



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

APPELLANT: Dae Lim
DOCKET NO.: 11-35118.001-C-1
PARCEL NO.: 16-19-331-027-0000

The parties of record before the Property Tax Appeal Board are Dae Lim, the appellant, by Deborah M. Petro, Attorney at Law in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **No Change** 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: \$34,916
IMPR.: \$115,890
TOTAL: \$150,806

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Property Tax Appeal Board 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 finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of a one-story commercial building of masonry construction with 11,960 square feet of building area. The building was constructed in 1937. The property has a 13,626 square foot site and is located in Berwyn, Berwyn Township, Cook County. The subject is classified as a class 5-17 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted a vacancy affidavit revealing the subject building was 40% vacant in 2010. The appellant's evidence included a Department of the Treasury Income and Expense form and a Cook County Rent Roll form presumably to be deemed an income analysis, which was not fully presented by the appellant.

The appellant's appeal form was also marked "Rollover" in an attempt to have the subject's 2010 favorable decision from the Property Tax Appeal Board of \$153,391 carried forward to the 2011 assessment year.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$150,806. The subject's assessment reflects a market value of \$603,224 or \$50.44 per square foot of building area, including land, when applying the level of assessment for class 5 property under the Cook County Real Property Assessment Classification Ordinance of 25%.

In support of its contention of the correct assessment the board of review submitted information on five comparable sales, four of which were located in Berwyn. The comparables were similar commercial buildings ranging in size from 3,265 to 11,000 square feet of building area. Four of the buildings were constructed from 1930 to 1999. The comparables had sale dates ranging from February 2006 to October 2008 for prices ranging from \$405,000 to \$2,044,125 or from \$123.09 to \$258.29 per square foot of building area, including land.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

As an initial matter regarding the appellant's attorney's request to have the 2010 Property Tax Appeal Board's decision be rolled over to the tax year 2011, the Board finds the subject of the appeal is not subject to the "rollover" provision provided by section 16-185 of the Property Tax Code (35 ILCS 200/16-185). Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides in 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.

The appellant's attorney failed to present evidence as to whether the subject is owner-occupied or not and furthermore, the general assessment period for Berwyn Township was 2008, 2009 and 2010. The Board finds on this record that the subject is not owner-occupied and, since the 2011 tax year is the beginning of a new general assessment period, the subject is not entitled to the "rollover" provision provided by section 16-185 of the Property Tax Code (35 ILCS 200/16-185).

The Board finds the best evidence of market value to be the board of review comparable sale #4. This comparable was most similar to the subject in location and size. The best comparable sale sold for a price of \$1,000,000 or \$164.10 per square foot of building area, including land. The subject's assessment reflects a market value of \$603,224 or \$50.44 per square foot of building area, including land, which is below the market value of the best comparable sale in the record. The Board gave less weight to the remaining comparables submitted by the board of review due to their dissimilar location, age or size when compared to the subject.

The Board also gave less weight to the appellant's argument that the subject's vacancy during 2010 was sufficient to reduce the subject's 2011 assessment. There is no provision in the Property Tax Code allowing for a reduction in a property's assessment based solely on vacancy. Similarly, there is no provision in the rules of the Property Tax Appeal Board that provides for a reduction in a property's assessment based exclusively on vacancy.

Furthermore, the Board finds the appellant's evidence that the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses unconvincing and not supported by evidence in the record. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

it is the value of the "tract or lot of real property" property which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value".

Many factors may prevent a property owner from realizing an income from property, which accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes. Id.

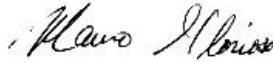
Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate that the subject's actual income and expenses were reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, one must establish through the use of market data the market rent, vacancy and collection losses, and expenses to arrive at a net operating income. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant did not follow this procedure in developing the income approach to value; therefore, the Property Tax Appeal Board gives this argument little weight.

In addition, the courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979), the court held that significant relevance should not be placed on the cost approach or **income approach** especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989), the court held that of the three primary methods of evaluating property for the purpose of

real estate taxes, the preferred method is the sales comparison approach. Since there are credible market sales contained in the record, the Board placed most weight on this evidence.

In conclusion, based on this record, the Property Tax Appeal Board finds a reduction in the subject's assessment is not justified.

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

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