building.

page 153 } The Court: Is this the one referred to as the "paper clip building?"

The Witness: Yes. That land is valued at $10 a foot and just east of that tract—

The Court: Let me see. You mean the assessment is—

The Witness: The appraisal is $10 a foot.

The Court: The actual assessment was 40%?

The Witness: That's right. The actual assessment is 40% of that. That figure is out. The assessment on the land is $287,720.

Adjoining that property on the east is a parcel of property legally described as Waterloo, containing 67,197 square feet and that is appraised at $10 and assessed at $268,780.

There's another small parcel here containing 12,466 square feet. That's owned by McGovern. That's appraised at $10 a foot and it's assessed at $49,860.

Mr. Spence: Where is the McGovern property?

The Witness: This is right here.

The Court: Adjacent to the "paper clip building?"

The Witness: Well, it's M-C-G-O-V-E-R-N. What did I say?

The Court: You had made it clear.

page 154 } The Witness: There is a parcel of property, I think, the Cafritz tract, 3.069 acres. That is in the record. This covers this block. I think that it might be well to point out to the Court that along Jefferson Davis Highway south on the Fifteenth Street on the west side—

Mr. Spence: If Your Honor please, I think he should be confined to responding to counsel's questions.

The Court: That's the correct procedure.

By Mr. Hughes:

Q. Returning to the block you were discussing before, is there another piece of property in there described at 2809 feet?

A. Yes, sir, there is. There is a small piece of land that does not show up on the map that you have, sir, and I would have to show it to you on this map. It's a part of the Stone tract. It's a little piece of land here between 3809 feet.

The Court: Pie-shaped?

The Witness: That's right.

It comes down here and goes up this side. I pasted these things together. That contains 2809 feet.

The Court: A minute ago you said—

page 155 } Mr. Hughes: I was describing the 9,809.

The Witness: Excuse me. Yes, there is. I'm sorry. I misunderstood the question.

The Court: Now, who owned the 9,809 square feet, please, and what is its assessment or appraisal?

The Witness: I'm sure I have that here somewhere but I don't see it right now. Oh yes, S. K. Carter, Inc., 9,809 square feet and that small parcel that I pointed out right here, sir, the small parcel right here—

The Court: That's in the middle of the block, is it?

The Witness: Just to the south.

The Court: Only on the short street.

The Witness: Eleventh Street.

The Court: Which runs halfway through the subject property?

The Witness: Yes, sir.

The assessment is $23,940 or $6 a foot.

By Mr. Hughes:

Q. Would you describe the strip of land immediately south of what is known as the Cafritz property in that block?

The Court: I have several marked Cafritz, in the same block.

page 156 } Mr. Hughes: Yes, sir.

The Witness: That's the Jack Stone property.

The Court: The Court has those figures.

By Mr. Hughes:

Q. No, I'm referring to a strip of land which is not on the map.

The Court: You're referring to the pie-shaped piece.

The Witness: That's the 2,809 square feet. I believe I have a card on this one. It's valued at $6 a foot. Actually it becomes a part of the Jack Stone property.

The Court: Is it in that ownership, sir?

The Witness: Yes, sir.

The Court: All right.

F. M. Austin

By Mr. Hughes:

Q. Now, did there come a time when the piece of property in that block known as the Cafritz property came to your attention?

A. Yes, sir.

Q. Now, would you please tell the Court how this came about?

A. This piece of property came to my attention sometime, I would say, the latter part of August or Septem-
page 157 } ber when Mr. Hodges was in checking the records and he found this particular tract of land which is known as Lot 14-A or 1100 Eads Street and pointed to the fact that it was valued at $3 while all the other land in the block was valued at $6.

The Court: Is this, by chance, Lot 14-A?

The Witness: Yes, sir. That's correct.

The Court: All right.

The Witness: It runs through on Army-Navy Drive all the way to Eads Street. Again going back to the particular part of the Code covering assessments in Arlington County—

By Mr. Hughes:

Q. Wait a minute.

A. Excuse me, I'm sorry.

Q. Now at the time this came to your attention that the Cafritz property had been assessed at $3 a foot when adjacent property had been assessed at $6 a foot—

The Witness: Appraised.

By Mr. Hughes:

Q. Appraised, excuse me.

Did you contemplate taking any action?

Mr. Spence: I think that calls for speculation on the part of the witness.

page 158 } The Court: It would appear to, Mr. Hughes. That's what he did or something in the process.

By Mr. Hughes:

Q. Let me phrase it another way, Your Honor.

Was there any reason why you could not take any action?

A. Yes, sir.

Q. What was that reason?

A. The reason that under the system of assessments in Arlington County for that particular year in which the Board of Assessments made the assessments I do not have the authority to change that assessment. I had no authority to change the assessment because the Code says it shall be made a point of the general reassessment book value.

Q. At the time, was the Board in session?

A. During the course of assessment?

Q. The people who put the assessment on?

A. No, they were not.

Q. Are you aware of the approximate number of properties which were assessed by the Board and in 1965 for 1966?

A. Yes, sir, there was approximately 3,500 parcels.

Q. You were here yesterday and heard the testimony? Is that correct?

page 159 } A. Yes.

Q. Now, were all the properties which were discussed yesterday and today reassessed?

A. Yes, they were.

* * * * *

page 160 } Q. Would you please tell the Court what the height limits are for the C-2, C-3, M-2 and the C-O zoning?

A. Yes, under C-2 zoning, the permitted height is 45 feet; under C-3, 75 feet; M-2 is the same as C-3, 75 feet; and C-O is 35 feet, except by the approval of a site plan by the County governing body at which time a height of 120 feet, I believe, is correct, maybe it isn't.

Q. Directing your attention again to the subject block, are there any sales which you have knowledge of which would justify the appraisal that was put on there by the assessors?

A. Yes.

Mr. Spence: If Your Honor please, I think it is not the witness' duty to justify what they do.

The Court: Again, it's not why they acted but do again to sustain the action, so to be consistent I overruled you this time.

Mr. Spence: But may I object to this ground that the witness' testimony was qualified.

The Court: You stipulated his qualifications and if he

appraised land, he certainly had the knowledge to look into it from the tax stamp on deeds, etc.

Mr. Spence: Very well. I can get it in in cross
page 161 } examination as to what he has looked at.

The Witness: Yes, there were sales in that block that would tend to determine a value of $6. There were three sales, I believe, with the sales on them that you have there. In 1961 a tract of land where the Americana Motel is located, as I remember—

Mr. Spence: If Your Honor please, I would object to the date of this sale. I think it is not relevant to this particular matter. It was done some five years, I assume, before the date we are now interested in, January of 1966. On that basis, I think it would not be sufficiently the same and relevant to this matter.

