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Valuation of Rail Corridors: A Brief for the *Canada Transportation Act* Review

Research conducted for the *Canada Transportation Act* Review

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VALUATION OF ABANDONED RAIL CORRIDORS

A Brief For The Canada Transportation Act Review

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EXECUTIVE SUMMARY

There are certainly significant opportunities and benefits for the acquisition of abandoned rail corridors for future mass transit (and other uses). The mechanisms for abandonment under the CTA currently ensures that the railways follow certain protocols which include private (“open market”) interests first, failing which, all levels of government in sequence, and finally, where possible, the sale of individual parcels or segments of the corridor to abutting owners.

The existing legislative framework requires corridors to be transferred at not more than their “Net Salvage Value” as part of the abandonment process. Keeping the principal of abandonment in mind, the methodology for valuation must still remain flexible enough to allow the appraiser to reflect the inherent characteristics of the land within the corridor, but the final value estimate should not exceed the “Across the Fence Value (ATF)” of the corridor. There are three methods that are appropriate to use in estimating the Net Salvage Value of the corridor under the CTA process:

- The Direct Comparison Approach to Value: This approach is not common, but could be used provided there are adequate, verifiable, abandoned, and Canadian corridor sales that are similar in terms of location, physical features, and other characteristics;
- Application of a Discount Factor to the ATF Value: The appraisal begins with determination of ATF Values to ensure that the corridor’s final value reflects the abutting land uses through which it passes. The next step is to apply a Discount Factor to the entire corridor. This Factor needs to be derived from verified sales of Canadian abandoned corridors located within similar market areas in order to be relevant;
- Completion of a detailed “breakup analysis” of the corridor: the present value of the net amount the owner would likely receive if it was sold on a “piecemeal basis” over a reasonable period of time is estimated by the appraiser. This is based on the highest & best use of the individual segments of the line. The characteristics of each segment of the corridor is taken into account; some of which may be independently viable, whereas others would need to be sold to abutting owners. The reaction of buyers and market demand will vary by the types and density of land uses through which the corridor passes.

PURPOSE

The purpose of this brief is to provide the Review Panel assistance with respect to real estate valuation issues regarding rail corridors specifically as it considers,

“The advisability of specific measures designed to preserve urban rail corridors for future mass transit use in the rail abandonment process”

This brief will provide an overview of some of the fundamental appraisal principles which form the basis of the methods followed by appraisers in the valuation of corridors.

Some recommendations are also made to the Panel with respect to the Canada Transportation Act and the above issue under consideration.

DEFINITIONS / CONCEPTS OF APPRAISAL

All members of the Appraisal Institute of Canada (AIC) must adhere to the newly adopted (Jan 1, 2001) Canadian Uniform Standards of Professional Practice. The intent of these Standards is to,

“promote and maintain a high level of public trust in professional appraisal practice by establishing requirements for appraisal, review and consulting assignments.”

In Addition to providing appraisers with Rules, Comments, and Practise Notes, the Definitions section forms an integral part of the Standards. It will be useful to review some of the key (general) definitions used in the appraisal of real estate. Additional reference is also made to the American Appraisal Institute’s , “The Dictionary of Real Estate Appraisal”, 3rd ed., 1993, which has a more complete list of terms. The list of definitions is rather brief, and of course, some concepts require further clarification.

Accrued depreciation: The difference between an improvement’s cost new and its value as of any given date.

Assemblage: the merging of adjacent properties into one common ownership or use. Not all assemblages of parcels result in a plottage increment, since an added value depends on an economic need for the larger unit.

Plottage: the increment of value created when two or more sites are combined to produce greater utility.

Corridor: a strip of land between two destinations where traffic, topography, environment, land uses and other characteristics are evaluated for transportation purposes.

Highest and best use: the reasonably probable and legal use of property, that is physically possible, appropriately supported, and financially feasible, and that results in the highest value.

Real property: the interests, benefits, and rights inherent in the ownership of real estate. In some jurisdictions, the terms real estate and real property have the same legal meaning. The separate definitions recognize the traditional distinction between the two concepts in appraisal theory.

