



**FINAL ADMINISTRATIVE DECISION  
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Karim Khoja  
DOCKET NO.: 11-34191.001-R-1  
PARCEL NO.: 04-27-407-006-0000

The parties of record before the Property Tax Appeal Board are Karim Khoja, the appellant(s), by attorney Joanne Elliott, of Elliott & Associates, P.C. in Des Plaines; and the Cook County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **A Reduction** in the assessment of the property as established by the **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$ 13,889  
**IMPR.:** \$ 68,931  
**TOTAL:** \$ 82,820

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) challenging the assessment for the 2011 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

**Findings of Fact**

The subject consists of a two-story dwelling of frame construction with 4,706 square feet of living area. The dwelling is 10 years old. Features of the home include a full unfinished basement, central air conditioning, a fireplace, and a three-car garage. The property has a 14,620 square foot site, and is located in Glenview, Northfield Township, Cook County. The subject is classified as a class 2-08 property under the Cook County Real Property Assessment Classification Ordinance.

The subject property was the subject matter of an appeal before the Board in 2010 under docket number 10-30019.001-R-1. In that appeal, the Board rendered a decision lowering the subject's assessment to \$82,820. The appellant submitted a letter requesting that the subject's assessment for tax year 2010 be carried forward to tax year 2011 based on Section 16-185 of the Illinois

Property Tax Code. In the letter, the appellant states that the subject is owner occupied. The appellant also submitted a printout from the Cook County Property Tax Portal website showing that the subject received one exemption for tax years 2010 and 2011. The type of exemption the subject received was not disclosed on this printout. The appellant also submitted a copy of the Board's decision for docket number 10-30019.001-R-1. The appellant also submitted an affidavit naming Melissa Whitley as the affiant. The affidavit states, *inter alia*, that Ms. Whitley is an attorney at the law firm representing the appellant in this matter, and that the subject was owner occupied for tax years 2010 and 2011. The affidavit is not notarized.

The appellant also contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information for three sale comparables. These comparables sold between June 2008 to October 2008 for \$880,000 to \$911,000, or \$191.06 to \$219.41 per square foot of living area, including land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$90,126. The subject's assessment reflects a market value of \$901,260, or \$191.51 per square foot of living area, including land, when applying the 2011 statutory level of assessment for class 2 property of 10.00% under the Cook County Real Property Assessment Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted information on three equity comparables, and two sale comparables. These comparables sold between June 2010 to September 2011 for \$945,000 to \$1,175,000, or \$239.06 to \$249.68 per square foot of living area, including land. The board of review also submitted the ASIQ printout for the subject property, which shows that the subject received a homeowner's exemption for tax year 2011.

In rebuttal, the appellant reaffirmed the evidence previously submitted, and argued that the board of review's evidence was not responsive to the appellant's request for a reduction based on a contention of law.

### **Conclusion of Law**

Section 16-185 of the Illinois Property Tax Code provides, in relevant part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a *residence occupied by the owner is situated*, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

35 ILCS 200/16-185 (emphasis added). Moreover, "Standard of proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence." 5 ILCS 100/10-15. The Board takes judicial notice that it rendered a decision lowering the

subject's assessment in tax year 2010, and that 2010 and 2011 are in the same general assessment period for Northfield Township. The record contains no evidence indicating that the Board's 2010 decision was reversed or modified upon review, or that the subject was sold subsequent to the Board's 2012 decision.

The appellant submitted two documents that addressed the occupancy of the subject. The printout from the Cook County Property Tax Portal website states that the subject received an exemption in tax year 2011; however, the type of exemption the subject received was not disclosed. Therefore, the Board accorded this evidence no weight in its analysis.

The remaining evidence regarding the subject's occupancy is the affidavit of Ms. Whitley. Putting aside the fact that the affidavit is not notarized, the Board finds the affidavit deficient as it is in violation of the Board's rules.

An attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. When an attorney is a witness for the client, except as to merely formal matters, the attorney should leave the hearing of the appeal to other counsel. Except when essential to the ends of justice, an attorney shall avoid testifying before the Board on behalf of a client.

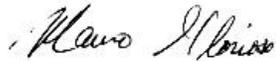
86 Ill.Admin.Code § 1910.70(f). Ms. Whitley is employed by the law firm representing the appellant in this matter. As such, she is an advocate for the law firm's client, whom is the appellant in this matter. The affidavit states that Ms. Whitley has "personal knowledge of the following facts" and would be "able to competently testify" regarding such facts "if called upon to do so." Thus, Ms. Whitley is asserting that she is competently able to testify as a fact witness for the appellant in the instant matter. Under Rule 1910.70(f), as the attorney for the appellant, Ms. Whitley is restricted to being a witness as to "merely formal matters" or "when essential to the ends of justice." *Id.* Neither situation is present in this instance. Whether the subject is owner occupied is an essential element that must be proven by a preponderance of the evidence for the Board to grant a reduction based on a "rollover" request. 35 ILCS 200/16-185; 5 ILCS 100/10-15. A matter that is essential to the appellant's basis for relief cannot also be a "merely formal matter," and, thus, this exception does not apply. Similarly, the "essential ends of justice" do not dictate that an exception to the rule is required here. There are numerous other ways to prove owner occupancy without the use of an affidavit from an attorney employed by the law firm of record for the appellant. Ostensibly, the appellant attempted one such alternative method, i.e., the inclusion of the printout from the Cook County Property Tax Portal website showing the subject received an exemption (although, as stated above, the type of exemption was not disclosed) for the tax year at issue. Granted, this document may or may not have contradicted Ms. Whitley's statements in the affidavit regarding owner occupancy; but, nevertheless, such a method, if supportive of the appellant's argument, would have likely been sufficient. Alternatively, an affidavit naming the appellant as the affiant would also likely have been sufficient.

Moreover, Ms. Whitley's affidavit is hearsay, as it states "[t]o the best of my knowledge following inquiry, the Property was occupied by the owner of the Property as his or her primary residence during tax years 2010 and 2011." The "inquiry" may have been either a discussion with the appellant, or a factual investigation by the affiant. The affidavit did not include any

assertions that Ms. Whitley conducted an investigation into the occupancy of the subject. Thus, the inquiry appears to have been a discussion with the appellant, and, therefore, statements made to prove the truth of the matter asserted, such as who occupies the subject, are inadmissible hearsay. For these reasons, the Board gives no weight to Ms. Whitley's affidavit.

Despite the appellant's failure to include any competent evidence of owner occupancy, the board of review submitted the ASIQ printout for the subject showing that the subject received a homeowner's exemption for tax year 2011. Therefore, based on the ASIQ printout submitted by the board of review, the Board finds that the appellant has proven, by a preponderance of the evidence, that the subject is owner occupied, and, thus, is entitled to have the assessment for tax year 2010 carried forward to tax year 2011 pursuant to Section 16-185 of the Illinois Property Tax Code. For these reasons, the Board finds that a reduction is warranted, and that the subject's assessment shall be reduced to reflect the Board's 2010 decision, plus the application of an equalization factor, if any.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Member



Member



Member

DISSENTING: \_\_\_\_\_

CERTIFICATION

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: February 13, 2019



Clerk of the Property Tax Appeal Board

**IMPORTANT NOTICE**

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year or years of the same general assessment period, as provided in Sections 9-125 through 9-225, are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for such subsequent year or years directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.

PARTIES OF RECORD

AGENCY

State of Illinois  
Property Tax Appeal Board  
William G. Stratton Building, Room 402  
401 South Spring Street  
Springfield, IL 62706-4001

APPELLANT

Karim Khoja, by attorney:  
Joanne Elliott  
Elliott & Associates, P.C.  
1430 Lee Street  
Des Plaines, IL 60018

COUNTY

Cook County Board of Review  
County Building, Room 601  
118 North Clark Street  
Chicago, IL 60602