



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

APPELLANT: 37th Place Homes II, LLC
DOCKET NO.: 05-27513.001-C-1 through 05-27513.005-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are 37th Place Homes II, LLC, the appellant, by attorney Herbert B. Rosenberg, with the law firm of Schoenberg Finkel Newman & Rosenberg LLC 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
05-27513.001-C-1	17-32-416-018-0000	2,235	38,201	\$40,436
05-27513.002-C-1	17-32-416-019-0000	1,144	5,397	\$6,541
05-27513.003-C-1	17-32-416-020-0000	1,860	532	\$2,392
05-27513.004-C-1	17-32-416-021-0000	1,882	532	\$2,414
05-27513.005-C-1	17-32-416-031-0000	2,287	7,705	\$9,992

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of five land parcels comprising 13,033 square feet. As of the assessment date, the subject was improved with a mixed-use building as well as a single-family dwelling.

The appellant, via counsel, argued that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of the market value argument, the appellant submitted a legal brief and attachments initially asserting that the subject property should be accorded a vacant land assessment. However, the attorney's brief argued that the improvements were demolished on April 21, 2005 and that construction began on eight townhouses on April 26, 2005. The brief stated that the new improvements were expected to be completed in the spring of 2006,

while asserting that no occupancy permit had been issued for the new buildings.

In support of these arguments, the brief included four, black and white copies of photographs identified as "former improvements", as well as two copies of photographs identified as "current development of the subject". An affidavit was submitted by Michael Passarelli. The affiant indicated that he is the vice president of DeGrazia Development Company as the owner of the subject property and that the parcels were purchased for a value of \$975,000. He indicated that the owners paid a premium for the subject as part of a bulk purchase of contiguous parcels containing various improvements in order to demolish the existing improvements and construct eight, single-family townhouses. He indicated that the developer's primary business was to develop various types of single-family residences. Lastly, the affidavit indicated that the subject's initial improvements were demolished on or about April 21, 2005 with new construction commencing on April 26, 2005.

Moreover, the appellant's attachments included copies of a demolition permit to wreck and remove a three-story building on April 21, 2005 as well as two distinct building permits each authorizing construction of four new, two-story townhouses with attached garages dated April 26, 2005.

Furthermore, the appellant's brief argues that Section 200/9-180 of the Property Tax Code is applicable to the subject property citing:

that new or added building structures shall be assessed on a pro-rated basis from the date the building improvement is substantially completed or initially occupied or initially used to December 31 of that year. . . the owners of the subject shall notify the Assessor within 30 days of completion of the improvement as required under the Property Tax Code.

Pursuant to this section, the appellant argues that the subject was under construction beginning on April 21, 2005 without an occupancy permit issued during tax year 2005.

At hearing, the appellant called as its first witness, Michael Passarelli. Having been duly sworn, Mr. Passarelli testified that he is the vice president and chief financial officer of the subject's development company. He stated that he was the development company's accountant since 2003, while taking other positions thereafter and that he was the construction manager assigned to the subject's development. He stated that the subject's initial improvement of a mixed use building was demolished in the later part of April, 2005. He indicated that the single payment to the demolition company was made on May 27, 2005. Based upon his experience, he testified that it was a customary practice to begin demolition of the improvements immediately after the issuance of the demolition permit because

the permit has a finite life as determined by the municipalities' building department depending on the type of new structure to be built. However, he was not personally aware of the time period accorded to the subject's demolition permit, but he indicated that he believed the subject's demolition was completed within a three-week time period even though he testified that he had not personally visited this demolition site. Mr. Passarelli stated that the subject's total demolition costs came to \$35,000 payable to Affordable Demolition. He identified a demolition payment was made and stated that he personally authorized that payment. In support of this testimony, appellant submitted Appellant's Group Hearing Exhibit #1, which is a 15-page document evidencing expense payment dates, check numbers, and payment amounts kept in the normal course of business by Mr. Passarelli as the developer's chief finance officer. This Exhibit was entered into evidence without an objection from the board of review and evidenced a single payment to Affordable Demolition on May 27, 2005. Moreover, the developer testified that a single payment is customarily made at the conclusion of demolition of a simple structure, similar to the subject property.

Thereafter, the appellant called as its second witness, Timothy Kitchens. Having been duly sworn, Mr. Kitchens testified that he is the president of Affordable Demolition and that he has worked in this industry for over 20 years. He also stated that his company was hired to demolish the subject's initial improvements. He testified that his company began demolition within one to two days after the permit was issued for the subject and that the demolition was completed within a two to three week period from that permit date. In addition, he testified regarding the board of review's aerial photograph of the subject dated April, 2005. He stated that this photograph accurately depicted the subject's two improvements. Moreover, he testified regarding industry standards for demolition elaborating on the speed with which demolition occurs in order to obtain inspector's approvals to proceed with the demolition and then the development of the property. Based upon the evidence and testimony, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$115,314 for tax year 2005. The subject's assessment reflects a market value of \$512,662 or \$39.33 per square foot for tax year 2005 using the applicable Cook County Ordinance levels of assessment for each class of property included in the subject.

The board of review's memorandum indicated that the subject's parcels underwent two distinct purchases in December, 2004. Four parcels were sold on December 6, 2004, for \$750,000, while the fifth parcel was distinctly purchased on the same date for \$225,000. In support of this assertion, copies of the warranty deeds were included.