Intangible property (intangible assets): non physical assets, including but not limited to franchises, trademarks, patents, copyrights, goodwill, equities, mineral rights, securities, and contracts, as distinguished from physical assets such as facilities and equipment.

Value: the monetary relationship between properties and those who buy, sell, or use those properties. Value expresses an economic concept. As such, it is never a fact, but always an *opinion of the worth* of a property at a given time in accordance with a specific definition of value. In appraisal practice, value *must always be qualified*, e.g. market value, liquidation value, investment value, rental value.

The differences in value definitions depend on the use for which the appraisal is intended and therefore affects which principals/methodologies are applied by the appraiser and the credibility of the results. The definition is usually determined often by the client and/or legislative restrictions (i.e. financing, assessment, expropriation, others).

Property Rights / Interests in Land To Be Appraised

The “bundle of rights” or legal privileges included with the ownership of real estate include the right to use it, sell it, lease it, enter it, give it away, to refuse to any of the above. These rights are, however subject to public limitations (in Canada), including : taxation, expropriation, police power, and escheat.

The relevant estates or interests in land can be summarized as follows:

Fee Simple Estate: the most common estate to be valued which includes the “full bundle” of rights within a property , unencumbered by any other interest or estate, subject to public and private limitations;

Easement: this is a partial interest in a property which entitles the owner to use the land but not to own it. This may include surface (i.e. driveway) subsurface (i.e. pipeline), or other use and may have a time limit or run indefinitely.

Restrictive Covenant: this is an agreement registered on the title of a property in which two parties agree to certain uses or non-uses of the property for the benefit of other properties. For example an oil company may sell a gas station site with a restrictive covenant preventing the use of the site for the sale of gasoline or other fuel related products for a certain time period.

Railway corridors may be owned in fee simple (most common in Canada) or (more common in the States) they may be an easement that is extinguished upon abandonment and full ownership in the land reverts back to adjoining owners.

Definition of Market Value

The *Standards* currently defines MARKET VALUE as:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specific date and the passing of title from seller to buyer under conditions whereby:

- C buyer and seller are typically motivated;
- C both parties are well informed or well advised, and acting in what they consider their best interest;
- C reasonable time is allowed for exposure in the open market;
- C payment is made in terms of cash in Canadian dollars or in terms of financial arrangements comparable thereto; and,
- C the price represents the normal consideration for the property sold unaffected by special or creative financing or sale concessions granted by anyone associated with the sale.

Highest and Best Use

Highest & Best use means many things to many people and numerous articles have been written on the subject. The lack of a uniform interpretation results in the differences in value estimates by appraisers. This paper is by no means meant to be a comprehensive study on this concept, however some of the basic elements are introduced, with the assistance of additional material and articles.

The Highest & Best Use is not determined through subjective analysis by the property owner, the developer, or the appraiser; rather, highest and best use is shaped by economic forces within the market where the property is located. Therefore the analysis and interpretation of highest and best use is an economic study of market forces focussed on the subject property. The benefit a real estate development produces for a community or the amenity contribution provided by a planned project (i.e. the public space in a park like setting) are not considered in the appraiser's analysis of highest & best use.¹

The four criteria that must be met in highest and best use analysis are the following:

- legally permissible - the use must be permitted by law (including zoning bylaws, building codes, environmental and other regulations (i.e. rent control), etc., however, the appraiser must also consider the possibility of a change in zoning which could be obtained due to shifting economic and social patterns. The factors relating to a possible change in zoning, for example must be disclosed as well as consideration of the risk, time, expense of obtaining the change. The Official Plan of a municipality is often the guiding document used to gauge the possibility of any zoning change but may not be the ultimate deciding factor;
- physically possible - soil conditions, topography, public access, parcel size and shape, adequacy and location of municipal infrastructure (such as water, sewer etc.) are some of the constraints that would determine whether or not a use is physically possible. These issues, however, can usually be overcome with additional capital (which will also affect the next criteria);
- financially feasible - the use must produce a positive income or return that meets certain "rates of return" requirements after satisfying operating expenses and amortization of capital;
- maximally productive - the use that produces the highest rate of return given the previous considerations

All appraisal reports should contain summary statements that describe the appraiser's analyses and conclusions pertaining to highest and best use of the land as though vacant and (if improved) also of the property as improved.

