



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

APPELLANT: Won Hee Kang
DOCKET NO.: 13-33843.001-C-1
PARCEL NO.: 13-11-325-029-0000

The parties of record before the Property Tax Appeal Board are Won Hee Kang, 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: \$24,609
IMPR.: \$48,797
TOTAL: \$73,406

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 2013 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 commercial building of masonry construction with 6,250 square feet of building area. The building is approximately 91 years old and has two units. The property has a 6,250 square foot site and is located in Chicago, Jefferson Township, Cook County. The subject is classified as a class 5-17 commercial property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends assessment inequity and overvaluation as the bases of the appeal. In support of the assessment inequity argument the appellant submitted information on three equity comparables improved with one-story commercial buildings of

masonry construction that ranged in size from 5,000 to 6,250 square feet of building area. The buildings ranged in age from 49 to 98 years old and had the same assessment classification code as the subject property. The comparables had improvement assessments ranging from \$33,976 to \$55,828 or from \$6.06 to \$11.17 per square foot of building area. The subject has an improvement assessment of \$91,491 or \$14.64 per square foot of building area. The appellant's counsel prepared a grid analysis indicating the comparables had improvement assessments reflecting market values ranging from \$135,904 to \$223,312 or from \$24.25 to \$44.66 per square foot of building area. The appellant indicated the subject's improvement assessment reflects a market value of \$365,960 or \$58.55 per square foot of building area. The appellant requested the subject's improvement assessment be reduced to the average market value established by the comparables of \$31.23 per square foot of building area resulting in a revised improvement assessment of \$48,797 and a total revised assessment of \$73,406.

The appellant's counsel also developed an income approach to value referencing subject's gross income as reported on Schedule E, Supplemental Income and Loss, on the federal tax returns from 2010, 2011 and 2012 and the subject's 2013 lease with a potential gross income of \$52,800. The attorney deducted 10% for vacancy and collection loss to arrive at an effective gross income of \$47,520. Counsel then deducted 35% of effective gross income or \$16,632 for expenses to arrive at a net income of \$30,888. The attorney then divided the net income by a loaded capitalization rate of 15.56% to arrive at an estimated market value of \$198,509. Based on this analysis the appellant's counsel requested a revised assessment of \$49,627.

The appellant also submitted a copy of the final decision issued by the board of review establish a total assessment of \$116,100. The subject's assessment reflects a market value of \$464,400 when using the Cook County Real Property Assessment Classification Ordinance level of assessments for class 5-17 property of 25%.

The board of review did not submit its "Board of Review Notes on Appeal" nor any evidence in support of its assessed valuation of the subject property.

Conclusion of Law

The taxpayer contends in part assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board

finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted on this basis.

The Board finds the only evidence of assessment equity to be the appellant's comparables. These comparables had improvement assessments that ranged from \$6.06 to \$11.17 per square foot of living area. The subject's improvement assessment of \$14.64 per square foot of building area falls above the range established by the only comparables in this record. The board of review did not submit any evidence in support of its assessment of the subject property or to refute the appellant's 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)). The Board has examined the information submitted by the appellant and finds that it supports a reduction in the assessed valuation of the subject property based on assessment inequity commensurate with the appellant's request.

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 potential gross income 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:

[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 through any objective evidence that the subject's actual income or the expenses counsel utilized are reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant's counsel 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 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 opinion testimony of value for that client's property.

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.

Mario Albino

Chairman

K. L. Ferr

Member

JR

Member

Jerry White

Acting Member

Robert Hoffmann

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 22, 2016

A. Heston

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.