The memorandum further stated that the assessor's records indicated that as of the lien date of January 1, 2005, the

subject's parcels were improved with various buildings. In support of this assertion, the board of review submitted a copy of an aerial photograph of the subject reflecting that the image was captured in April of 2005, and indicating the aforementioned improvements thereon. The memorandum further states that new improvements were reflected as of April 18, 2006. In support of this assertion, a second aerial photograph of the subject was submitted with an image capture date of April, 2006. Lastly, the memorandum asserted that the subject's initial improvements were wrecked and removed via assessor's permit #3326 on September 13, 2006.

In addition, the board of review submitted CoStar Comps printouts for five suggested comparables of undeveloped, residential land sales. They sold from February, 2001, to November, 2005, for prices that were in an unadjusted range from \$27.54 to \$64.00 per square foot. The parcels ranged in size from 6,186 to 18,517 square feet of land area. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the board of review's representative asserted that the appellant had not met its burden in proving that the subject property should be accorded a vacant land classification. As to the board of review's operating procedures, the representative stated that what is required is a receipt evidencing the last day of demolition as well as photographs taken on various dates identifying the demolition progress until the building is completely gone; thereby, verifying that date as well. If these documents had been received, the board's representative testified that a vacant land classification would have been granted to the appellant for the land assessment with a vacancy factor applied from that demolition date to the improvements. He stated that the calculations would have resulted in an assessment approximately equal to the appellant's requested assessment.

Upon examination by the hearing officer regarding the memorandum's statements as well as assessor permit printouts attached to the board of review's evidence, the board's representative stated that he had no personal knowledge of the assessor's tracking printouts for the subject with the exception that the assessor's field check occurred on August 22, 2006. Thereafter, he expounded on the submitted aerial photographs, which he believed were taken by an independent contractor for the assessor's office.

Thereafter, the appellant's attorney requested an opportunity to analyze the five suggested comparables submitted by the county. Without objection from the board of review's representative, the Board accorded the appellant seven days to submit an analysis of the board of review's five land sales, with the board of review accorded seven days thereafter, for any response. The appellant's attorney timely submitted Appellant's Exhibit #2, which is a one-page grid analysis of the five properties composed of data from the board of review's notes on appeal, data from the assessor's website, and/or calculations undertaken by the

appellant's attorney. The grid reflects the board of review's data indicating a sale price range of \$27.54 to \$64.00 per square foot, while the subject's sale price was \$74.81 per square foot. The assessor's website reflected assessment data on four properties that ranged from \$0.60 to \$3.22 per square foot, while the subject was assessed at \$8.85 per square foot.

After considering the arguments, testimony and reviewing the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the Board concludes that the evidence indicates a reduction is warranted.

In determining the fair market value of the subject property, the Board finds the minimal evidence submitted by the board of review regarding the subject's two distinct sales less than persuasive. The developer's affidavit stated that the sales were part of a bulk purchase paid at a premium in order that townhouses are developed on the five parcels. In addition, the board of review submitted no evidence to support the arm's length nature of these two sale transactions.

The Board places most reliance on the testimony of the appellant's witnesses supported by the appellant's evidence. The un rebutted testimony of the developer was that he was not personally on-site during the subject's demolition. However, the developer's knowledge of a demolition date was based upon Appellant's Hearing Exhibit #1 wherein a single payment of \$35,000 issued on May 27, 2005 to the demolition company was authorized after demolition had been completed. In support of this testimony, the demolition witness stated that demolition would have begun within a two-day period after the permit was issued and completed within a three-week period. The later statement was also testified to by the developer. Further, both witnesses testified to an industry practice of commencing demolition within one or two days after the issuance of the demolition permit and completion within a three-week time period thereafter. This three-week window for demolition coincides with the payment date of May 27, 2005. Moreover, the developer testified that a single payment is customarily made at the conclusion of demolition of a simple structure, as was the subject property. The Board finds this evidence supports the appellant's position that the subject's improvement assessment

should be prorated; however, the Board finds the more definitive date of demolition is May 27, 2005. Furthermore, the testimony of the board's representative indicated that the subject's improvements would have been accorded a proration factor applicable from the date of the demolition permit, which was issued on April 21, 2005. Therefore, the evidence supports a reduction in the subject's improvement assessment.

However, the Board finds that the appellant has not met the burden of proving vacant land application to the subject's parcels. The testimony of the appellant's two witnesses failed to indicate a date certain reflecting the commencement of construction at the subject property. This lack of a definitive date was referenced by the board of review's witness as one of the reasons behind the lack of a land assessment reduction accorded at the county level appeal. Moreover, the board of review's evidence reflected conflicting statements. There was reference to a building permit issued on April 26, 2005 as well as another reference to a building permit issued on September 13, 2006 without further explanation. Yet, the support data included in the board of review's evidence depicts new improvements in the aerial photograph dated in April, 2006.

Further, the Board finds that the appellant's characterization of the subject's parcels as vacant land is misapplied. The appellant's witnesses' complimentary testimony was that whenever demolition concluded, new construction should have begun shortly thereafter. In addition, the multiple photographs of the subject's current improvements as well as the new improvements lacked any dates or relevant foundation. Further, the Board accorded diminished weight to the board of review's raw sales data regarding undeveloped land.

Therefore, the Board finds that the subject property's improvement assessment is unsupported by the evidence and testimony in this record. The subject's prorated improvement assessment should be \$61,775, while the subject's current improvement assessment is above this amount at \$105,906. Therefore, the Board finds that a reduction 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank J. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: December 3, 2010

Allen Castrovillari

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.