When a public authority is taking (expropriating) private property for public use for example, the value to be established as compensation for the taking will reflect the highest and best use of the property on the open market (i.e. in private hands). In the context of community development, the highest and best use could very well be for a park, for civic improvements, or whatever, but it must be viewed as it applies to

¹Appraisal Institute of Canada, "The Appraisal of Real Estate", 1992, p265-266

the most probable private utilization of the property, without regard to the intentions or aspirations of the taking authority.²

For special-purpose uses, there is often difficulty in specifying their highest and best use. In these cases, its existing use is usually its highest and best use, *provided that use remains viable*. If the current use of a special purpose property is fully physically or functionally depreciated and no alternative uses are feasible, then the highest and best use of the property as improved may be realized by demolishing the structure and selling the remains for scrap or salvage value.

Some of the Basic Principals that affect real property value (relevant ones with respect to corridors) include:

- Supply and Demand;
- Competition;
- Substitution;
- Opportunity Cost;
- Anticipation;
- Externalities;
- Highest & Best Use;

METHODS OF APPRAISAL

The appraisal process involves a systematic analysis of factors that bear upon the value of real estate. The conventional methods of appraisal are normally the Cost Approach, Income Approach, and Direct Comparison Approach. Any one or combination of these approaches may be used depending on the type of property being appraised and the data available, as well as the reliability of the data to support such an approach. A brief description of the three conventional approaches follows:

Cost Approach To Value

The Cost Approach to value assumes that a prudent purchaser will not pay more for a property than the cost to recreate it in its present condition provided that there are no costly delays or economic factors which might influence value. In estimating value using the cost approach the reproduction cost new of the improvements is estimated and *then depreciation from all causes is determined and deducted* from the

²Appraisal Institute of Canada, The Concept of Highest and Best Use, May 1981

reproduction cost to arrive at the total depreciated value of the improvement. Land value is estimated as though vacant and this amount is then added to the depreciated value of the improvement to arrive at the estimate of value.

Income Approach To Value

The Income Approach involves a conversion of anticipated future benefits to be derived from the ownership of property into a value estimate through a capitalization process which converts the anticipated future income and or reversions to a present worth estimate. In order to arrive at estimated value by means of the Income Approach the potential annual gross income is estimated from which is deducted any vacancy loss or bad debt in order to arrive at the effective gross income. The total annual operating expenses which are the responsibility of the owner are deducted from the effective gross income in order to arrive at the net operating income. The net operating income is capitalized into value using an appropriate capitalization rate or rates. There are several methods of capitalization which can be used as well as income analysis such as discounted cash flow which can be applied in the Income Approach in order to determine the value of the property. Generally this approach is not used to value a corridor, since by definition any corridor that is not generating a positive cash flow would have no value under this approach.

Direct Comparison Approach To Value

This approach is based on the Principle Of Substitution which affirms that a prudent purchaser will not pay more for property than the price of an equally desirable substitute property available under similar conditions. This approach provides a reliable indication of value *particularly in an active market given reasonable availability of market data having a sufficient degree of comparability to the subject*. The subject property is compared as an entity with similar properties which have been sold or are for sale. Comparison requires that a common denominator be found such as a sale price per acre, per mile, etc. Adjustments are made for any factors which differ from the comparable properties to the subject and following reconciliation, the final value is estimated. This Approach in itself becomes difficult to apply for corridor valuation primarily due to the different location and abutting uses which can be significant.

VALUING TRANSPORTATION CORRIDORS

There would appear to be no detailed (or publically available) study of corridor sales and/or research papers on this topic in Canada. Much of the Methodology specifically used for Valuing Corridors generally comes out the American literature which are of course, based on the American experience under a different regulatory and legal environment. Often the methodologies are derived from case law within various jurisdictions throughout the United States. The relevant terms and Approaches to Value are summarized below as taken from some of this literature.

