



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

APPELLANT: Chad Blankenbaker
DOCKET NO.: 11-23544.001-R-1
PARCEL NO.: 05-20-122-003-0000

The parties of record before the Property Tax Appeal Board are Chad Blankenbaker, the appellant(s), by attorney Edward P. Larkin, Attorney at Law in Des Plaines; 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:

LAND: \$ 13,053
IMPR.: \$ 95,489
TOTAL: \$ 108,542

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 2011 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a partially completed two-story dwelling of frame construction with 2,889 square feet of future living area. The dwelling was under construction and not completed as of January 1, 2011. The property has a 8,850 square foot site, and is located in Winnetka, New Trier Township, Cook County. The subject is classified as a class 2-78 property under the Cook County Real Property Assessment Classification Ordinance (the "Classification Ordinance"). Since the subject is still under construction, the subject is not owner-occupied.

The appellant argues a contention of law as the basis of the appeal. In support of this argument, the appellant argued that the previous improvement upon the subject was demolished in September 2008, that a new dwelling was under construction during the entirety of tax year 2011, and that the new dwelling was ultimately completed sometime after January 1, 2012. In

support of this argument, the appellant submitted a demolition permit the Cook County Bureau of Administration, Department of Environmental Control, which was valid from August 11, 2008 until September 8, 2008 for demolishing the previous improvements upon the subject (including a house, a detached garage, and a shed). The appellant also submitted two copies each of two undated color photographs showing the exterior of the subject when it was under construction. The pictures show the subject was under roof, and had windows and the siding was mostly installed. The appellant's brief states that the photographs were taken in January 2012, and that the exterior wall construction is not fully complete, that there are no sidewalks, exterior steps, driveways, or grass, and that the interior drywall and floors are not finished. The appellant also submitted a printout from the Cook County Assessor's website, which states that the subject received a partial assessment for tax year 2011. Based on this argument and supporting evidence, the appellant requested that the subject's improvement assessment be reduced to \$0, and that the subject's land assessment remain at \$13,053.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$108,542. The subject's assessment reflects a market value of \$1,085,420 when applying the 2013 statutory level of assessment for class 2 property under the Classification Ordinance of 10.00%.

In support of its contention of the correct assessment, the board of review submitted information on four equity comparables and one sale comparable.

In rebuttal, the appellant argued that the board of review's evidence should be given no weight because it did not address the appellant's contention of law.

At hearing, counsel for the appellant specifically requested that the subject's classification be changed to vacant land. Upon questioning from the Board's Administrative Law Judge, counsel for the appellant stated that he took the photographs that were previously submitted into evidence, and that he took those photographs sometime during tax year 2011. The board of review rested on the evidence previously submitted.

Conclusion of Law

The appellant raises two contentions of law as the bases for this appeal. First, the appellant argues that the subject's classification is incorrect. Second, the appellant argues that the subject's improvement was not completed during tax year 2011, and should be granted vacancy relief. For the reasons stated below, the Board does not find either of these arguments persuasive.

First, the appellant argues that the subject's classification was inaccurate. "Subject to such limitations as the General Assembly may hereafter prescribe by law, counties with a population of more than 200,000 may classify or continue to classify real property for purposes of taxation. Any such classification shall be reasonable and assessments shall be uniform within each class." Ill. Const. of 1970 art. IX, § 4(b). "Classification refers to the categorizing of real property according to its use, for the purpose of determining at which percentage of fair market value the property should be assessed." People ex rel. Costello v. Lerner, 53 Ill. App. 3d 245, 250 (5th Dist. 1977) (citing People ex rel. Jones v. Adams, 40 Ill. App. 3d 189, 195 (5th Dist. 1976).

"Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence." 5 ILCS 100/10-15. Based on the evidence submitted by the parties, the Board finds that the appellant has not shown that the subject's classification should be changed by a preponderance of the evidence.

In accordance with Section 4(b) of Article IX of the Illinois Constitution, Cook County classifies property within it, and applies different assessment levels to different classes of properties. The Illinois Constitution states that the classifications "shall be uniform within each class." The Illinois Appellate Court interpreted this state constitutional provision to mean that real property could be classified according to use. Costello, 53 Ill. App. 3d at 250. As stated above, the subject is classified as a residential dwelling for tax year 2011 (specifically, class 2-78). The Classification Ordinance defines a class 2-78 property as a "Two or more story residence, up to 62 years of age, 2,001 to 3,800 square feet." The appellant asserts that the subject is vacant land (class 1-00). The Classification Ordinance defines a class 1 property simply as "Class 1. Unimproved real estate." Cook Co. Code of Ordinances § 74-63(1).

The Board finds that the subject is not a class 1-00 property as that term is defined in the Classification Ordinance. As evidenced by the appellant's assertions in the pleading, and the undated color photographs of the subject, the subject is clearly not "unimproved real estate." The evidence shows that the subject is improved with a dwelling that is under construction. Under the definition found in the Classification Ordinance, a property improved with a partially completed dwelling cannot reasonably be described as "unimproved real estate." For these reasons, the Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject is improperly classified as a class 2-78 property.

Second, the appellant argues that the subject's assessment should be reduced because the subject was under construction during the entirety of tax year 2011, and was not completed until sometime after January 1, 2012.

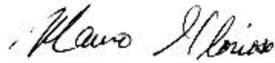
The Board recognizes that this case is akin to Long Grove Manor v. Property Tax Appeal Bd., 301 Ill.App.3d 654 (2d Dist. 1998). In Long Grove Manor, a nursing home was under construction and was substantially completed on January 1, 1995, the lien date for tax year 1995. Id. at 655. However, the nursing home was not ready to be occupied, and would not be ready for the entirety of tax year 1995. Id. Since the nursing home was not ready to be occupied, but was substantially completed, the owner of the nursing home requested that the property's assessment be lowered to \$0.00. Id. For tax year 1995, the Lake County Assessor valued the property for assessment purposes, but applied only a "token assessment" of 25.0% of the full assessed value because it was substantially completed. Id. The Lake County Assessor testified that he considered "substantially completed" to mean "under roof." Id. at 657. The Lake County Board of Review reduced the nursing home's assessment slightly, and the Property Tax Appeal Board upheld the Board of Review's assessment. Id. at 655.

The Second District then upheld the Property Tax Appeal Board's decision citing Section 9-160 of the Illinois Property Tax Code as its basis. Id. at 656. That Section requires the assessor to record any new improvements and to determine the value they have added to the property. 35 ILCS 200/9-160. The Appellate Court found that the procedure used by the Lake County

Assessor (i.e. assessing the property, but only imposing a "token assessment" of 25.0%) was proper. Id. at 656.

This case is no different than Long Grove Manor. The subject's improvement was not fully completed until sometime after January 1, 2012, but it was substantially completed (because it was under roof) sometime during tax year 2011. This fact is evidenced by the appellant's assertions in the pleadings and the undated color photographs depicting the subject during tax year 2011 or January 2012. Therefore, the Board finds it appropriate to apply a "token assessment" to the subject for tax year 2011. Furthermore, the Board finds that the subject received a partial assessment for tax year 2011, based on the printout from the Assessor's website submitted by the appellant. As such, the Board finds that such a decrease constitutes a "token assessment," and that no further reduction in the subject's assessment is warranted.

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

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: July 22, 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.