

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Pengtian Ma & Yin Liu
DOCKET NO.: 03-23982.001-R-1
PARCEL NO.: 14-28-104-106-1001

The parties of record before the Property Tax Appeal Board are Pengtian Ma & Yin Liu, the appellants, and the Cook County Board of Review.

The subject property consists of an eight-year-old, residential condominium unit containing 1,859 square feet of living area and located in Lake View Township, Cook County. Amenities include two and one-half bathrooms, air-conditioning, a fireplace and a one-car garage. The condominium declaration was recorded in 1999. The subject is assigned a 48.7% ownership interest in a five-story, four-unit, condominium building.

The appellant, Pengtian Ma, appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process as the basis of the appeal. In support of this claim, the appellants submitted assessment data and descriptive information on three residential units located within one block of the subject. A fourth unit was also submitted, however, the amount of living area was unknown, therefore this property shall not be used in the analysis. The appellants also submitted a four-page brief, an affidavit and photographs of the subject and the suggested comparables. In addition, the appellants provided Cook County Assessor's Internet Database sheets for each unit in the subject's condominium building as well as the suggested comparables. Furthermore, the appellants submitted a copy of an appraisal report with an effective valuation date of August 16, 1999 which indicated a market value for the subject of \$300,000.

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Based on the facts and exhibits presented, 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:	\$ 7,368
IMPR.:	\$ 74,881
TOTAL:	\$ 82,249

Subject only to the State multiplier as applicable.

Final administrative decisions of the Property Tax Appeal Board are 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.

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The record also disclosed that the subject property was purchased in September 1999 for a price of \$298,000.

Based on the appellants' documents, the three suggested comparables consist of six or eight-year-old, residential condominium units of masonry construction located within one block of the subject. One of the properties is located within the subject's building. The comparables range in size from 1,056 to 2,400 square feet of living area and contain from two to four full bathrooms, air-conditioning, a fireplace and a one-car garage. The improvement assessments range from \$15.42 to \$25.04 per square foot of living area. The appellants' evidence disclosed that the three comparables sold from April 1999 to July 1999 for prices ranging from \$269,000 to \$369,000. The appellants' comparable four sold in November 2001 for \$485,000.

At hearing, the appellant argued that the board of review, in its determination of the assessed valuation of the subject, relied entirely on the history of past sales in the subject's building as well as the subject's percentage interest in the common areas of the subject's building. The appellant also argued that the board of review's approach was arbitrary. The appellant further argued that the percentage interest in common areas is designated, sometimes arbitrarily, by the developer in the declaration, and the designation does not command a price or determine the market value of a condo unit.

In addition, the appellant asserted that the other three units in the subject's building contain two bedrooms and two baths with 1,056 square feet of living area, whereas, the subject contains three bedrooms and two and one-half baths with 1,859 square feet of living area. The appellant's evidence disclosed that the four units in the subject's building when built in 1996, were retained by the developer as rental units from 1996 to 1999, at which point they were sold by the developer with none purchased for rental purposes. The appellant's argued that their percentage of ownership interest in the subject's condominium building is incorrect and therefore, they are inequitably assessed. Based on the evidence submitted, the appellants requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final total assessment of \$82,249 was disclosed. The board's evidence disclosed the subject's property classification (2-99) and percent of ownership interest of 48.7%, with the three remaining units having ownership interest of 16.5%, 18.2% and 16.6%.

In support of the assessment, the board of review presented the methodology used to estimate the subject's fair market value. The board of review's evidence revealed that from March 2002

through June 2002 the three other units in the subject's building sold for prices ranging from \$282,500 to \$298,000. Total consideration for the three sales was \$875,500, of that amount \$9,000 was deducted for personal property. Thus, the total adjusted sale price was \$866,500 for the three remaining units in the subject's building. The board estimated the total market value of the building using the adjusted sales price and the total percentage of interest of the units which sold, or 51.3%, to conclude a total value for the subject building of \$1,689,084. The subject's percentage of ownership of 48.7% was then applied to the total building value to determine a fair market value of \$822,584 for the subject property.

