

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: William Golden
DOCKET NO.: 06-01958.001-R-1 and 06-01958.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are William Golden, the appellant, by attorney Michael Reynolds of Rieff, Schramm & Kanter in Chicago, and the DuPage County Board of Review.

The subject property consists of two parcels totaling 15,600 square feet of land area. The parcels have been improved with two apartment buildings of six units each. The buildings were constructed in 1963 with masonry exterior construction. Each building consists of one 1-bedroom unit and five 2-bedroom units; each unit is said to have 3,752 square feet of living area. The property is located in Villa Park, York Township, DuPage County, Illinois.

The basis checked on the Residential Appeal form was contention of law. In support of the contention of law, counsel for the appellant submitted a memorandum arguing that the fair market value of the subject is not accurately reflected in its assessed value as reflected in its recent purchase price with supporting documentation attached. The documents included a memorandum extending the closing date for the sale, a Real Estate Sale Contract for four buildings including the two buildings which are the subject of this proceeding, a three-page memorandum of changes to the contract, the Illinois Real Estate Transfer Declaration (PTAX-203) for the two subject parcels, and the Settlement Statement concerning the two subject parcels.

The Real Estate Sale Contract executed April 7, 2006 consisted of 30 units made up of three 6-unit buildings and 1 12-unit building (the two subject parcels and two additional parcels which are separately the subject of Docket Nos. 06-01959.001-R-1 and 06-01959.002-R-1). In the brief, counsel asserted that after negotiations and an inspection, the original asking price was reduced and the four buildings were purchased for \$2,000,000.

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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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

Table with 5 columns: Docket No., Parcel No., Land, Impr., Total. It lists two parcels with their respective assessed values for land and improvements, and a total assessed value of 144,460 for each.

Subject only to the State multiplier as applicable.

In the brief, counsel also reported the sale of the subject parcels closed on June 19, 2006 with the total consideration paid being \$760,000. Counsel arrived at this sale price after deducting a \$70,000 credit for repairs given at closing as reflected in the Settlement Statement line 209 and an additional 5% reduction for personal property. In this regard, counsel argued the subject parcels were reduced from a purchase price of \$870,000 to \$800,000 (or \$400,000 each) based on the \$70,000 repair credit reflected in the Settlement Statement. Counsel further argued a 5% reduction was appropriate for personal property (kitchen appliances, washers, dryers, lighting fixtures, etc.) which were conveyed with the real estate. It is noted, however, that the verified Illinois Real Estate Transfer Declaration regarding the subject parcels reflected full actual consideration of \$870,000 with no amount allotted for personal property. Based on the foregoing arguments, counsel allocated \$380,000 ($\$760,000 \div 2$) as the purchase price for each parcel.

As set forth in the Residential Appeal petition, the appellant felt that each parcel should have a 2006 total assessment of \$126,667.

The board of review presented its "Board of Review Notes on Appeal" wherein its final assessment of \$168,080 for each of the subject parcels was disclosed. In support of the assessments, the board of review presented a letter along with a grid analysis of ten comparable sales located in Villa Park. The comparable properties were described as 4-unit, 5-unit or 6-unit, masonry apartment buildings which were built between 1959 and 1964. The comparable units ranged in living area square footage from 2,763 to 3,752 square feet. These comparables sold between August 2003 and April 2006 for prices ranging from \$375,000 and \$575,000 or from \$81,500 to \$96,750 per unit including land.

Based on its analysis of the data, the board of review requested confirmation of the subject's assessment which reflected an estimated fair market value of \$506,113 for each parcel or \$84,352 per unit including land, based on the DuPage County three-year median level of assessments of 33.21%.

After reviewing the record 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 Board further finds a reduction in the subject's assessment is warranted.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. Other than in counties which classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is

ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d 428 (1970). When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill. App. 3d 1038 (3rd Dist. 2002). The Board finds the evidence in the record does support a reduction in the subject's assessment.

The sole basis of the appellant's appeal was the purchase price of the subject property in June 2006 for \$870,000 which counsel argued was actually reduced to \$760,000 based upon a \$70,000 repair credit reflected in the Settlement Statement and a 5% reduction for personal property which was not reflected in the verified Illinois Real Estate Transfer Declaration.

As these purported offsets to the purchase price, the Property Tax Appeal Board finds that both the Settlement Statement and the verified Illinois Real Estate Transfer Declaration reflect the full actual consideration of the subject parcels to have been \$870,000. It is further noteworthy that the Transfer Declaration is specifically authorized under law (35 ILCS 200/31-25) and is executed as "true and correct" where "[a]ny person who willfully falsifies or omits any information required in this declaration shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses." Appellant as buyer executed the Transfer Declaration which reflected the purchase price of \$870,000 and reflected no amount for personal property included in the purchase. Line 102 of the Settlement Statement has no value filled in for "Personal Property." Based on the foregoing documents, including but not limited to a verified Illinois Transfer Declaration executed under potential misdemeanor penalties for any falsification, the Property Tax Appeal Board finds the subject parcels had a purchase price of \$870,000 or \$72,500 per unit, including land, in June 2006.

In response to the appellant's evidence, the board of review presented information on ten sales of similarly aged properties which were also similar in size and features to the subject and located within the subject's city which had unit sale prices ranging from \$81,500 to \$96,750 per unit, including land, between August 2003 and April 2006.

The Board finds the board of review did not submit any evidence to call into question the arm's length nature of the sale or challenging the contention that the price is not reflective of market value. In conclusion the Property Tax Appeal Board finds the best evidence of market value in the record is the sale of the subject property. Based on this record, the Property Tax Appeal Board finds the subject's assessment should be reduced so as reflect an estimated market value of \$435,000 for each parcel as of January 1, 2006.

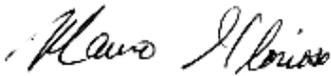
This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman



Member

Member



Member



Member

DISSENTING: _____

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: August 24, 2009



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.