Mr. Hughes: Your Honor, I have a case that holds the subject sale as being considered with subsequent sales. I think the occasion of a sale in 1961 could be considered. These appraisers go back as far as six or eight years to get a trend as to how the land is running. This was done in 1965. At that time, it would have only been five years old if it was at the end of 1961.

The Court: Not just the fact of a sale for five years earlier but the market situation in the intervening time which has to be both shown to show whether there was a
page 162 } relevancy. For example, if a sale, say five years earlier is offered, one line of testimony might be yes, but property went down thereafter. Another line would be that it went up. Another one that it bounced all over the place, so relevancy to me seems to me to be related to the market conditions that prevailed for that type property between the date offered. Where it's more than a year or two away I think you have to tie it in to show your relevancy. Subject to that, you may proceed. If you don't tie it in, I won't consider it.

By Mr. Hughes:

Q. Mr. Austin, were you aware of the market conditions as they appear in 1961 to '65?

A. Yes, sir.

Q. Will you please tell the Court what the general trend of the conditions were?

The Court: As regards to land in this general area.

F. M. Austin

The Witness: Yes, sir.
The four sales I have are in regard to the M-2 land.

By Mr. Hughes:
Q. Was there any increase or decrease?
A. There was a decrease.
Q. And was there a sale in 1961 that would in-
page 163 } dicate there was an increase?
A. 1961. This particular property sold at $5.70 a square foot.
Q. Which place is that again?
A. That's the one that the Americana Motel is located on.
Q. Where is that in reference to the subject property?
A. It's in the same block as the subject property, south of it.
Q. Would you please tell the Court the other sale?
A. I have a sale that transpired in 1964 that was $8.65 a foot and it's the parcel of property located right here, sir.

The Court: This particular piece of property right here, this strip, shown on B-1, the subject block, at the corner?
The Witness: That's correct.
The Court: What is the square footage?
The Witness: The square footage on that might be a little conflictory in our square footage. I have 928, that's very close.
The Court: That's one of the subject properties?
The Witness: That's right.
page 164 } Now that property sold for $225,000 or roughly $8.65 a square foot.

By Mr. Hughes:
Q. Now, directing your attention to the land in the same block which was assessed at $10 a square foot. What is the zoning on that?
A. The zoning on the land of $10 a foot is C-O.
Q. Now, are you aware of the market conditions as existing between 1961 and 1965 which relates to C-O zoned property in the Jeff Davis area?
A. Yes.
Q. And do you know of any sale in the number one highway areas or tract of land of three acres or more which could justify $10 a square foot?
A. No, sir, I know of none.

F. M. Austin

Q. Now does the amount of floor area ratio granted by the County governing body have any effect on the value of the land?

A. Yes, I think the person purchasing the property gets a return from the type of building he can place on this land and the number of square feet of office space permitted will certainly permit him to pay more. In other words, his governing ratio would permit him to pay more for the land and it's pretty typical and I might point out, for instance,

page 165 } the County governing body will not approve the same intentionally in every case. I believe it was brought out that from 1.9 to 3. may be 3.7 in Rosslyn. So you certainly would have a variance in the amount of money you could pay for this and the same is true for the apartment group, subject to the approval of the County Board. We have cases of identical zoning where 70 units per acre were allowed and another case 92 units per acre. So it does make a difference in the amount of density.

Q. Do you have any records which show the assessment of property along the number one highway south of Fifteenth Street?

A. Yes, I do.

Q. Will you please—I think we—

The Court: Off the record.

(Discussion off the record.)

The Court: Back on the record.

By Mr. Hughes:

Q. Mr. Austin, will you please describe the properties beginning with Fifteenth Street heading south along the west side of number one highway and tell the Court what they were assessed at or appraised at by the square feet.

The Court: Now, again from yesterday, as we

page 166 } were concluding I do have the appraisal per square foot figures which Mr. Austin gave for every property referred to by the plaintiff. For example, Dinwiddie, 275, etc., etc. That's before me already.

Mr. Hughes: Yes, sir. These are not the same properties. They begin where he left off.

The Witness: What?

The Court: Talking about C-2 properties.

Mr. Hughes: Talking about these properties affronting on Jeff Davis Highway, out on Fifteenth Street.

The Court: All right.

The Witness: Could I read these from the map, Your Honor, from this map I have them appraised on here.

The Court: Yes. Do you have a copy of the map?

Mr. Hughes: Your Honor, he should compose the official figures on this map. It may be a big help to you to have it on the record.

Mr. Spence: I will stipulate that.

The Court: Then it is stipulated that Mr. Austin's testimony would be that the appraisal values of the square feet upon which assessments were made on January 1, 1966, are those additionally shown on paper and I'll mark it.

It's now received and marked D-1.

page 167 } (The document referred to was marked Defendant's Exhibit No. 1 for identification, and received in evidence.)

Mr. Hughes: Thank you, Your Honor.

By Mr. Hughes:

Q. Now you may consider them.

A. Starting immediately on the south of the subject block at the corner of Fifteenth and U. S. 1, or Jefferson Davis Highway, there is an area with 39,129 feet appraised at $5. The adjacent parcel, 1,450 feet, is also $5. There is an 85,949 and you come out on Fifteenth Street. It's also appraised at square feet piece of property that fronts on Jefferson there $5. There is a parcel then, south of this, with 72,400,741 feet that fronts 18,295 feet and is appraised at $5. The rear portion of 53,446 feet is appraised at $3.50.

Q. The small part of land on the corner of Fifteenth Street South and Jeff Davis Highway contains 16,644 square feet and is appraised at $5, the parcel to the rear and fronting on Eads Street and cornering on Fifteenth Street is appraised at $3.50 a square foot?

The Court: All of this is zoned C-2?.....

The Witness: Yes, sir, that is correct.

page 168 } By Mr. Hughes:

Q. Mr. Austin, do you notice any trend along Jefferson Davis Highway heading toward the Marriott Motel south on Jefferson Davis Highway as to appraisal?

A. Do I notice any trend?

Mr. Spence: Perhaps that could be restricted to January, 1966, rather than today?

The Court: Yes.

By Mr. Hughes:

Q. As of January, 1966.

A. Yes. There has been a trend toward development of that entire area. There's no question about that.

Q. What I'm getting at, is there a trend in values of appraisals of property near Washington and further on?

A. Well, I certainly think that the property nearer to Washington, for instance, the Marriott Motel site, would be one of the most exclusive sites in Arlington County.

Mr. Spence: Which one?

The Witness: The Marriott Twin Bridges is the most exclusive site, and as you move south or away from the focal point or from the District, I think you will find that your values will tend to drop off.

By Mr. Hughes:

page 169 } Q. Are you familiar with the 9.9 acre tract discussed yesterday by Mr. Hodges?

A. Yes, sir.

Q. Now, does it seem feasible to you that this tract of 9.9 acres would be zoned all office building?

A. I can only go by it.

Mr. Spence: Your Honor, I think this is a fact that this particular property is zoned C-O.

