

# **Bond Case Briefs**

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## **TAX - KENTUCKY**

### **Wilgreens, LLC v. O'Neill**

**Court of Appeals of Kentucky - September 23, 2016 - S.W.3d - 2016 WL 5319593**

Taxpayer appealed determination of the Board of Tax Appeals upholding county property valuation administrator's property tax assessment on commercial real property, asserting administrator overvalued property under income generation approach by including income generated under commercial lease.

The Circuit Court affirmed. Taxpayer appealed.

The Court of Appeals held that:

- Taxpayer failed to present evidence demonstrating that property tax assessment overvalued property, and
- Property tax assessment under income generation approach, which included rental payments, was reasonable and did not overvalue property.

Taxpayer failed to present evidence demonstrating that property tax assessment by county property valuation administrator overvalued property by using income generation approach for estimating fair cash value, which required consideration of present value of all future benefits, including net rental income generated under triple net lease for retail pharmacy that encumbered property, and thus assessment's prima facie validity was required to be upheld, though taxpayer asserted income from lease was above-the-market. Taxpayer attempted to show property was overvalued by relying on properties very different from the subject property, as none of the allegedly comparable properties were located on same major thoroughway or anywhere similar.

Property tax assessment of commercial property by county property valuation administrator under income generation approach for estimating fair cash value, which required consideration of present value of all future benefits, including net rental income generated under triple net lease for retail pharmacy that encumbered property, was reasonable and did not overvalue property, though taxpayer asserted lease was above-the-market; lease was part of property, property was capable of generating kind of income derived under lease with or without retail pharmacy by virtue of its location on major thoroughway, several properties located in same area, such as national grocery store chain, generated similar benefits for their owners, and fact that property was able to generate such income made it more valuable.