Valentine, in a recent article³, outlines 6 appraisal Methods that are used in valuing a corridor:

- Replacement Cost New Less Depreciation -also known as the cost of assemblage;
- Corridor Value (the ATF value times an Enhancement Factor);
- Sales Comparison Approach - seldom used in corridor valuation due to the lack of transactions which can be compared on a meaningful basis due to locational and geographic differences;
- Across the Fence Value (ATF) - described below;
- Net Liquidation Value - the present value of the net amount the owner would realize if the corridor was sold piecemeal over a reasonable period of time - this is further discussed below. Some further refine this approach into Liquidation Value which is essentially the same but without discounting for the estimated selling period ;⁴
- Going Concern Value - based on the net cash flow of the business discounted to a present worth estimate - sometimes used for a portion of the corridor.

Some of the relevant terms are further clarified below.

Across The Fence (ATF) Method

This is usually the starting point for valuing a corridor. It can be defined as, “A means of estimating the price or value of land adjacent to or ‘across the fence’ from a railroad, pipeline, highway or other corridor real estate; as distinguished from valuing the right-of-way as a separate entity”⁵.

This is a variation of the Direct Sales Comparison Approach to value and is based on the premise that the value of the land within a corridor should be reflection of the land through which it passes. The method is best served when good information is available for both the subject corridor (shape, size, topography, etc.) as well as the abutting properties (land use, parcel size, etc) . This requires detailed analysis in which the corridor is *valued in segments or zones* consistent with the adjacent land use (based upon the same Highest and Best Use).

Using the ATF Value as a starting or “mid” point there are several appraisal methods that are used to arrive at a the final estimate of value consistent with the intended use or purpose of the appraisal.

³Gary S. Valentine, “Appraising a Transportation Corridor”, Right-of-Way (November/December 1998), p 6-10.

⁴Richard J. Zulaica, “Valuing a Corridor Within a Corridor”, Right of Way (March/April 2000), p.6-9

⁵ Appraisal Institute (US), “The Dictionary of Real Estate Appraising”, 3rd ed. 1993

Enhancement Factor

This “factor” has its basis in the Cost Approach to Value. It is based on the buyers motivation of cost avoidance: by acquiring an existing corridor, the purchaser meets a need quickly and cheaper than assembling a new one. It is argued that there are advantages to the buyer of a corridor who is willing to pay a “premium” due to “Assemblage” or “Plottage because the cost of replicating the corridor is greater than the sum of the ATF values. When taking into consideration the time required to assemble multiple properties, relocation cost of property owners, damages resulting from partial takings, etc., these costs are usually extensive.

It is evident that it is the cost of acquisition, not necessarily the market value of the land that results in a higher price paid to construct a new line. It is therefore the opinion of some, that many corridors are extremely valuable as they exist and carry a premium value over and above the “market value” of the land on its own. Studies/surveys in the States for example, have illustrated that the cost of assembling a new corridor range from 2 to 6 times ATF values.⁶

But if the appraiser is to estimate the “market value” of the corridor, how is this enhancement factor to be derived and applied (if at all)? It needs to be based on market transactions, or by the use of the Direct Sales Comparison Approach, not the Cost of Acquiring a new corridor.

The enhancement factor, then is a “measured” increase in value over the ATF Value using comparable corridor sales which need to meet certain factors in order to be reliable. In a recent (American) article, Rahn, outlines the factors that must be present in a corridor transaction before plottage or an enhancement factor can be derived:

- there must be acknowledgement by a buyer (i.e. market recognition) of an enhancement factor, or that the assembled corridor is more valuable than the sum of its component parts;
- The buyer (assumed to undertake its own ATF valuation) is aware of and pays more than ATF value;
- the final sale price must exceed the ATF value;
- the sale must be arms length and open market (either party not under duress or unduly motivated - see definition of market value);⁷

⁶John P. Dolman and Charles R. Seymour, “ Valuation of Transportation /Communication Corridors”, The Appraisal Journal (October 1978): 509-522

⁷ Arthur Rahn, “The Enhancement Factor in Transportation corridor Sales and Appraisals”, The Appraisal Journal, (January , 1999): p. 89

Discount Factor

Of course, the previously mentioned criteria also provide support for a “Discount Factor”, or the opposite of enhancement factor. This is where the market derived sale price is lower than the ATF value. This can be a result of the lack of demand for the corridor due to its functional obsolescence (too narrow, indirect route, etc.), or weak market demand (i.e. serving a small market area, lack of alternative uses, etc).

