



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

APPELLANT: Brex, Inc.
DOCKET NO.: 07-27516.001-C-1
PARCEL NO.: 07-16-200-061-0000

The parties of record before the Property Tax Appeal Board are Brex, Inc., the appellant(s), by attorney Allen A. Lefkovitz, of Allen A. Lefkovitz & Assoc. P.C. in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, 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: \$ 81,595
IMPR.: \$ 74,935
TOTAL: \$ 156,530

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property has 10,199 square feet of land, which is improved with a 31 year old, one-story, auto repair shop with 3,223 square feet of building area. The appellant's appeal is based on unequal treatment in the assessment process.

In support of the equity argument, the appellant, via counsel, submitted descriptive and assessment information, as well as property record cards and color photographs, for nine properties suggested as comparable to the subject. These properties are described as one-story, auto repair shops that are from 17 to 35 years old, and contain from 1,971 to 15,844 square feet of building area. These suggested comparables have improvement assessments ranging from \$11.86 to \$55.08 per square foot of building area. The subject's improvement assessment is \$35.48 per square foot of building area. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$195,958 was disclosed. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for seven auto repair shops located within ten miles of the subject. The sales data was collected

from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the assessor's office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value, and should not be construed as such. The memorandum further stated that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

The suggested comparables contained auto repair shops that range in age from 17 to 22 years old, and in size from 2,500 to 4,933 square feet of building area. However, the ages for Comparables #1, #3, #4, and #5 were not disclosed.

Assessment data was submitted for all of the properties, but for varying years, ranging from 2001 to 2007. Comparable #1's improvement assessment was \$38.11 per square foot of building area in 2001; Comparable #2's improvement assessment was \$23.98 per square foot of building area in 2005; Comparable #3's improvement assessment was \$24.45 per square foot of building area in 2003; Comparable #4's improvement assessment was \$9.07 per square foot of building area in 2002; Comparable #5's improvement assessment was \$23.38 per square foot of building area in 2002; Comparable #6's improvement assessment was \$18.95 per square foot of building area in 2007; and Comparable #7's improvement assessment was \$26.90 per square foot of building area in 2006.

The properties sold from February 2003 to September 2008 in an unadjusted range from \$360,000 to \$1,100,000, or from \$134.81 to \$286.46 per square foot of building area, land included. The printouts also indicate that no real estate brokers were used in Comparables #3, and the parties in Comparables #2, #4, and #6 used the same real estate broker. Additionally, Comparable #5 was part of a 1031 exchange on behalf of the seller. Comparables #1, #2, #6, and #7 were sold with long-term leases as part of the purchase price. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant provided descriptive and assessment data for the board of review's seven comparables. These comparables had 2007 improvement assessments ranging from \$1.09 to \$4.43 per square foot of building area.

At hearing, the appellant's attorney, Allen A. Lefkovitz, reaffirmed the evidence previously submitted. Mr. Lefkovitz also submitted a bar graph detailing the subject's improvement assessment, the appellant's requested improvement assessment for the subject, and the improvement assessments for the appellant's nine suggested comparables. Mr. Lefkovitz offered this graph into evidence. The Cook County Board of Review Analyst, Michael Terebo, objected to the admission of the graph, stating that it was new evidence and should be excluded based on 86 Ill. Admin.

Code § 1910.67(k). The Property Tax Appeal Board (the "Board") overruled this objection, finding that the graph simply depicts evidence previously submitted to the Board in the appellant's original evidence. The graph was marked as Appellant's Hearing Exhibit #1.

Mr. Terebo argued that the appellant's equity argument is inapplicable to an income producing property, such as the subject. Instead, he argued, only an appraisal or income approach can be used to properly value an income producing property.

In rebuttal, Mr. Lefkovitz stated that most of the comparables submitted by the board of review were not in close proximity with the subject. Additionally, Mr. Lefkovitz argued that assessment equity applies to all property in Illinois.

After reviewing the record and considering the evidence, the Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellant contends unequal treatment in the subject's improvement assessment as the basis of this appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Walsh v. Prop. Tax Appeal Bd., 181 Ill. 2d 228, 234 (1998) (citing Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1 (1989)); 86 Ill. Admin. Code § 1910.63(e). To succeed in an appeal based on lack of uniformity, the appellant must submit documentation "showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d 139, 145 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(b). "[T]he critical consideration is not the number of allegedly similar properties, but whether they are in fact 'comparable' to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d at 145 (citing DuPage Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 284 Ill. App. 3d 649, 645-55 (2d Dist. 1996)). After an analysis of the assessment data, the Board finds that the appellant has met this burden.

The Board finds that Comparables #5, #6, and #7 submitted by the appellant were most similar to the subject in location, size, style, exterior construction, features, and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$19.27 to \$23.46 per square foot of building area. The subject's improvement assessment of \$35.48 per square foot of building area is above the range established by the most similar comparables.

The board of review's evidence was given no weight because the assessment data submitted was not for tax year 2007, the tax year at issue in this case, except for Comparable #6. However, the

Board does not find board of review Comparable #6 similar to the subject because it is not in close proximity with the subject. Additionally, Mr. Terebo's argument at hearing was given no weight, since it ignored the appellant's equity argument. The appellant did not assert that the subject is overvalued. Instead, the appellant argued that, compared to other properties' assessments in the area near the subject, the assessor unfairly and inequitably assessed the subject at a higher level. This is a valid argument for any property in Illinois, and has its genesis in Article IX, Section 4, Paragraph (a) of the Illinois Constitution of 1970. Furthermore, the Board's rules set forth the distinction between an equity argument and a market value argument. See 86 Ill. Admin. Code § 1910.65(a) (describing the two types of cases that the Board typically decides: those based on inequitable treatment and those based on market value); 86 Ill. Admin. Code § 1910.63(e) (setting forth the two different burdens of proof for the two types of cases); 86 Ill. Admin. Code § 1910.65(b)-(c) (setting forth the evidence that the Board typically considers when deciding the two types of cases).

Therefore, after considering adjustments and differences in both parties' comparables when compared to the subject, the Board finds that the subject's improvement assessment is not equitable, and a reduction in the subject's assessment is warranted.

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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Marko M. Louie

Member

J. R.

Member

DISSENTING: _____

C E R T I F I C A T I O N

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 22, 2013

Allen Castrovillari

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 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 the subsequent year 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.

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.