



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

APPELLANT: Frigel North American, Inc.  
DOCKET NO.: 12-00933.001-I-1  
PARCEL NO.: 03-13-474-002

The parties of record before the Property Tax Appeal Board are Frigel North American, Inc., the appellant, by attorney Brian P. Liston of the Law Offices of Liston & Tsantilis, P.C. in Chicago; and the Kane County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$129,410  
**IMPR:** \$472,882  
**TOTAL:** \$602,292

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2012 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 is improved with a one-story industrial building of concrete construction with 40,090 square feet of total building area. The building is divided into two units and was constructed in 2007. Features of the building include a reinforced concrete slab foundation, 24 feet ceiling heights to the metal trusses in the warehouse area, six loading doors, a

seven-ton crane in the unit occupied by the owner, air conditioning in the office area, men's and women's restrooms in each of the units and the building is fully sprinklered. The property has a 98,050 square foot or 2.25 acre site resulting in a land to building ratio of 2.45:1. The site has 28,100 square feet of asphalt paving and 23-surface parking spaces. The property also has 2,800 square feet of concrete and 25,300 square feet of landscaping improvements. The property is located at 150 Prairie Lake Road, East Dundee, Dundee Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$1,600,000 as of January 1, 2011. The appraisal was prepared by John Stephen O'Dwyer, Certified General Real Estate Appraiser, and Ibi Cole, Associate Real Estate Appraiser, of JSO Valuation Group, Ltd. In estimating the market value of the subject property the appraisers developed the income approach to value and the sales comparison approach to value.

In the report the appraisers described the subject building as being in good conditioning and being adequately maintained. They determined the subject building had an effective age of 4 years. They also determined the highest and best use as improved to be the current industrial use of the property. The purpose of the appraisal was to estimate the market value of the fee simple interest of the property as of January 1, 2011. The appraisers also indicated that the owner occupied 20,138 square feet or 50.23% of the subject building and Fox Valley Containers, Inc. occupied 19,952 square feet or 49.77% of the building. The appraisers further reported on page 18 of the report the subject property was purchased by the appellant in 2008 for a price of \$3,800,000.

Under the income approach to value the appraisers identified four rental comparables located in East Dundee and Elgin. The rental comparables were constructed from 2001 to 2008 and ranged in size from 32,300 to 176,799 square feet of building area with available space ranging in size from 10,223 to 41,171 square feet. The comparables had ceiling heights ranging from 20 to 30 feet. The appraisers indicated the comparables had asking rents on a gross basis ranging from \$6.50 to \$8.53 per square foot of building area on a gross basis and from \$4.25 to \$5.45 per square foot on a net basis. Making quantitative adjustments to the comparables for being listings and for concessions resulted in effective rents ranging from \$4.04 to \$5.18 per square foot

on a triple net basis. Based on these rental comparables the appraisers estimated the subject property had a market rent of \$4.50 per square foot on a triple net basis. In the analysis the appraisers also referenced that 19,952 square feet of the subject property was leased to Fox Valley Containers, Inc. under a lease that commenced in March 2011 for a term of 62 months.<sup>1</sup> The subject property was rented for months 3 through 12 for \$7,482 per month or \$4.50 per square foot of building area. The appraisers estimated the subject property had a potential gross income (PGI) of \$180,405.

The appraisers next estimated the subject property would have vacancy and collection loss of 7.5% or \$13,530 based on location, size and condition. Deducting vacancy and collection loss from PGI resulted in an effective gross income (EGI) of \$166,875.

The appraisers estimated expenses based on industry standards. Real estate taxes were based on the ownership's expense while the subject is vacant and calculated to be \$1,860 per year. In the body of the report insurance was estimated to be \$.35 per square foot and was calculated based on the ownership's expense while vacant or \$702 per year. However, in the stabilized expenses set forth in Table #7 an insurance deduction of \$1,052 was made, which appears to be in error. Legal and professional fees were estimated to be \$1,500 per year; management fees were based on 4% of EGI or \$6,675; and reserves was estimated to be \$2,503.<sup>2</sup> Deducting expenses of \$14,520 from the EGI resulted in a net income of \$152,354.