The Court: Could you clarify this question?

Mr. Hughes: Yes, sir.

By Mr. Hughes:

Q. Does it seem feasible to you that the C-O zoned land would by by site plan approval allowed to be developed into a complete office structure on the whole tract?

F. M. Austin

Mr. Spence: I want to object that it's beyond the competency of this witness.

Mr. Hughes: I think he's qualified.

The Court: By the type of ordinance and zoning, the answer has to be yes, I believe, because if it's zoned C-O and what you know to be 35 feet, you may build office buildings there in the 35 feet without site plan approved. Maybe you intended to ask a further question. I'll hear what it is.

page 170 } By Mr. Hughes:

Q. Let me put it this way.

Do you have an opinion as to the height under a site plan approval to which this tract could be developed in office buildings?

The Court: 1-1-66?

Mr. Hughes: As of January, 1966.

The Witness: Actually, if there were land requested by the owner of the property in this area for a zoning to erect fifteen-story office buildings which he later came back and said that he was developing three, twelve-story office buildings and the County, I believe I'm correct, said nine-story buildings for three buildings, a complex, that Cafritz was asking for in his plan before the County Board to develop—

The Court: Do you know what the floor area ratio that would figure out to nine stories?

The Witness: No, sir, I don't, because I don't know just exactly how much land was involved in the request, sir.

The Court: All right.

By Mr. Hughes:

page 171 } Q. Do you know of any office building developed tract containing 65,000 or 85,000 square feet in the immediate area?

A. Yes, I do. The "paper clip building," of course, we refer to, 400 Army-Navy Drive, has roughly, I would say, 70,000 or so square feet, 71,929 square feet. There is a development there and, of course, in Crystal City complex, that land has been cut into C-O, and R.A.4.8 for apartment use and has been developed and the amount of land allotted under each one of those buildings would approximate something in the neighborhood you're speaking now.

Q. Now, do you have an opinion as to the zoning as a factor in appraisals in the property on, in this general area of Jefferson Davis Highway?

F. M. Austin

A. From an assessor's standpoint, I do. Actually, zoning, until a site plan has been developed, actually, zoning doesn't really amount to a lot. So when we get a C-O zoning or when we get an M-2 zoning or a C-3 zoning or whatever it may be, we have to go by the County ordinance on what can be done with that land until such time as it's demonstrated differently by the actions of the County governing body. For instance, we have R-6 residential land that is used for transit national parking. That will sell for $3 or $4 a
page 172 } foot readily, but to us it can only be used as a residential lot until the County does grant this transitional parking. Then we can move on it, and the same thing is true, I think, under any zoning whatever is demonstrated by the Board in density, height, limit, etc., would determine the final value. But until such time it has to be taken from the ordinance.

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CROSS EXAMINATION

By Mr. Spence:

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In other words, let me phrase a hypothetical question. Say that the "paper clip," the property owned and occupied by what is known as the "paper clip building," if it were put in a place where it could be reached only by going through a a maze, would that have any influence on prop-
page 180 } erty value?

A. The more accessible, the better it is.

Q. Well, then, that would have some influence on reducing the value to some extent, then?

A. This is true.

Q. In your opinion, referring to the E. M. Smith property which fronts on South Clark Street, do you think that location, being different, would be difficult to reach, would that have some influence on the value the appraisers put on it?

A. I think so. I think, in my opinion—again, on this side

of your tracts, the inaccessibility of the land is the one thing, this is the first indication that I have. Generally speaking, the governing body of the jurisdiction owes one thing to the people and this is accessibility. You attempt to make it desirable.

Q. All right. I haven't talked about the railroad yet, but I would like to get into that. You say the railroad. Now, I assume you're talking about the Hengen block?

A. This is correct.

Q. How did you say that would influence the value?

A. I can only be governed by history again. If I were to go down in that area to buy a tract of land, first

page 181 } of all, there is a consideration that you must have a dedication of a street. I think this is pretty well understood from the highways and the maps. Secondly, you have this railroad; this is no monstrosity in anybody's eyes and I don't mean to intimate that it is a monstrosity, but people, people just don't like to cross tracks, not an open railroad track. The indication to me is that you're going to develop first where this does not enter. I think the better the access, the more people you are going to get. It has an effect. How it's measured is another question.

Q. Let me ask you this—you say the properties are effected by the railroads. How do you explain then the Crystal City area? That was situated similarly and I believe at the time it was built back in 1961, 1966, I'm sorry, that it had a railroad running along in front of it.

A. This is right.

Q. Now, that was developed prior to 1966, these properties?

A. What knowledge Mr. Smith had of it was the fact that you know the railroad was moving back in this direction now towards—in other words, coming up number one highway, when he bought it, and he did not purchase all of it. That land, a good portion of it, was under lease. Sev-

page 182 } eral things could have been done. I don't mean to intimate this land isn't good land. It's good land. But I think favorable lease conditions might have had some bearing on this. The approval, of course, is the approval of the site plan which came afterwards.

The Court: Which person are you speaking of now?

The Witness: This is the Crystal Plaza.

By Mr. Spence:

Q. But there are facts that could overcome your opinion as to the railroad?

A. Oh, yes, there's no question that this is bound to happen from the lower end to the upper end.

Q. This is a spur line that runs parallel to the Jefferson Davis Highway?

A. Yes, sir, that's a spur line.

Q. So it's conceivable then that these properties could be served from the rear just as well as they are from the front, then. In other words, let me pose another hypothetical question. If the Hengen block were, say, to develop for office use similar to Crystal Plaza, the property in the Washington Cold Storage block which is south of this company still perhaps could be served by a railroad spur from the rear of those properties, is that correct?

page 183 } A. Sure, if somebody wanted to run a spur in there, I see no reason why not.

Q. You say the railroad is bound to leave the Jefferson Davis Corridor?

A. This makes sense to me.

Q. You say the railroad is running along the front western portion of the Hengen block influences the value because it inhibits access to those properties. If a railroad spur were to run down the middle of these parcels instead of near the Jefferson Davis Highway, would that not inhibit the access to those properties, too? In other words, if it were moved in an easterly direction so it still ran parallel to the Jefferson Davis Highway but down through the middle of those parcels rather than through the—

A. (Interposing) If it ran through the middle of a parcel, it tends to destroy the value of that property of the land.

Q. Regardless of spur or anything else?

A. Yes.

Q. Now, directing your attention to the subject parcel.

Your Honor, could I see, perhaps, Petitioner's

page 184 } No. 1?

Now, directing your attention to Petitioner's No. 1 in the subject block. Could you examine that and see if you could find a railroad spur through the property, perhaps?

A. I know there is. Yes, right on through on this line.

Q. And is there one that runs parallel to that, parallel to Jefferson Davis Highway?

F. M. Austin

A. Down this direction?

Q. Yes.

In other words, this red line indicated right here. Does that indicate a spur line to you?

