



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

APPELLANT: Brinker Restaurant Corporation  
DOCKET NO.: 23-03746.001-C-2  
PARCEL NO.: 03-10-351-003

The parties of record before the Property Tax Appeal Board are Brinker Restaurant Corporation, the appellant, by attorney Angel Carpio, of Worssek & Vihon LLP in Chicago; and the Kendall County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **A Reduction** in the assessment of the property as established by the **Kendall** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$249,656  
**IMPR.:** \$83,644  
**TOTAL:** \$333,300

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Kendall County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2023 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 consists of a 1-story commercial building of masonry exterior construction with 5,594 square feet of building area. The building was constructed in 2002 and is approximately 21 years old. Features of the building include a restaurant buildout with dining area, bar area, a kitchen, and restrooms. The property has an approximately 72,720 square foot site, with a land-to-building ratio of 13.00:1, and is located in Oswego, Oswego Township, Kendall 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 \$1,000,000 as of January 1, 2023. The appraisal was prepared by Edward V. Kling, MAI, a certified general real estate appraiser, for ad valorem tax purposes. The appraiser inspected the subject property on October 19, 2023.

Under the cost approach, the appraiser selected five comparable land sales located in Oswego, Montgomery, and Plainfield ranging in size from 53,579 to 191,664 square feet of land area. Four comparables sold from October 2021 to February 2023 for prices ranging from \$445,000 to \$600,000 or from \$3.26 to \$11.02 per square foot of land area. One comparable was under contract for a price of \$850,000 or \$4.43 per square foot of land area. After making adjustments to these comparables for differences from the subject, the appraiser concluded a land value for the subject of \$6.00 per square foot of land area, or \$430,000 rounded.

The appraiser estimated \$1,191,426 as the replacement cost new (RCN) for the subject's building based on Marshall & Swift Valuation Service cost schedules. Using the age/life method and an economic life of 50 years, the appraiser calculated depreciation of \$595,713, which was subtracted from the RCN for a depreciated cost of \$595,713. The appraiser next estimated a value of \$90,000 for the site improvements, including asphalt paving and landscaping. The appraiser concluded value for the subject under the cost approach of \$1,115,000 rounded (Land value \$430,000 + Depreciated building cost \$595,713 + Site improvements \$90,000).

Under the sales comparison approach, the appraiser selected five comparable sales located in Bolingbrook, Aurora, St. Charles, and Batavia. The comparables have sites ranging in size from 43,560 to 80,150 square feet of land area with land-to-building ratios from 7.48:1 to 13.64:1. The comparables are improved with restaurant buildings ranging in size from 3,960 to 9,900 square feet of building area that were built from 1980 to 2001. The comparables sold from January 2021 to March 2023 for prices ranging from \$600,000 to \$1,850,000 or from \$151.52 to \$186.87 per square foot of building area, including land. The appraiser made adjustments to the comparables for property rights and for differences from the subject in location, building size, and other feature and amenities. Based on this analysis, the appraiser concluded a value for the subject under the sales comparison approach of \$180.00 per square foot of building area, including land, or \$1,000,000 rounded.

Under the income approach, the appraiser selected five rent comparables located in Oswego and Aurora. The comparables are improved with retail or restaurant buildings, two of which are single-tenant buildings. The comparables have net rentable area ranging from 2,400 to 4,327 square feet of building area that were leased from January 2021 to May 2023 for rents ranging from \$19.92 to \$34.21 per square foot on a gross basis. The appraiser estimated market rent for the subject of \$30.00 per square foot on a gross basis or \$167,820 of gross rental income, from which the appraiser subtracted estimated vacancy and collection losses of 10% or \$16,782, to arrive at effective gross income of \$151,038. The appraiser subtracted estimated expenses of \$22,415 to calculate net operating income of \$128,623. For the capitalization rate, the appraiser examined rates under direct capitalization and band of investment methods ranging from 7.8% to 11.3% to conclude a base rate of 9% and a loaded capitalization rate of 12.01%. Based on these calculations, the appraiser concluded a value for the subject under the income approach of \$1,070,000 rounded.

