



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

APPELLANT: Maria Gadea
DOCKET NO.: 11-26849.001-R-1
PARCEL NO.: 13-27-418-034-0000

The parties of record before the Property Tax Appeal Board are Maria Gadea, the appellant(s), by attorney Leonard Schiller, of Schiller Klein PC 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: \$ 11,593
IMPR.: \$ 58,910
TOTAL: \$ 70,503

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 two improvements. Improvement #1 is a two-story dwelling of masonry construction with 10,990 square feet of living area. Improvement #1 is 92 years old. Improvement #2 is a two-story coach house of frame construction with 2,410 square feet of living area. Improvement #2 is 129 years old. Features of Improvement #2 include a full unfinished basement. The property has a 7,306 square foot site, and is located in Chicago, Jefferson Township, Cook County.

Improvement #1 is classified as a class 3-18 property under the Cook County Real Property Assessment Classification Ordinance. Improvement #2 is classified as a class 2-11 property under the Cook County Real Property Assessment Classification Ordinance. Another improvement, which allegedly is encroaching on the subject's land, is classified as a class 5-17 property. Additionally, the subject's land is classified as a class 5-00 property.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on March 18, 2009 for a price of \$710,000. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The appellant also contends that the subject's land is improperly classified as a class 5-00 property. The appellant asserts that a neighboring commercial improvement is encroaching on the subject's property, and that, due to this encroachment, the Cook County Assessor improperly classified the subject's land as a class 5-00 property, and improperly attributed a portion of the encroaching neighboring commercial improvement to the subject's assessment. The appellant argues that the neighboring commercial improvement's assessment should be removed from the subject's assessment, and that the land should be split between a class 3-00 and a class 2-00 property.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$90,991. The subject's assessment reflects a market value of \$363,964 when applying the 2011 statutory level of assessment for class 5 property of 25.00%.

In support of its contention of the correct assessment, the board of review submitted information on four equity comparables for Improvement #2. The board of review also submitted information on five comparable sales for Improvement #1.

The board of review also submitted a property record card for the subject, which lists the various assessment calculations used in determining the subject's full assessment. The property record card states that the subject's land has a land unit price of \$15.75, is classified as a 5-00 property, and has a 25% level of assessment. The property record card further states that the subject contains three improvements: a class 3-18 property with a 10.00% level of assessment and an assessment of \$50,224; a

class 5-17 property with a 25.00% level of assessment and an assessment of \$4,915 which is prorated at 10%; and a class 2-11 property with a 10% level of assessment and an assessment of \$7,085.

In rebuttal, the appellant argued that the board of review's evidence should be given no weight because it was raw sales data that made no adjustments.

At hearing, counsel for the appellant argued that the subject contains two improvements. According to counsel, Improvement #1 contains five residential apartments and two commercial units, and Improvement #2 contains two residential apartments. Counsel argued that, after the appellant purchased the subject in March 2009, it was discovered that the improvement on the east side of the subject was encroaching on the subject's land. This neighboring improvement is a commercial building, and 10% of its total assessment, or \$4,915, is attributed to the subject. Counsel further argued that several remedial steps have been made to correct the encroachment. In regards to the subject's assessment, counsel argued that, due to the encroachment of the neighboring commercial improvement, the subject's land is incorrectly classified as a class 5-00 property, and instead, should be classified as a partial class 3-00 property (for Improvement #1) and a partial class 2-00 property (for Improvement #2). Additionally, counsel requested that the assessment of \$4,915 attributed to the neighboring commercial improvement be reduced to \$0, and that the appropriate assessment levels be applied to the subject.

In support of this argument, counsel submitted a plat of survey, showing that the neighboring improvement is, in fact, encroaching upon the subject's land. The Board accepted this survey into evidence, without objection from the board of review, and marked it as Appellant's Hearing Exhibit #1.

The board of review rested on the evidence previously submitted.

Conclusion of Law

The appellant contends that the subject's land is improperly classified as class 5-00 property. Based on the survey admitted into evidence at hearing, the Board finds that the subject's land is classified incorrectly. The Board further finds that the subject's assessment improperly includes a portion of the neighboring commercial improvement's assessment. Therefore, the Board finds that the subject's land should be partially

classified as a class 2-00 property, and partially classified as a class 3-00 property. Furthermore, the Board finds that the \$4,915 assessment attributed to the subject due to the neighboring commercial improvement's encroachment should be reduced to \$0.

In determining the subject's land assessment, the Board finds that, after removing the class 5-17 improvement assessment, Improvement #1 accounts for 87.06% of the subject's improvement market value after applying the 2011 statutory level of assessment for class 3 property of 10.00%, and the 2011 three year average median level of assessment for class 2 property of 9.49% as determined by the Illinois Department of Revenue. Therefore, 87.06% of the subject's land shall be designated as class 3-00 property, and the remaining 12.94% shall be designated as class 2-00 property. The land unit price of \$15.75 shall remain unchanged.

Multiplying the subject's land size of 7,306 by the land unit price of \$15.75 results in a market value for the subject's land of \$115,070. 87.06% of this market value is \$100,180 which represents the class 3-00 portion of the subject's land, and 12.94% of this market value is \$14,890, which represents the class 2-00 portion of the subject's land. After applying the 2011 statutory level of assessment for class 3 property of 10.00% to the class 3 portion of the land, the subject's partial land assessment becomes \$10,180. After applying the 2011 three year average median level of assessment for class 2 property of 9.49% as determined by the Illinois Department of Revenue to the class 2 portion of the land, the subject's partial land assessment becomes \$1,413. Thus, the subject's total land assessment is the sum of these two partial assessments, or \$11,593.

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.

The Board finds the best evidence of market value to be the purchase of the subject property in March 2009 for a price of \$710,000. The appellant provided evidence demonstrating the

sale had the elements of an arm's length transaction. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold using a Realtor, and the property had been advertised on the open market with a listing on the MLS. In further support of the transaction, the appellant submitted the settlement statement. The Board finds the purchase price is below the market value reflected by the assessment. The Board finds the board of review did not present any evidence to challenge the arm's length nature of the transaction or to refute the contention that the purchase price was reflective of market value. Based on this record the Board finds the subject property had a market value of \$710,000 as of January 1, 2011. Since market value has been determined the blended level of assessment for the subject of 9.93% shall apply. 86 Ill.Admin.Code §1910.50(c)(2)-(3).

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.

Ronald R. Cuit

Chairman

K. L. Fen

Member

Tracy A. Huff

Member

Mario Morris

Member

JR

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: March 20, 2015

A. Portal

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.