



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

APPELLANT: Brian Kim  
DOCKET NO.: 09-33320.001-C-1  
PARCEL NO.: 15-15-331-049-0000

The parties of record before the Property Tax Appeal Board are Brian Kim, the appellant, by attorney Terrence Kennedy Jr. of the Law Offices of Terrence Kennedy Jr. 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:** \$10,462  
**IMPR.:** \$28,828  
**TOTAL:** \$39,290

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a one-story building of masonry construction that contains 3,356 square feet of building area. The building is approximately 54 years old and contains two commercial units. The property has a 4,650 square foot site and is located on in Broadview, Proviso Township, Cook County. The property is classified as a class 5-17 one story commercial building under the Cook County Real Property Assessment Classification Ordinance (hereinafter "Ordinance"). Class 5-17 property has an Ordinance level of assessment of 25% for the 2009 tax year.

The appellant is contesting the assessment for the 2009 tax year based on both assessment inequity and overvaluation. In support of the assessment inequity argument the appellant submitted descriptions and assessment information on three comparables. The comparables were improved with one-story commercial buildings that ranged in size from 1,820 to 6,229 square feet of building area and in age from 55 to 59 years old. These properties had the same assessment classification code and neighborhood code as the subject property. The data provided by the appellant indicated the comparables had improvement assessments ranging from \$8,506 to \$56,761 or from \$1.88 to \$9.11 per square foot of

building area. The appellant also indicated the subject had an improvement assessment of \$53,887 or \$16.06 per square foot of building area. Based on this argument the appellant requested the subject's assessment be reduced to \$31,135.

In support of the overvaluation argument the appellant's counsel developed an income approach using the subject's income and expenses as reported on the Schedule E for 2007, 2008 and 2009. Counsel used the subject's average gross income of \$28,533; a 10% stabilized expense ratio; and a loaded capitalization rate of 16.43% to arrive at an estimated market value of \$156,299. Applying the 25% Ordinance level of assessment for class 5-17 property, counsel arrived at a requested assessment of \$39,075. The subject's total assessment of \$64,349 reflects a market value of \$257,396 using the Ordinance level of assessments.

The board of review did not timely submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

The appellant argued in part assessment inequity as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data the Board finds a reduction is warranted on this basis.

The Board finds the appellant submitted assessment information on three comparables that had improvement assessments ranging from \$1.88 to \$9.11 per square foot of building area. The subject's improvement assessment of \$16.06 per square foot of living area falls above the range established by the appellant's comparables. Based on this record the Board finds the appellant demonstrated with clear and convincing evidence that the subject's improvement assessment was inequitable and a reduction in the subject's assessment is justified.

The Board finds the appellant's argument 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 market derived evidence in the record. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[I]t is the value of the "tract or lot of real 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 that 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. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

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 are 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 reflective of the market and the property's capacity for earning 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 provide such evidence; therefore, the Property Tax Appeal Board gives this aspect of the appellant's argument no weight.

The Board further finds problematic the fact that appellant's counsel developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective evidence of value for that client's property.

The board of review did not submit any evidence in support of its assessment of the subject property or to refute the appellant's assessment equity argument as required by section 1910.40(a) of the rules of the Property Tax Appeal Board and is found to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.40(a) & §1910.69(a)).

Based on this record the Property Tax Appeal Board finds a reduction in the subject's assessment is 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.

*Donald R. Quit*

Chairman

*K. L. Fer*

Member

Member

*[Signature]*

Member

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: April 18, 2014

*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.