A. Yes, sir.

Q. Does that run parallel to Jefferson Davis Highway through the middle of the properties?

A. Yes, sir.

The Court: Do you know who owns the ground under this spur?

The Witness: I believe the spurs that go through here, Your Honor, are owned by the individual. I don't think they're owned by the railroad company.

The Court: Who owns the R and D lines between Jeff Davis and Carter Street, all streets parallel?

page 185 } The Witness: Down this side of the street here, right in here, this is owned by the RF&P Railroad Company.

Mr. Hughes: Your Honor, if it will help the Court, I did check the records. It is my understanding that from checking the deeds to Western Electric and others, the easement is granted back toward Jefferson Davis Highway, that is, the people on the west side of Jeff Davis Highway own the land underneath the spur and the railroad has a permanent easement back under the property. I didn't check on the east side.

The Court: The properties in the book fartherest away from the Jeff Davis Highway to the subject block have a particular easement?

Mr. Hughes: Yes, but I don't know about the east side. I don't know whether the railroad owns it, or the people own it.

The Court: All right.

Mr. Spence: If I understand the offer of testimony completely, the part of the tract that runs across Jefferson Davis Highway in a westerly direction right along to the Jefferson Davis Highway are owned by the people in the area here and Western Electric, etc., and the railroads have a permanent easement for this portion.

page 186 } Mr. Hughes: That's my understanding and I think they have an easement from the County.

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Whereupon, ZANE MASON was called as a witness by and on behalf of the County, and having been duly sworn, was examined and testified upon his oath as follows:

DIRECT EXAMINATION

By Mr. Hughes:

Q. Please state your name and address and occupation.

A. Zane Mason, builder-developer, address, 510 South Jefferson Street, Arlington, Virginia.

Q. How long have you been engaged in the appraisal and development of land in the area?

Mr. Spence: I will stipulate as to Mr. Mason's qualifications.

The Court: All right, sir. In land appraisals?

Mr. Spence: Yes, sir.

By Mr. Hughes:

Q. Did there come a time when you were engaged to participate in the appraisal of properties in Arling-
page 189 } ton County?

A. Yes, sir. In the years 1965 and for the first two or three months of '66.

Q. Well, directing your attention specifically to the year 1965, do you have any knowledge of the action taken—

The Court: Let the records show he's a member of that Board.

By Mr. Hughes:

Q. Were you a member of that Board of Assessments in the year 1965?

A. Yes, sir.

Q. Now, as a member of the Board of Reassessments, do you have knowledge as to the actions taken by the Board in reassessing the six subject properties?

A. Yes, sir.

Q. Now, are you aware of the criteria that was used in de-

termining the assessments placed upon the subject properties as of January 1, 1966?

A. Yes, sir.

Q. Did you hear the testimony which was given yesterday concerning the property in the general area of the subject property?

A. Yes, sir.

page 190 } Q. Now, directing your attention to the property on the east side of the Jefferson Davis Highway, would you breifly describe some of the criteria upon which the Board reached its' assessments as of January 1, 1966, beginning with the E. M. Smith property with the motel on it and proceeding south along the east side of Jefferson Davis Highway?

A. (Nodding affirmative.) You want each individual property and how we might have arrived at each one?

Mr. Hughes: Whichever is convenient to you. You can group them.

A. All right. The motel was looked at upon the income approach to it. I can't give that to arrive at the value of the land considering, of course, its age and quality of development, to arrive at the depreciation or obsolescence of the improvement. The other properties where there's a lumber company, a mill work, and cinder block— am I in the right spot?

You said east side. Yes, E. M. Smith, an ironworks, etc., consideration was given to the value of the improvements, less depreciation for their age, wear and tear, and obsolescence and consideration of market value of the land in the area. Some of the physical characteristics for the life of access, the problem of the railroad, lack of front-

page 191 } age onto Jefferson Davis Highway, and some of them were very narrow in proportion of their development. Many factors were used in arriving at the value, but these were some of the criteria getting the consideration of the value on it.

Q. West of the Jefferson Davis Highway?

A. It would be pretty much the same, information would be used to arrive at the values of this block. In particular, we had to consider the whole Jefferson Davis corridor because of the recent development at the southern end of the Crystal Plaza. This did *creat* a trend. Well, the Army-Navy Drive, some refer to it as the "paper clip building," but in-

come from these where the information was available was used and also the market value of our sales of the property in that area.

Q. Now, when you make an appraisal, do you appraise according to fair market value?

A. This was what we were charged with and to the best of our ability, this is what we tried to do.

Q. And do you consider the building on the land or improvements on the land?

A. You would have to consider both as a complete unit because they represent the total market value. You couldn't sell one without selling the other.

page 192 } Q. Now, is there any particular procedure or can you describe the factors of appraising the land improved?

A. In this particular block as compared to the trend in the area and of the use to which we felt this land could be put under existing zoning, we thought that the industrial type of use it was being put to was outmoded and was obsolete. However, we did have to compute the cost of the buildings on today's market in building them and allow a depreciation for their age, leaving a balance of this market value for land. In other words, the land, market value, was the value of the land and the cost of demolishing the buildings. This, in essence, is what the market value of the land is with the approach that you would tear down these buildings to make use of this land and so the value of your land is actually the cost of demolition for all practical purposes, the cost of demolition subtracted from your overall market value to end up with a net figure for your land.

Q. Directing your attention to the block in which the subject properties are located, would you tell the Court those properties which you feel are comparable and the basis for this? You may refer to the map.

A. Well, I think each property on the west side of Jefferson Davis Highway is comparable and even in-

page 193 } cluding the property as noted here on this map as Cafritz is appriased at $3 a foot. That's also comparable but unfortunately is not appraised at what the others are. It should be. The others are comparable in that they are appraised at $6 and, in my opinion, are worth a value of $6 plus the value on the buildings, if they were torn down. The values of the buildings placed on there and the values of the land represent the total market value of those sites.

The Court: In general, let me advise you. Your testimony should relate to January 1, 1966.

The Witness: This is what I'm referring to.

By Mr. Hughes:

Q. Would you please advise the Court how the $3 assessment was placed on the Cafritz property?

A. This property in this area was gone over twice, two or three times, from the extreme southern end of the corridor, the Crystal Plaza area, and even farther south than that and up to this point. The first look we took at it was different than what we put on it, on the second review of it we lowered a good many of them and some of them were increased, but in doing this, we failed to go beyond this point where the Cafritz property begins other than the initial appraisal made on it and that appraisal was made without benefit

page 194 } of the knowledge of the value placed south of there and without benefit of review. It occurs on a map that we had used which was in a tax map book—I don't know if it's here.

This isn't the one we used, but it shows the same thing. They are reproductions of them. It occurs in the corner of a map and it had a figure on it. And doing the property on the south of it, we assumed, since the Board was working under pressure at the time, we didn't get around to a review, to make an appraisal on the property and the property around that corner.