Considering the three approaches to value, with the least weight given to the cost approach, the appraiser opined a market value for the subject of \$1,000,000 as of January 1, 2023.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the appraised value conclusion.

The board of review submitted its "Board of Review Notes on Appeal" on May 30, 2024 disclosing the total assessment for the subject of \$453,062. The subject's assessment reflects a market value of \$1,359,322 or \$243.00 per square foot of living area, land included, when using the statutory level of assessment of 33.33%.<sup>1</sup>

In support of its contention of the correct assessment the board of review submitted information on five comparable sales presented in the grid analysis of the "Notes on Appeal." The comparables are located in Plainfield, St. Charles, Bolingbrook, and Geneva. Comparable #2 is the same sale as appraisal sale #3. The comparables have sites ranging in size from 51,836 to 99,317 square feet of land area, with land-to-building ratios from 9.28:1 to 14.08:1, and are improved with 1-story restaurant buildings ranging in size from 5,586 to 7,211 square feet of building area that range in age from 17 to 23 years old. The comparables sold from October 2019 to December 2021 for prices ranging from \$1,200,000 to \$2,310,000 or from \$166.41 to \$411.32 per square foot of living area, including land.

The board of review also submitted information on three comparable land sales that were not presented on the Board's prescribed forms as required by Section 1910.80 of the Board's procedural rules (86 Ill. Admin. Code § 1910.80). The Board issued Standing Order No. 2 that applies to all matters filed after February 28, 2023, whereas all parties, including appellants, intervenors and boards of review are ordered to use the Board's prescribed forms in accordance with Section 1910.80 of the Board's procedural rules whether a party is filing by paper or through the e-filing portal. Any party not complying with the Board's rules will be subject to sanctions. The sanction is to give any evidence not submitted on the proper form zero weight. Therefore, pursuant to the Board's strict application of Section 1910.80, as articulated in Standing Order No. 2, the information on the comparable land sales submitted by the board of review is given no weight.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

### **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 met this burden of proof and a reduction in the subject's assessment is warranted.

---

<sup>1</sup> Section 1910.50(c)(1) of the Board's procedural rules provides that in all counties other than Cook, the three-year county wide assessment level as certified by the Department of Revenue will be considered. 86 Ill. Admin. Code § 1910.50(c)(1). As of the development of this Final Administrative Decision, the Department of Revenue has not published figures for tax year 2023.

The appellant presented an appraisal and the board of review presented five comparable sales in support of their respective positions before the Board. The Board finds the best evidence of market value to be the appraisal submitted by the appellant. The appraiser relied primarily on the sales comparison and income approaches to value. Under the sales comparison approach, the Board finds the appraiser selected properties that are similar to the subject in design and age and overall sold proximate in time to the assessment date, with four of the five comparables having sale dates in 2022 or 2023. The Board finds the appraiser made appropriate adjustments to these comparables for differences from the subject, including the one leased fee sale, which was adjusted downward for property rights. Under the income approach, the Board finds the appraiser selected rent comparables that are similar to the subject in location and reflect leases proximate in time to the assessment date. The Board finds the appraiser estimated vacancy and collection losses and developed a loaded capitalization rate that were supported.

The Board finds the board of review did not challenge the appraiser's selections or methodology, but presented only unadjusted sales data for five comparables, all of which sold in 2019 and 2021, which is less proximate in time than four of the five sales presented in the appellant's appraisal.

Based on this record, the Board finds the subject property had a market value of \$1,000,000 as of the assessment date at issue and a reduction in the subject's assessment commensurate with the appellant's request 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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Member



Member



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: \_\_\_\_\_

October 15, 2024



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

AGENCY

State of Illinois  
Property Tax Appeal Board  
William G. Stratton Building, Room 402  
401 South Spring Street  
Springfield, IL 62706-4001

APPELLANT

Brinker Restaurant Corporation, by attorney:  
Angel Carpio  
Worsek & Vihon LLP  
180 N. LaSalle Street  
Suite 3010  
Chicago, IL 60601

COUNTY

Kendall County Board of Review  
Kendall County Office Building  
111 West Fox Street  
Yorkville, IL 60560