The appraisers estimated the subject property would have a capitalization rate of 9.5% based on a review of investment surveys. The surveys referenced in the appraisal were through the 2<sup>nd</sup> quarter of 2011. The appraisers described the subject property as a Class C industrial building that would have a capitalization rate at the upper end of the range reported by the referenced investor survey because the survey is for only Class A and Class B industrial well-performing properties in the national economy. Capitalizing the subject's estimated net income resulted in an estimated market value under the income approach of \$1,600,000.

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<sup>1</sup> In reviewing the lease data set forth in the appraisal the appraisers indicated a lease date of October 6, 1997 and a date of possession of October 6, 1997. These appear to be errors as the subject building was not constructed until 2007.

<sup>2</sup> The appraisers indicated on page 63 of the report that reserves were based on 1% of EGI; however, the reserves were calculated based on 1.5% of EGI.

The next approach to value developed by the appraisers was the sales comparison approach using four comparable sales and one listing. The comparables were improved with four, one-story industrial buildings and one part one-story and part two-story industrial building that ranged in size from 20,000 to 42,411 square feet of building area. The comparables were located in Elgin, Batavia and St. Charles. The comparable sales were constructed from 1988 to 1997 and the listing was built in 2004. These properties had sites ranging in size from 29,969 to 120,000 square feet resulting in land to building ratios from 1.50:1 to 2.83:1. The sales occurred from December 2010 to March 2011 for prices ranging from \$915,000 to \$1,800,000 or from \$27.81 to \$42.44 per square foot of building area. The listing had a price of \$950,000 or \$47.50 per square foot of building area. Based on these sales the appraisers estimated the subject property had an indicated value of \$40.00 per square foot of building area or \$1,600,000, rounded.

In reconciling the two approaches to value the appraisers gave most credence to the income approach and estimated the property had a market value of \$1,600,000 as of January 1, 2011.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$602,292. The subject's assessment reflects a market value of \$1,805,973 or \$45.05 per square foot of building area, land included, when using the 2012 three year average median level of assessment for Kane County of 33.35% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on six comparable sales improved with industrial buildings that ranged in size from 15,712 to 126,252 square feet of building area. The comparables were located in East Dundee and Elgin. Three of the sales were located along the same street and within two blocks as the subject property. The sales occurred from October 2011 to December 2012 for prices ranging from \$725,000 to \$4,787,623 or from \$36.86 to \$50.50 per square foot of building area, including land.

The board of review also submitted evidence prepared by Michael Bielak, Dundee Township Assessor. The assessor provided information on four comparable sales located in Cary and Elgin. The comparables were improved with one manufacturing building, a distribution building and two warehouse buildings that ranged in

size from 33,705 to 41,007 square feet of building area and were constructed from 1980 to 2006. The sales occurred from April 2009 to November 2011 for prices ranging from \$1,382,500 to \$2,260,000 or from \$41.02 to \$55.11 per square foot of building area. The assessor was of the opinion these sales indicated the subject had a market value of \$50.00 per square foot of building area or \$2,004,500.

The assessor also developed an income approach to value using a market rent of \$5.21 per square foot of building area to arrive at a GPI of \$208,869. The assessor indicated the subject's actual rent was \$5.21 per square foot but provided no documentation to support this assertion. The assessor used a vacancy and collection loss of 10% or \$20,890, which was deducted from the PGI to arrive at an EGI of \$187,980. The assessor next deducted 15% of EGI or \$28,200 for expenses to arrive at a net income of \$159,780. The assessor then used a capitalization rate of 8.50% to capitalize the net income into an estimated market value of \$1,879,760 under the income approach.