Q. Well, is the Cafritz property on each one of four corners, if you pasted them together on the map that you used?

A. This property would be divided.

Q. Would you indicate it on the map there?

The Court: D-1?

The Witness: Well, it appears on three maps, possibly even a fourth one, in the corners of them. But all of these others maps, it occurs sort of to the north and the rest of the balance of the Jefferson Davis corridor—

Mr. Hughes: Then, as of January 1, 1966, what was your opinion as to the value of that piece of property?

The Witness: It probably—

pae 195 } Mr. Spence: If Your Honor please, I object to that question. I think the assessments are the acts taken by the Board as a whole; I think it's improper to state from this one witness what his opinion of the value of that property is, as of January 1, 1966.

Zane Mason

Mr. Hughes: I think he said the property was overlooked and I think he should be allowed to give an opinion as to what the property was at that time. He's qualified as an expert.

The Court: Well, if it's offered growing out of his knowledge, out of the type that Mr. Hodges had, it's permissible and I so hold.

The Witness: Let me state then it's my opinion then and not the members of the Board. I think its value is something between the $6 figure and $10 placed on the property just north of it. There's not a great deal more than the $6 figure. It's vague. We do not have to have the cost of demolition involved and this value of the land would be increased slightly over the others to be an equal to the other properties.

By Mr. Hughes:

Q. Are you familiar with the other properties which are on Army-Navy Drive, owned by Cafritz, the four

page 196 } parcels that front Army-Navy Drive?

A. Yes, sir.

Q. Now, do you know the zone to that, those four parcels?

A. Presently, they're zoned C-O.

Q. As of January 1, 1966?

A. As of January 1, 1966, they were zoned C-O.

Q. Would you please tell the Court your opinion as to the zoning as a factor for assessment or appraisal?

A. We appraised the property in every instance that we could for the use that would be allowed under its existing zoning at that time. That C-O property there did not have site plan approval, it had expired. There was quite a change taking place in the area, particularly to the south and we did not know what ultimate development might be on that property, knowing what the County Board would grant. Under its existing C-O at that time, it would have been limited to 35 foot in height or comparable to a C-O zoning, and the fact that it would not have been allowed had someone bought it without rezoning, more or less by getting approval of the site plan which is equivalent to rezoning, its use would have been rather limited and this could have been taken an unknown length of time.

page 197 } Q. Directing your attention back across Jefferson Davis Highway, the east side again, you stated that access was a factor which you considered in appraising the property which fronted there.

Now, did you consider the railroad line which runs in front of the property?

A. Yes, sir. The railroad served a warehouse area to the south of Fifteenth Street and those warehouses were dependent on it. There was rather recent construction there, not new, but new enough in that the value was high enough so that it would be there for quite a long time and that railroad, we felt, would be necessary for their usefulness for a long while. To this extent we did consider it and the fact that we would have to have crosses across it.

Q. Are you aware of any properties in the Jefferson Davis area which were not reassessed by your Board?

A. I'm not aware of any that weren't reassessed; that were omitted entirely.

Q. Now, directing your attention back to this Cafritz property, in more detail could you describe the procedure as to how it was reassessed and in comparison with how the adjacent property or subject properties were assessed?

The Court: He's already said they took one
page 198 } look and reached a figure which apparently was the figure now remaining, $3.

Is that right, Mr. Mason?

The Witness: I could clarify. I don't feel this would be an omission or fault of the procedure or operation of the general Reassessment Board, but five men were to appraise 3,000 pieces of property; five men as a group went out each day and looked at each property in this county. It probably would have taken ten years to have done the job, so the county was divided up and we went out in pairs of two, sometimes three, and on occasions some things we felt in single family residences and where we felt each was competent to do this, we did it singularly and each was reviewed and the information brought in the office. And on all the commercial property, we went out in at least twos and threes because it was much more difficult to arrive at and many more factors to consider, and after these appraisals were made, if a pair went out, it was brought back to the Board, and this is what failed to take place on this particular piece of property. It was looked at by two of the appraisers on the Board and was not reviewed by the Board under pressure of time because this was one of the last areas of the county which we did
page 199 } work on.

Zane Mason

Q. Then do I understand that you figured the appraisals twice on all the properties except the Cafritz property in that block?

A. On all the properties in this area with that exception.

Q. Well, the M-2 zone is restricted to those properties.

A. With the exception of the M-2, C-O, and the corner of Army-Navy Drive and the Cafritz property, between Fourteenth and Eads, the end of that block was not reviewed but looked at the one time.

Q. But you did go back and reassess the subject property?

A. Yes, sir, and we did reassess all of the others. We did take a second look at the other properties from Arlington Ridge Road to the railroad property, east of Jefferson Davis Highway, from the Pentagon to the Arlington County line.

Q. Would you describe to the Court the use under the M-2 and C-3 zoning, the difference if this was a factor in your appraisal?

A. What was a factor?

Mr. Spence: M-2, C-3?

Mr. Hughes: Why don't we do it with the M-2, page 200 } C-O, and the C-3.

The Witness: C-2 wouldn't have any value here. M-2 is equivalent of C-3. That is, you can put it to equivalent uses allowed by C-3 zoning which would be a height of 75 feet. This particular site doesn't show but perhaps from ten feet from Eads to Jefferson Davis Highway and you could easily put an eight-story building there. The fact that it did have zoning meant that you could acquire that property as of that date and build an eight-story office building on the property and, we felt, build a parking garage to accommodate the parking required for C-3 and compare to C-O and had an investment that could be reasonable at a figure of $6 a square foot plus allowing for the demolition of those buildings along there. Comparing to C-O where your density was held to a 2.2 floor ratio or less, this would be feasible. In a given site of a floor ratio of 2.2square feet of office space to a square foot of land in C-O, as compared to C-3, I could put on about the same amount of square footage of office space and still allow for parking under C-O. Assuming C-3 paid for the same amount of floor space, you would be comparable there, and all the existing parking spaces could be rented from $10 to $15 a month for space so the parking spaces could give you a return on your investment of

page 201 } building that parking garage. So the C-3 at $6 a foot is possible to develop it comparable to C-O with a floor ratio of approximately two feet of office space to a foot of land area and equal that investment, assuming that you paid $10 a square foot or more for the C-O zoning.

Q. Then, in your opinion, zoning is an important factor for you in your appraisal?

A. It's the only way you can appraise it because it tells the use you can put the land to.

Q. When you arrived at a fair market value taking the zoning into consideration, as of what time were you making that appraisal?

A. Well, the appraisal was as of December 31, 1965, and January 1, 1966, and it was the zoning that was existing at that time.