It can also be viewed from the perspective of the seller which recognizes that, despite receiving a lower sale price than the ATF Value, it is still a “good deal” after taking into consideration the fact that only one purchaser is involved, whereas in a “breakup scenario” there would be numerous transactions, there may be remnant parcels, as well as the managerial, carrying and other lost opportunity costs involved with an extensive selling period that would likely be involved with an abandoned corridor.

In the case of a rail line, for example, even after the rails are removed (in the majority of cases), these lands have little or no alternative use other than perhaps for expansion of the adjoining (abutting) properties, *if and when required*. Each sale is the result of negotiations between the railway and 1 or 2 owners, not the result of exposure to an “open and competitive market”. In such cases, provided the price is not significant, one or more of the affected owners may be prepared to purchase a portion of the adjoining right-of-way for no reason other than to control its future use. Often however, certain segments (i.e. abutting established residential uses), have very little value to the abutting owner and in fact they may be seen as a detriment, since they would result in additional maintenance and property taxes for the purchaser. The topography of the corridor may also vary significantly so as to not justify incorporating the parcel into the abutting property.

Industrial / commercial land owners abutting the corridor may be willing to pay somewhat more due to additional economic utility/expansion potential that the corridor offers. In areas that are vacant and on the fringe of rapidly developing urban centres, the incorporation of the corridor into the adjoining lands may make for a more efficient development and would mean that the requirement for a setback or buffer from the corridor would no longer be required.

In either case the “value-in-contribution” must be considered; that is, the incremental value as a result of adding the subject property to the adjoining land. This is usually calculated using the “Before and After” Method in which the adjoining land(s) is/are valued before the addition of the subject and subtracting it from the value of the properties combined.

An extensive amount of published American data is available on the topic of rail lines/corridor sales, operating under a completely different statutory regime, making it difficult to apply directly to Canadian applications. There is the potential to misuse the application of the Enhancement Factor. For example,

applying the Factor quoted in the article ⁸ derived from 6 sales in Chicago Illinois which were acquisitions by a municipality or state for continued transportation use (which averaged 1.15 times ATF) to a small section of corridor in say, Guelph. Ontario would not be reasonable.

The article also showed an average ATF factor of 0.90 for sales of corridors for trail or recreation use (based on 10 transactions).

The same authors published the “prequel” article in the Appraisal Journal in 1991⁹ and summarized 10 transactions in which the motives of the buyers and sellers conformed to the definition of “liquidation value”. These showed an average factor of 0.63 times ATF values and although the vendor was the railroad company, the purchasers were all planning various uses (and were all single purchasers except one).

Corridor sales in Canada do exist although we are unaware of any comprehensive public study which would certainly be useful in deriving Canadian market evidence (for either the Enhancement or Discount factor).

There have been many Canadian corridor sales for future urban transportation use which were at Discounts to the ATF Value. These were based on the negotiations between the two parties using similar methodology to “Net Liquidation Value”.

This is not to say that there are no rail corridors selling (or leasing) between two private parties that reflect otherwise. These are typically based more on the motivation of the purchaser, the “business” case, or the “Income Approach” to value and may even be a reflection of the volume / value of goods/ data that travels the corridor. As well, the fee simple ownership may not transferred entirely. Many such sales are often complicated deals with running rights retained by the vendor or are subject to easements or other sources of income for such things as fibre optic lines, pipelines, etc. (a corridor within a corridor). Adjustments need to be made for interests in leases and agreements that are not transferred.

Obviously the derivation of an Enhancement (or Discount) factor from corridor sales requires an intimate knowledge of both the property, the parties involved and any other issues surrounding the sale that would impact its selling price.

An appraiser needs to know how the ATF values were arrived. Are they internal (railway) estimates of value? Often the purchaser completes their own appraisal which could differ significantly. In other words,

⁸ Clifford A. Zoll, “Rail Corridor Markets and Sales Factors: Revisited”, The Appraisal Journal (October 1994):621-625

⁹ Clifford A. Zoll, Rail Corridor Markets and Sales Factors, “ The Appraisal Journal (October 1991): 504-512

the enhancement factor could in fact reflect a discount factor instead, depending on the “starting” ATF value.