At hearing, the board's representative stated that the board of review would rest on the written evidence submissions. Based on the evidence presented, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellants submitted a two-page brief, four new comparables as well as Cook County Assessor's Internet Database sheets for these properties. The appellants argued that these properties further support a reduction in the subject's assessment.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The appellant's argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review V. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not overcome this burden.

The appellants argued that the board of review, in its determination of the assessed valuation of the subject, relied entirely on the history of past sales in the subject's building as well as the subject's percentage interest in the common areas of the condo building. The appellants argued that the board of review's approach was arbitrary. The appellants further argued that the percentage interest in common areas is designated, sometimes arbitrarily, by the developer in the declaration, and the designation does not command a price or determine the market value of a condo unit. In addition, the appellants argued that their percentage of ownership in the subject's condominium building is incorrect and therefore, they are inequitably assessed.

The Board finds the appellants' arguments are without merit. First, the evidence in the record disclosed that the practice in Cook County when assessing condominiums is to utilize the percentage of ownership, as contained in the condominium declaration, as the factor to pro-rate assessments to individual unit owners. The evidence demonstrated that the board of review used actual sales of the three units within the subject's building to estimate the overall value of the subject's building. The overall market value of the building was then apportioned to the individual units using each unit's percentage of ownership.

Next, the Property Tax Appeal Board finds that it does not have the authority to change the percent of ownership as contained in the condominium declaration pursuant to the Condominium Property Act (765 ILCS 605/1 et seq.).

Under section 3 of the Act, in order for the owner or owners of a parcel of property to make the parcel subject to the Condominium Property Act, they must record an executed and acknowledged declaration expressly stating such intent. Section 4 of the Act, recites the elements or contents that must be included in the declaration that is to be recorded under the Act. Section 4 (e) provides that the declaration shall include:

The percentage of ownership interest in the common elements allocated to each unit. Such percentages shall be computed by taking as a basis the value of each unit in relation to the value of the property as a whole, and having once been determined and set forth as herein provided, such percentages shall remain constant unless otherwise provided, in this Act or thereafter changed by agreement of all the owners.

As indicated above, the percentage of ownership interest in a condominium is computed by taking as a basis of a unit's value its relationship to the value of the property as a whole. Square foot of ownership, amenities and location are factors utilized in determining condominium value which enhance the percent of ownership. The appellants' evidence disclosed that the remaining three units in the subject's building contain two bedrooms and two baths with 1,056 square feet of living area, whereas, the subject contains three bedrooms and two and one-half baths with 1,859 square feet of living area. The Board finds the subject to be significantly larger in size of living area than the other units in the building and therefore, should be assigned a greater percentage of ownership.

The board's evidence disclosed the subject's total assessment to be \$82,249. This total assessment is correctly factored by the percentage of ownership assigned to each unit that was established when the subject's condominium declaration was

recorded in 1999. Therefore, the Board finds that it has no authority to change the percentage of ownership as contained in the condominium declaration. The subject's assessment is correct and therefore, no reduction is warranted.

In addition, the appellants submitted three suggested equity comparables, however, among other differences, the Board finds one comparable to be significantly smaller, one comparable to be much larger, and one comparable, which is located within the subject's building, to have a significantly smaller percentage of ownership than the subject, According the three suggested comparables are accorded little weight.

Finally, the Property Tax Appeal Board did not consider the four new comparables submitted in rebuttal. *Section 1910.66 (c), of the Official Rules of the Property Tax Appeal Board* states in part, "Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties." 86 Ill. Adm. Code §1910.66(c). Therefore, the Property Tax Appeal Board is precluded from considering the new comparables submitted as rebuttal evidence.

As a result of this analysis, the Property Tax Appeal Board finds the appellant has failed to adequately demonstrate that the subject dwelling was inequitably assessed or overvalued and a reduction is not warranted.

This is a final administrative decision of the Property Tax Appeal Board are 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: _____

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: September 28, 2007



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.