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CROSS EXAMINATION

By Mr. Spence:

Q. Mr. Mason, you say that the procedure of your Board was that you had divided the county up and particularly in respect to commercial and industrial property, things of that nature, the teams of two and sometimes three would go out and look at and arrive at certain opinions, write page 202 } these opinions up and submit them to the full five-member Board where they would be reviewed?

A. Let me back up a little bit.

We did tour briefly as a Board in its entirety similar to the trip we took yesterday. We all rode through the area and then each would take in part of an area and divide it up in that fashion and work on it in pairs.

Q. So sometimes in the process all of the members of the Board saw—I'm not trying to attack the process particularly, but I'm trying to get it in my mind.

Now, as these things were brought and reviewed by the Board, were any records made of the review or anything of this nature?

A. We had a map that we kept on the wall. When we had done an area it was colored in to indicate that we had finished that area.

Q. Right.

Zane Mason

A. It gave us a visual picture each day or each week of how we were progressing in our race against time. This is the only thing.

Q. This told the members of the Board what had been reported on to the whole Board. But was any record made of any refusal, etc.; in other words, I understand

page 203 } you said that you would take a parcel and when it had been looked at and you would report it and the area would be colored on your map.

Now, when the next step was taken, were any records made that would record or show that a review had been accomplished?

A. No. Generally, we would sit down around a table and go over them but nothing was written down to the fact that we had or had not—

Q. Then how can you tell the Court catagorically, as I understand you have, that there was no review of this particular parcel out of the 3,000 you all must have considered?

A. Well, from memory because the property south of there and being recently developed would result in a great deal of tension and faults to it because of leases which existed in the Crystal City area that were very low.

Q. Let me ask you it this way—do you have any opinion or recollection of reviewing or not reviewing this particular parcel?

A. Yes, sir.

Q. You do. And you can distinctly remember this particular parcel not being reviewed?

A. I can distinctly remember that I did not

page 204 } with anyone else review the property on the north end of this block.

Q. The Cafritz property?

A. Yes, and the office building that existed there.

Q. All right.

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page 208 }

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On the subject properties, did you consider the

page 209 } future use of these subject properties?

A. Not so much for the future, but what it

could be used for that day. The future would be on what we thought any reasonable approach to it would be a person which would buy it for use maybe in the next month or the next year, the future being a reasonably short time.

Q. I understand that. So that you did consider in arriving at the evaluation of these properties, subject properties, the Hengen block and also the Washington Cold Storage block further south there, you would consider this in all these blocks, then?

A. Yes, sir.

Q. Then that would also go for the area of the Cafritz property all along Army-Navy Drive?

A. Yes, sir.

Q. Now, in that consideration I assume that you would have considered how long it would take someone to get from these properties to, say, Washington, D. C.: would that be one of the criteria?

A. In appraising, it was probably getting very little consideration in the time, what it would take. We gave most consideration to the value of the property so we would work it on the going rates in the area and not really be concerned

page 210 } about the time it took to get into town if we were in the area that people were paying x number of dollars per square foot or something and we were in the same area, it would be considered equal. If we were a little bit closer to town, we would note that the rental rates would be greater or higher and so the time would enter into it, but we wouldn't consider the time. We would look at the rates, for instance, the "paper clip building" which was compared to buildings in the south and know that we were in between.

Q. Now, getting right down to the basics, though, beyond the rental value in order to estimate what the rental would be, you would have to compare a lot of different factors like time, size of the property, location, things of this nature in order to determine or compare the rental value of, say, Crystal City?

A. And you would also have to take into consideration some of the—

Q. (Interposing) Is that right, though? You would have to consider those things?

A. Yes. You would consider whether this property was leased, purchased, the terms of its lease, etc.

Zane Mason

Q. All right. Now, in considering these rental values and, say, comparing the Crystal City parcel with the subject property, would it take a short or longer time to
page 211 } move from the subject property to Washington than it would, say, from the Crystal City parcels to Washington?

A. It should take a little shorter time.

Q. All right. Now, how about comparing those two same parcels, which would have a better view across Shirley Highway and from Shirley Highway across the subject or either of these two parcels? In other words, which would be readily seen from, say, Shirley Highway?

A. Well, as seen from Shirley Highway, it would be paralleling it on Army-Navy Drive. We compared one view from one highway, if you want a specific answer to that.

Q. At this point I'm trying to compare the subject property, the five or six properties in suit today, with Crystal City.

A. You would be going down number one highway, Shirley Highway. In other words, if a car were moving up Shirley Highway about at the Pentagon which of those two properties would be the most viewable.

Q. In other words, would this subject property be more viewable from Shirley Highway than Crystal City?

A. It would be closer and you could make out more detail when you seen it. I don't think one would block the other unless you had the height of a building which
page 212 } would block its view. You would be able to see this better, but you could also see the other from Shirley Highway. It's elevated. But because of the distance it wouldn't be as clear.

Q. So that it might be as much if not more so than Crystal City, is that true?

A. More so.

Q. Now, comparing the subject property with the block directly easterly across Jefferson Davis Highway. Would the subject property be more or less accessible in that particular area, say, to Washington, D. C., in time?

A. Under the highway conditions that existed then, the property on the west side would be more accessible.

Q. About how much more accessible?

A. If you were in the left lane going toward Washington you could wait at the red light at Fifteenth Street so you could make a left-hand turn to any one of those properties.

Q. But I'm thinking now of the moving from these parcels to Washington.

A. If you're moving from the parcels to Washington under existing conditions?

Q. As of January, 1966?

A. I'm referring to that, too, if somewhat the same situation could occur. I don't know the traffic count,

page 213 } I would almost have to check into that.

Q. But the eastern side, you say, has a traffic light. The property there would have to go down to Fifteenth Street and go—

A. (Interposing) Except some don't have access to Fifteenth Street.

Q. Say in the middle of the block, they don't have to worry about the light.

A. Some of them on the east side would have to exit over the railroad.

Q. Okay.

A. But the present crossing there you couldn't get exit very rapidly.

Q. But speaking now, if a car were to leave at, say, 9 a.m. or 10 a.m. or any particular time from the subject parcels and at the same exact moment another car was to leave the eastern side there, those would be going to Washington, would there be any appreciable difference in the arrival of those two automobiles?

A. Not an appreciable difference, assuming you had a bridge crossing.

Q. Now, as far as view goes, say, from the Shirley Highway area over to the subject parcel and the Hengen

page 214 } block of the subject parcels, would you compare the view from the Shirley Highway, would it be more or less from that point?

A. You might have had a little longer while maybe for viewing across the Cafritz property to the subject property. If you wanted to compare in seconds, I think it would be negligible.

Q. About the same?

A. About the same.

Q. Say a car was moving in either direction along the road going to or by the Washington National Airport, of these two properties which would be more viewable there?

A. If it were National, you could see the property closest to you.

Q. Right.

A. It seems to me that as you come, and this is a recollection, it seems to me that as you drive along Mount Vernon or Memorial Boulevard, it would be quite a distance removed. The railroad property is elevated.