For example, one such corridor was sold from a railway company to the Ontario Government. The railway company considers it as evidence of an enhancement factor based on the fact the sale price was 4.6 times the value of the ATF. Discussions with the government staff appraiser involved, revealed that the purchase price was in fact at their appraised value. Furthermore, a third party appraisal was obtained which provided an ATF value estimate of more than double the purchase price which, would change this sale from evidence of an enhancement factor to one which supports a discount factor.

Net Salvage Value

Net Salvage Value can be considered the Canadian equivalent of Net Liquidation Value in the United States, which is the minimum constitutional value that the railroad would receive if it had to liquidate the corridor on a parcel by parcel basis. This is costly because it requires marketing, appraisals, severances, carrying cost, legal fees, etc. As well, there arises a significant possibility that there will be remnant parcels that cannot be sold or even given away, or at least requiring a significant discount in price in order to consummate the sale. The discount will vary on a property by property basis and will be influenced by the motivation of the abutting owner, topography and other physical differences which would influence how much it would cost to “integrate” the parcel into the abutting property.

The Canadian Transportation Agency (the Agency) has arrived at Net Salvage Value in three ways, all of which have merit and actually follow one or more of the 6 methods of appraisal referred to earlier. The basis for each decision depended on the information made available to the Agency (by either party, or the Agency’s consultants) during the “CTA” abandonment process. A discount factor has been applied to the entire corridor; discounts have been applied to each segment of the corridor; and the Direct Comparison Approach using the rate per acre has also been used.

The “Chatham” Decision (No.467-R-1996) Under the National Transportation Act, 1987 R.S.C. 1985, C.28 (now repealed) is an example of where the Agency made its interpretation in determining Net Salvage Value by applying a 90% discount to the ATF values of the whole line. There is a difference, however, between this previous legislation and the current Canada Transportation Act with respect to “Net Salvage Value”. Under Section 168 of the NTA, the lands were being conveyed for use as a railway corridor, not for their highest and best use. In the decision referred to (between VIA and CN), the use had to continue as a railway line, whereas under the CTA, 1996, the line may be used for any purpose (Section 145(1)).

In the Cudworth Decision, (CTA Decision No. 542-R-2000) the Agency examined 7 sales of corridors. The ATF values were found to have been discounted between 65.5% and 90.5%. The Agency then

compared the parcels within the samples sales that had similar characteristics to arrive at a discount of 89%.

In the “Guelph” decision (CTA Decision No. 530-R-1998) the abutting land uses were more urban, and discounts were applied to the different segments within the corridor. The resulting overall discount rate was 58%. Compare this rate to the Chatham Decision (albeit under a different Act), and the 2 Saskatchewan Decisions, in which the line passed through almost all rural farmland (less alternate and competing uses are likely).

The Agency also noted in the Guelph Decision that the discount factor is determined on a case by case basis depending on the individual characteristics of the railway line and the market in which it is located and it may not necessarily be a discount.

In a case involving a rail line in Saskatchewan (Decision No. 175-R-1999) the Agency in its Determination of Net Salvage Value of the land, arrived at a value that was based on the railway’s submission using similar and comparable land sales of former rights of way within the Province on a per acre basis “as is”, which already reflected the costs if any, of dividing or sub-dividing the corridor.

SUMMARY AND RECOMMENDATIONS

The purpose of this brief is to provide the Review Panel assistance with respect to real estate valuation issues regarding rail corridors within the context specifically as it considers,

“The advisability of specific measures designed to preserve urban rail corridors for future mass transit use in the rail abandonment process”

There is certainly significant opportunities and benefits for the acquisition of abandoned rail corridors for future mass transit (and other uses). The mechanisms for abandonment under the CTA currently ensure that the railways follow certain protocols which include private (“open market”) interests first, failing which, all levels of government in sequence, and finally, the sale of individual parcels or segments of the corridor to abutting owners.

The CTA valuation process therefore should certainly result in a value for the line that is less than open market transactions of active lines, considering that demand from private interests did not result in a sale. If not, there would certainly be no motivation by the seller to attempt to market the line actively to private interests prior to seeking the Agency to determine Net Salvage Value.