Other evidence presented by the assessor included a building permit application for the subject dated November 1, 2008 and a copy of the PTAX-203 Illinois Real Estate Transfer Declaration documenting the sale of the subject property in August 2008 for a price of \$3,380,000.

#### **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.

The appellant submitted an appraisal estimating the subject had a market value of \$1,600,000 as of January 1, 2011, one year prior to the assessment date at issue. There was nothing in the record submitted by the appellant that established the appraisers were of the opinion the estimated market value was the same as of January 1, 2012.

The appellant's appraisers used both the income approach and the sales comparison approach in estimating the market value of the subject property. With respect to the income approach, the data used by the appraisers focused on 2010 and the first quarter of 2011. The appraisal was not updated to reflect market conditions during 2011 or perhaps the first quarter of 2012, which would be more probative in estimating the market value under the income approach as of January 1, 2012. As a result less weight was given the estimated value under the income approach developed in the appellant's appraisal.

The assessor developed an income approach in which he estimated the subject had a market rent of \$5.21 per square foot of building area. There was no support in the record for this estimate of market rent and this estimate seemed to be refuted by the data in the appellant's appraisal outlining the subject's lease terms. Furthermore, there was no market support for the assessor's estimate of vacancy and collection loss and expenses. Therefore, little weight was given this estimate of value.

In this appeal the Board placed most emphasis on the comparable sales presented by the parties. In the absence of market value set by a contemporaneous arm's length sale, the sales comparison approach is the preferred method to value property and should be used when market data are available. Cook County Board of Review v. Property Tax Appeal Board, 384 Ill.App.3d 472, 480-481 (1<sup>st</sup> Dist. 2008). The Board finds the best sales in the appraisal to be comparables #1 and #2 as these properties sold in 2011 and were relatively similar to the subject property in location and building size, albeit the buildings were 10 and 18 years older than the subject. These two comparables sold for prices of \$1,450,000 and \$1,800,000 or \$35.36 and \$42.44 per square foot of building area, land included, respectively. In the report the appraisers noted these two comparables were inferior to the subject in age and condition and would require upward adjustments. In its submission the board of review had two sales located along the same street as the subject at 140 Prairie Lake Road and 125 Prairie Lake Road in East Dundee that were relatively similar to the subject in size with 33,510 and 32,300 square feet of building area, respectively. These two properties sold in December 2012 and September 2013 for prices of \$1,825,000 and \$1,425,000 or \$54.46 and \$44.12 per square foot of building area, including land, respectively. The Board recognizes that less weight should be given the sale that occurred in September 2013 as that transpired 21 months after the assessment date at issue but the location is excellent with reference to the subject property. The board of review and the

township assessor both referenced a sale at 450 N. McLean Blvd., Elgin, improved with a 35,150 square foot Class C warehouse built in 1988 that sold in November 2011 for a price of \$1,775,000 or \$50.50 per square foot of building area, including land. The final sale considered by the Property Tax Appeal Board was referenced by the assessor as comparable #4 located at 1190 Cambridge Dr., Elgin improved with a Class B warehouse with 41,007 square feet of building area constructed in 1997 that sold in June 2011 for a price of \$2,260,000 or \$55.11 per square foot of building area, including land. The data sheet provided by the assessor indicated this property previously sold in April 2011 for a price of \$1,450,000 or \$35.36 per square foot of building area, including land. This was the same sale as appraisal sale #1. In summary the Board finds the most probative sales in this record sold for prices ranging from \$1,425,000 to \$2,260,000 or from \$35.36 to \$55.11 per square foot of building area, including land. The subject's assessment reflects a market value of \$1,805,973 or \$45.05 per square foot of building area, including land, which is within the ranged established by these comparables. The subject's assessment is well supported given the fact that the record indicated it was newer than at each comparable but that located at 140 Prairie Lake Road for which no age was reported. Based on this evidence the 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.

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Chairman



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Member



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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 24, 2015



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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.