The Court: You speak now of the main artery line east of all these properties?

The Witness: East of all these properties. I don't know what view you would really have from this side.

By Mr. Spence:

page 215 } Q. We're talking now about facts that might have entered into your potential appraisal of the properties. Supposing that in January, 1966, there had been comparable buildings, say, to the "paper clip building" on the subject properties and also on the Hengen property, use that aspect, which would be more readily discernable, the Hengen building or the other building? As viewed from the airport road.

A. From the airport road. The buildings closest to the airport road would be seen.

Q. Now, if those were apartments, would it be fair to say the apartments which overlook the river, would be more valuable, would furnish a higher rental, perhaps, than those that do not overlook the river or a block from overlooking the river?

A. The ones with the view would command a higher rental.

Q. So this would enter into your appraisal of one of the properties bearing upon the rental returnable?

A. No. Approaching it from the apartment standpoint, it would have entered into it more so than apartment rental.

Q. It would have office space?

A. You said apartments.

The Court: Now wouldn't it still influence the

page 216 } value of the office space to overlook the river, perhaps not as much, but to some degree, anyway?

The Witness: No, sir, most of the leases that prevail in the Rosslyn area have a better view. The government pays more for those leases because of the view. They pay the same for the square foot basically throughout the area and all the leases with them even as far out as Wilson Boulevard to Quincy Street, the leases were paid upon the square foot

basis and services rendered by the landlord and there's no difference we could see other than the location, proximity to town; there was no difference we could recognize depending on the view. Now, the government is probably more watchful over its dollars and luxury of service and view. There are very few office spaces in Arlington County rented by private industry on this basis. In this instance, an individual might have made a few dollars more or a little extra, but we take an entire building whether it's on one side of the street or another.

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Whereupon, MR. ZANE MASON was returned to the stand and was examined upon his oath as follows:

CROSS EXAMINATION

By Mr. Spence:

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Would you say now comparing the subject property with those, say, those in the Hengen block, would they be comparable in size and shape to the subject property?

A. The Hengen property or that side of the railroad?

Q. I'm talking about the property on that side.

The Court: East of it.

The Witness: East of the Jefferson Davis Highway has a greater depth than the property generally speaking, well, a good number of them don't have quite the same frontage. It also has one access which is the front, across the railroad. The property on the other side of Jefferson Davis Highway has two access routes, Eads Street being one.

Zane Mason

Q. I was asking you specifically with regard to the size of the property.

A. If you took each property individually, I imagine you could get an average.

Q. Were they comparable in size and shape, though?

A. Basically, they were rectangular.

page 228 } Q. Basically, they're more or less the same size.

A. Right.

Q. Would this size have some—I think we established earlier today one of the things you took into consideration in the value of these properties would be how they might be developed in the reasonably near future. Wouldn't this be one of the things you might take into consideration?

The Court: I'm going to have to remind both counsel the standard is not how they reached it as much as what factors weighed upon it.

By Mr. Spence:

Q. Would this not be one of the factors that weighed upon your decision, then?

A. The size?

Q. The size.

A. Well, from looking at the map, to refresh my memory a bit, there are more properties, I believe, involved in the eastern side, there are one, two, three, four, five, six—well, there's one more, but they're quite heavily developed, the smaller ones, down here, this lumber yard and Arlington Mill Works, it's a very narrow size and because of this small size and relative improvements put upon it you would be harder pressed to sell something like that with

page 229 } the improvement on it than you would an available piece of ground on the other side where except for the Stone property which has quite an improvement on that.

Q. Then the more ownership of a small parcel, the less that might inflate the value for future uses?

A. The more ownership, the smaller the parcel, the harder it would be to assess it and the less value you would have to put on it.

Q. Now, comparing these two as far as that goes, how would the property in the *Hedgen* block compare with those on the other block?

A. If you tried to assemble the entire block, someone would have to absorb it. Well, I will make a comparison here. The Hengen block which as a cinder block type arrangement on it and the Arlington Mill Workds which is more covered and intensive improvement on it, being narrow and deep per square foot, this would run greatly in excess of any figures we've talked about today. I don't know if I have that. I don't believe I have that card here, but to write off that improvement you would have to pay $10 per square foot for it for that property. Therefore, Mr. *Hedgen's* property would have to sell for $2 to make a balance. Someone would have to absorb that balance or you would be stymied in your

page 230 } assembly.

Now, on the other side of the highway with more of the area being unimproved, you don't have to write off the improvement and so you would be dealing more with land evaluation of a true value per square foot and not of the then improvements. I think anyone going in to develop a piece of property—first of all, they must consider the opinion of the others, their willingness to sell. They may be waiting for something greater and you may never be able to get your foot in the door. Just looking at the ease of assembly, I think the property west of Jefferson Davis would be easier to assemble.

Q. Now, at the time—I'm sorry. The property east of Jefferson Davis would be easier?

A. No, I mean west of Jefferson Davis. One of the factors that entered into it is that you have more going business and have leasehold interests east of the highway, so you would have to determine not only with the owner in mind but the man who has the business so it makes it more difficult to assemble on the east side.

Q. When these appraisals, etc., were made, did you at that time have any knowledge of any operation that might have been in existence at that time on the Hengen prop-

page 231 } erty or any other property?

A. No, sir, we had no knowledge of operations or anything.

* * * * *

page 232 } Mr. Spence: I think he testified he didn't know of any at that time. I think you mentioned earlier that the railroad was running along the easterly side of these

properties and influenced your opinions to the value of these properties?

The Witness: Yes, I don't know if I stated a reason for it.

By Mr. Spence:

Q. Go ahead.

A. I think we did speak with respect to the problem that would be encountered in eliminating the railroad in that the warehouses south of here were not too old and were depending on that railroad and in view of that, you would have to deal with the interest that the people had in this warehouse area.

Q. As far as that aspect of it goes, these warehouses were southerly on the same eastern side?

A. Yes, sir.

Q. Isn't it true that actually these properties could be served from the rear, in other words, the line could be taken up on the Jefferson Davis side, these properties could then be line of the RFP to these properties exclusively?

page 233 } A. If you ask me if it could, well, anything could be possible in the railroad.

Q. There's another line back there, the main line to the rear of those properties. The spur could lead to the *Hedgen* block or some other block if it were desired to be rebuilt.

A. That would be an expense that would have to be dealt with when it arrived.

Q. Now, directing your attention to the properties west of the subject block on the westerly side of Eads Street. The Cafritz warehouses, etc., in there is a corporate ownership. Is there any other way these properties could be served by rail?