We are of the opinion that given the intended use and function of the appraisal (to estimate the Net Salvage Value) generally, no assemblage factor should be applied. Refer to the criteria as outlined in the Rahn article, (especially that the purchaser must not be unduly motivated).

The Enhancement Factor has its basis in the Cost Approach. Using the Cost Approach, requires the appraiser to reflect losses in value due to physical deterioration and functional and/or external obsolescence. Consideration must be given to the fact that the many existing (or “used”) corridors do not necessarily provide the most direct route from Point “A” to “B” and, in fact, may include a significant amount of extra mileage. As well, it may also not be adequate for many alternate uses (too narrow, too many street crossings, etc.), nor will it necessarily be required in the immediate future (discounting required for time).

The assemblage factor may be appropriate for estimating the cost of constructing a new line but it should not, in our opinion, have any bearing in determining the “Net Salvage Value” (NSV) as contemplated in the Act. As further support for this premise, in addition to corridor sales evidence, the methodology applied in determining the NSV of the actual tracks and other track material (OTM) is one where the sale price of all the material is estimated, but the costs of removal are subtracted to arrive at a NSV, even though they are to remain in place for the transfer. The replacement or reconstruction cost new is not calculated. By extension, one can assume a similar “exercise” should be completed to arrive at the NSV for the land (i.e. assume the “break-up” of the corridor and sell the segments to the abutting owners). As

well, similar methodology has been utilized in the U.S. to determine “Net Liquidation Value” (NLV) for the Interstate Commerce Commission (ICC) when rail lines were abandoned.

It may also require a discount for depreciation (see definitions) due to functional obsolescence. To apply an Enhancement Factor to the corridor ATF value during the CTA process would certainly unfairly benefit the railway which, at least in those jurisdictions where property taxes are based on market value, is not paying property taxes based on assessed values using the “Enhancement Factor” (see for example Ontario and BC. Assessment systems).

The definition of Net Salvage Value as developed through recent cases of the Agency illustrates the flexibility of the existing valuation process using one of several appraisal methods. Keeping the principal of abandonment in mind, the methodology for valuation must still remain flexible enough to allow the appraiser to reflect the inherent characteristics of the land within the corridor, but the final value estimate should not exceed the “Across the Fence Value (ATF)” of the corridor. There are three methods that are appropriate to use in estimating the Net Salvage Value of the corridor under the CTA process:

- The Direct Comparison Approach to Value: This approach is not common, but could be used provided there are adequate, verifiable, abandoned, and Canadian corridor sales that are similar in terms of location, physical features, and other characteristics;
- Application of a Discount Factor to the ATF Value: The appraisal begins with determination of ATF Values to ensure that the corridor’s final value reflects the abutting land uses through which it passes. The next step is to apply a Discount Factor to the entire corridor. This Factor needs to be derived from verified sales of Canadian abandoned corridors located within similar market areas in order to be relevant;
- Completion of a detailed “breakup analysis” of the corridor: the present value of the net amount the owner would likely receive if it was sold on a “piecemeal basis” over a reasonable period of time is estimated by the appraiser. This is based on the highest & best use of the individual segments of the line. The characteristics of each segment of the corridor is taken into account; some of which may be independently viable, whereas others would need to be sold to abutting owners. The reaction of buyers and market demand will vary by the types and density of land uses through which the corridor passes.

The Agency should ensure that both parties (seller and buyer) are given the opportunity to value the corridor and exchange relevant information including the appraisals through the CTA process.

Detailed information regarding both the corridor and the abutting properties need to be available to the appraisers in order to do a thorough analysis. The market in which the corridor is located must be considered, its size, width, and other physical features, keeping in mind the intended use of the corridor.

The Agency should if required, arbitrate the valuation issue through the use of an independent review appraiser who is an Accredited Appraiser Canadian Institute (AACI) familiar with both the market area and the valuation of corridors.

Data on corridor sales should be compiled in order to benefit the public, the CTA, appraisers, and potential purchasers. Information on “open market” corridor sales provided by railways is rather selective. These sales will become the supporting evidence from which to derive ATF factors.