



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

APPELLANT: 4141 N. Kedzie Condominium Assoc.  
DOCKET NO.: 12-30960.001-R-1 through 12-30960.020-R-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are 4141 N. Kedzie Condominium Assoc., the appellant(s), by attorney Edwin M. Wittenstein, of Worssek & Vihon 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:

<b>DOCKET NO</b>	<b>PARCEL NUMBER</b>	<b>LAND</b>	<b>IMPRVMT</b>	<b>TOTAL</b>
12-30960.001-R-1	13-13-316-032-1004	1,228	11,943	\$13,171
12-30960.002-R-1	13-13-316-032-1005	1,053	10,236	\$11,289
12-30960.003-R-1	13-13-316-032-1006	1,053	10,236	\$11,289
12-30960.004-R-1	13-13-316-032-1007	1,228	11,943	\$13,171
12-30960.005-R-1	13-13-316-032-1008	1,439	13,991	\$15,430
12-30960.006-R-1	13-13-316-032-1009	1,123	10,919	\$12,042
12-30960.007-R-1	13-13-316-032-1010	1,369	13,308	\$14,677
12-30960.008-R-1	13-13-316-032-1011	1,263	12,284	\$13,547
12-30960.009-R-1	13-13-316-032-1013	1,088	10,578	\$11,666
12-30960.010-R-1	13-13-316-032-1014	1,263	12,284	\$13,547
12-30960.011-R-1	13-13-316-032-1015	1,439	13,991	\$15,430
12-30960.012-R-1	13-13-316-032-1016	1,123	10,919	\$12,042
12-30960.013-R-1	13-13-316-032-1017	1,369	13,308	\$14,677
12-30960.014-R-1	13-13-316-032-1018	1,316	12,796	\$14,112
12-30960.015-R-1	13-13-316-032-1019	1,140	11,090	\$12,230
12-30960.016-R-1	13-13-316-032-1020	1,140	11,090	\$12,230
12-30960.017-R-1	13-13-316-032-1021	1,316	12,796	\$14,112
12-30960.018-R-1	13-13-316-032-1022	1,492	14,503	\$15,995
12-30960.019-R-1	13-13-316-032-1023	1,176	11,431	\$12,607
12-30960.020-R-1	13-13-316-032-1024	1,421	13,820	\$15,241

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 16-160 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 a three-story building of masonry construction containing three commercial units on the first floor and 21 residential units on the second and third floors. The property has a 15,685 square foot site and is located in Jefferson Township, Cook County. The property is a Class 3-99 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant formally contends assessment inequity as the basis of the appeal. However, the appellant did not submit equity comparables in support of this argument. Instead, the appellant submitted a copy of the Brief in Support of 2012 Real Estate Assessed Valuation Complaint it filed in the Circuit Court of Cook County, Illinois. The Brief was prepared by Michael Zucker, who was appointed by receiver by the Circuit Court as part of on-going foreclosure proceedings. Zucker's report contained an analysis of the receipts and expenses of the subject, including rents rolls, but no equity comparables or analysis. Further, the appellant argued that the subject should have been classified as a Class 3 property under the level of assessment for Class 3 property under the Cook County Real Property Assessment Classification Ordinance because most of the 24 units were leased as residential apartments. The appellant suggested that this misclassification results in an overvalued assessment. The appellant requested a total assessment reduction to \$169,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$268,505, \$99,505 greater than the amount requested by the appellant. In support of its contention of the correct assessment, the board of review submitted a Supplement Brief arguing that, although the appellant stated an assessment inequity argument, it really presented an overvaluation argument because the appellant's evidence consisted of an income analysis using receipts, including a rent roll, and expenses as support for its request for an assessment reduction. The board of review argued that the appellant failed to submit a sufficient income approach analysis prepared by an appraiser or other expert in the field of real estate valuation. The board of review objected in its Supplemental Brief that whatever income approach was submitted by the appellant, it appeared to have been prepared by appellant's counsel in violation of the Board's Rule 1910.70(f).

In rebuttal, the appellant asserted that it did not raise an overvaluation argument based on an income approach. Instead, the appellant argued it submitted a rent roll solely to verify the subject's use during the 2012 tax lien year. The appellant argued in rebuttal that the subject should have been classified as a Class 3-99 property in 2012 under the level of assessment for Class 3 property under the Cook County Real Property Assessment Classification Ordinance because 17 or the 24 units were leased as residential apartments.

### Conclusion of Law

The appellant offered no foundation for the argument that the subject was misclassified Class 2 instead of Class 3. In any event, the Board notes that the board of review disclosed on the face of its Notes on Appeal that the subject was classified Class 3-99 in 2012. As for the level of assessment, both Class 2 and Class 3 properties were assessed at the 10.00% level in 2012 under the Cook County Real Property Assessment Classification Ordinance. Therefore, the Board finds no merit in the appellant's argument.

Although the appellant formally indicated it raised an assessment inequity argument, its brief and evidence address an overvaluation argument. 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.

In its brief, the appellant disclosed that only five of the units were sold by the developer. As a result, the appellant argued the "subject is a failed condominium project," leading to the foreclosure by the lender. The appellant also disclosed that two of the three commercial units were "unfinished and 100% vacant for all of 2012." Many of the residential units were rented because they were not sold. There was no evidence of the efforts, if any, made to sell or rent the vacant units. The appellant specifically included an income analysis in its brief and referred to attachments, such as a rent roll, income and expenses, upon which to base the analysis. The income analysis ostensibly was prepared by appellant's counsel, not by an expert in the field of real estate valuation. The brief prepared by Zucker was not an appraisal or other expert valuation report.

The Board finds no merit to the appellant's argument. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the Illinois Supreme Court stated:

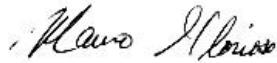
[I]t is clearly the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held by the owner... [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as 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"... [M]any 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.* at 430-31.

Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant made this argument, 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 income, 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. The appellant did not provide such evidence and, therefore, the Board gives this argument no weight. 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.



Chairman



Member



Member



Member



Acting 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: December 23, 2016



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.