A. No. Going all the way to Western Electric, I'm not sure the railroad goes all the way to that point or not, but the way that railroad goes through the property and up to a lot line between the Stone property and the Cafritz and the Cafritz property is large enough in and of itself for a quality development, the railroad, by going along the lot line similar to a power line easement right down the line—

Q. That's not what I asked you. I asked you if there was another way to serve those properties by rail.

A. Not that I'm aware of.

page 234 } Q. This line east of Jefferson Davis Highway, if it were moved, say, in an easterly direction so that it went through the middle of the *Hedgen* property, etc.,

would that have any influence on the value of those properties? In other words, would that inhibit the improvement of those properties, in other words, if it was moved parallel in an easterly direction then what it is now.

A. It would depend upon what use that railroad was being put to, why it was put there, what it was serving.

Q. Let me ask you: If you moved it easterly so the line ran along the middle of those properties, would that line inhibit the improvements?

Mr. Hughes: I object.

The Court: Let me hear the rest of the question.

By Mr. Spence:

Q. Would that not inhibit the improvement on those properties?

The Court: Say that in closing argument.

Mr. Spence: It's the same question that Mr. Austin was asked earlier.

The Court: You may argue it but not ask it now.

Mr. Spence: Very well, Your Honor.

* * * * *

page 235 } Q. What would be built, directing your attention to the Hengen property there, what could be built under present zoning that could not be built on the subject property?

A. What could be built on the subject property that could not be vice-versa?

Q. Either one.

A. Or adjacent property?

Q. Anything that could be built on one that could be built on the other.

A. I doubt if you could get a permit to build anything over there of importance unless you satisfied the highway department of the state and the county as to the disposition of the railroad and provision for access to the bypass streets.

Q. And they did this in Crystal Plaza?

A. Yes.

Q. It's possible to arrange these things, something like this can be arrived at?

A. Generally, at some cost, yes.

Zane Mason

Q. But as far as physical characteristics of the land, one against the other, this thing could be built on one as opposed to the other?

A. With the skill of an architect you could put the same on one or the other, I would guess.

page 236 } Q. Either one there would be probed with regard to access which had to be resolved? In other words, problems on the Hengen property would have to be resolved and on the subject property, with regard to access would have to be resolved?

A. There are different problems of a different nature.

Q. Right. But there are always problems on each that would have to be resolved?

A. I think the problems that you confront to the west of Jefferson Davis are very minimal.

Q. To the west?

A. To the west.

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Q. All right, now while we're on the subject of site plans, etc., I think you mentioned in your testimony with regards to the Cafritz property the nine acres of parcel fronting particularly on Army-Navy Drive and that the old site plan on those has expired and consequently you didn't evaluate those as highly as if perhaps they had a site plan on them—

Mr. Hughes: He didn't say that, Your Honor.

Mr. Spence: I think it's implied and I'm asking if that's right.

The Witness: Apparently this was given a good deal of weight, but this property north of here in this C-O zone was not reviewed by the entire Board.

By Mr. Spence:

Q. None of the Cafritz property was reviewed?

A. The C-O on the north end of the block, I

page 239 } guess, two blocks involved, touching the third.

Q. Zoned C-O. You mean none of these were reviewed?

A. To my knowledge, they weren't after the original appraisal was applied on them. The appraisal was made but the Board didn't offer this.

Q. The Cafritz property, the M-2?

A. No, not where that line is drawn. It fell on a different man to appraise and was not pulled out with this card for review some way or the other.

Q. All right.

But your testimony earlier was that there was no site plan on any of these Cafritz properties?

A. At that time.

Q. And your opinion was that that influenced the evaluation?

A. Yes, sir.

Q. Now, you say there was an old site plan that had expired. Do you know what that old site plan reflected?

A. I would have to go only on what was told to me. I think it was a ten-story building. I didn't see it or I didn't look at it.

Q. Was there a shopping center on that parcel, too?

A. I don't know.

page 240 } Q. Was there apartments, more than one building?

A. I don't know. That's all I heard.

Mr. Hughes: Objection, Your Honor.

The Witness: If you ask me to give an opinion, I don't know. I don't know what the site plan contains.

The Court: I'll tell you, Mr. Mason just doesn't know.

Now, a site plan which had expired and something with regard to ten stories is all he knows.

The Witness: This is my understanding of it.

The Court: He says he hasn't seen the plans. These are things you heard from other people other than visual evidence?

The Witness: I didn't see it.

The Court: Objection sustained.

Next question.

By Mr. Spence:

Q. Did you render an opinion in your evaluation as to the value of the Cafritz property?

A. I didn't give a definite opinion. I said that the Cafritz property would vary.

Zane Mason

Q. You figured those on a per square foot on those properties west of Eads Street in front of Army-Navy Drive and they reflect a true value of January, 1966?

page 241 } A. No, sir.

Q. What do you think that value is on those parcels?

A. I think as of that time it would have been in the larger tract, well, both tracts, one tract there of nine acres, I believe, and one twenty-plus acres and one nine-plus acres, because of the terrific size of them you would be rather limited in the number of buyers and their rate per square foot would not be comparable to a C-O site.

Q. We're talking about selling the whole thing as one parcel.

A. Well, he would have to look at it in one parcel.

Q. Subdivided, owned by four different corporations?

A. It wasn't. I'm talking about the nine acre tract and the ten acre. Are you speaking of all the Cafritz holdings?

Q. I'm sorry. I confused myself. Go ahead. You're talking about the nine acres. Possibly of that size.

A. At a higher rate?

Q. Yes, sir. As they would for a smaller piece. In other words, you sell more Fords than you do Cadillacs. Taking that into consideration, what would be your value of that particular parcel?

The Court: 9.9 acres?

page 242 } The Witness: I think so. I don't think that I can give you an off-hand opinion right now. There are certain things you have to consider. I think anyone applying for re-zoning or a site plan approval which is equivalent to re-zoning would be deferred and deferred a number of times until anyone interested in accruing it on a huge tract of land and his price that he would be willing to pay for that would have to be taken into consideration.

By Mr. Spence:

Q. Taking that into consideration, what would be your opinion of the value?

A. I think somewhere between the $6 and $10 figure, probably closer to the $10 figure on the nine acre or ten acre tract than to the $6 figure.

Q. Would that $6 to $10 figure, would that apply to the two parcels between Fifteenth and Eads Street in front of Army-

Navy Drive, would that hold true of that, too, or would it be more or less—

A. (Interposing) I think it would range in the same general price range from $6 to $10 at that time.

Q. Now, there's one remaining parcel, I think, to the south of these latter two. What would your price range be for that?

page 243 } A. The one behind the "paper clip building," as we refer to—

Q. No, sir. The one between Fern and Eads and next to the government warehouses.

A. I would probably give it—since it's one—ownership, you wouldn't have the problem of assembly. It still would fall within the average site range as a site from $6 to $10. The two pieces on the front would carry a higher value because of the frontage. The rear because it lacks the prestige front would be less.

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A Copy—Teste:

Howard G. Turner, Clerk.

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