FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: 723-725 West Diversey, LLC
DOCKET NO.: 06-26654.001-R-1
PARCEL NO.: 14-28-300-016-0000

The parties of record before the Property Tax Appeal Board are 723-725 West Diversey, LLC, the appellant, by attorney Patrick J. Cullerton, of Thompson Coburn LLP, 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:	$25,724
IMPR.:	$46,058
TOTAL:	$71,782

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 4,800 square foot site located in Chicago, Lakeview Township, Cook County, Illinois. The site was improved with a two-story multi-family building containing 2,940 square feet of building area which was demolished in mid- to late October 2006. At the time of this appeal, the property was classified as Class 2-11 under the Cook County Real Property Assessment Classification Ordinance.

The appellant in this appeal submitted a brief and documentation arguing that the subject property was improperly assessed based on a contention of law. The appellant's counsel argued that in accordance with Sections 9-160 and 9-180 of the Property Tax Code (35 ILCS 200/9-160 and 9-180), the subject property is entitled to a partial assessment based upon the fact that the improvements were not occupied for a portion of 2006 and then the structure was demolished.

The appellant contends based upon submission of a Vacancy – Occupancy Affidavit that the subject building was not occupied from August 2006 through October 2006. Then as depicted in the

Demolition Affidavit, the appellant argues that the structure was demolished in mid to late October 2006. Subsequent to the demolition, construction of a condominium building commenced.

The appellant also submitted a copy of the board of review final decision wherein the subject's final assessment of $81,024 was disclosed.

Next, the appellant calculated two pro rata land assessments for the subject for January to October at the 16% level of assessment of Class 2-00 land of $19,934 and another land assessment from the point of demolition at the 22% level of assessment for Class 1-00 vacant land of $5,495. The appellant also presented a pro rata assessment of the improvement along with an occupancy factor of 10% for a building assessment of $5,758.

Based on the foregoing evidence and argument, the appellant requested a total assessment for the subject parcel of $35,022.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $81,024 was disclosed. In support of the subject's assessment, the board of review presented a grid analysis of three suggested equity comparables, two of which included sales data. The board of review also reported the sale of the subject property in August 2006 for $930,000. The board of review did not address the appellant's demolition and/or vacancy arguments made in this appeal.

Based on the foregoing, the board of review requested confirmation of the subject's improvement assessment.

When the appellant waived the request for a hearing on this matter, counsel contended that there were substantial reductions in the assessment of the subject property "due to the uninhabitable condition of the property as it was under construction" for 2007 and 2008. The Property Tax Appeal Board takes notice that there was no appeal before this agency on this parcel in either 2007 or 2008. (86 Ill.Admin.Code §1910.90(i)).

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.

As to the appellant's claim for a reduced improvement assessment due to the structure's demolition in mid to late October 2006, Section 9-160 of the Property Tax Code (35 ILCS 200/9-160) is relevant and provides in pertinent part:

> The assessment shall also include or exclude, <u>on a proportionate basis</u> in accordance with the provisions of Section 9-180, . . . <u>all improvements which were destroyed or removed</u>. [Emphasis added.]

Section 9-180 of the Property Tax Code provides:

> When, during the previous calendar year, any buildings, structures or other improvements on the property were destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means (excluding destruction resulting from the willful misconduct of the owner of such property), the owner of the property on January 1 shall be entitled, on a proportionate basis, to a diminution of assessed valuation for such period during which the improvements were uninhabitable or unfit for occupancy or for customary use.
>
> . . .
>
> Computations under this Section shall be on the basis of a year of 365 days.

In light of these provisions of the Property Tax Code, where the property was not destroyed until mid to late October 2006, the subject property would be entitled to a diminution in assessed value after the demolition under the provisions of the Property Tax Code. The assessment date at issue in this proceeding is January 1, 2006. As set forth in the Property Tax Code, the structure(s) were to be assessed by the assessing officials until such time as demolition occurred. The appellant proposed a pro rata valuation of 83.3%, but did not explain the method by which this percentage was calculated. In light of Section 9-180, the Property Tax Appeal Board finds a pro rata reduction in the subject's improvement assessment is warranted on this record based on a year of 365 days, not on a percentage basis.

The appellant's evidence of the date of demolition was found in the Demolition Affidavit which asserted the demolition "was completed on October 2006." The appellant's evidence does not provide a precise date and therefore, the Board will apply a date of October 31, 2006 as the date of completion of demolition. Thus, applying the provisions of Section 9-180, the Board finds the subject structure's pro rata valuation period shall be from January 1 to October 31, 2006. In the absence of any dispute with the improvement assessment, the subject's pro rata improvement assessment will be reduced to $46,058.

Next, the appellant made a vacancy argument in the form of a brief written by counsel with supporting documentation. Counsel indicated the subject's pro rata improvement assessment should be further reduced by an occupancy factor of 10% based upon vacancy from August to October 2006 as supported by the vacancy affidavit. The Board further finds no explanation for the occupancy factor of 10% was given. Rather, the appellant's attorney simply stated the subject's occupancy rate, applied the purported rate to the pro rata improvement assessment and argued the calculation justified a further assessment reduction. The Board finds this evidence is insufficient to support a further reduction in the subject's improvement assessment on grounds of occupancy.

As a final issue, the appellant made two arguments regarding the subject's land assessment contending first that the subject parcel should be given a pro rata assessment as Class 2-11 residential land at the 16% level of assessment through the time of demolition in October 2006 and thereafter the land should be given a Class 1-00 level of assessment of 22% from demolition to the end of 2006. The Property Tax Appeal Board gives these arguments no merit.

The Board finds that Section 9-180 of the Property Tax Code addresses the pro-ration of improvements based on a 365 day year but does not address the pro-ration of land. In Rosewell v. Lakeview Limited Partnership, 120 Ill.App.3d 369, 373, 458 N.E.2d 121, 124 (1st Dist. 1983), the court held that, unless otherwise provided by law, a property's status for purposes of taxation is to be determined as of January 1 of each year. The court noted that Section 27a of the Revenue Act of 1939 (Ill.Rev.Stat.1981, ch. 120, par. 508a; now codified at 35 ILCS 200/9-175, 9-180 & 9-185) applies to status, and provides that the owner of real property on January 1 shall be liable for the taxes of that year. Lakeview Limited Partnership, 120 Ill. App. 3d at 373. The court further stated that there are only two circumstances that allow change applications from the January 1 date. One circumstance deals with the situation where a property becomes taxable or exempt after January 1 and the second circumstance provides for proportionate assessments in the case of new construction or uninhabitable property. Id. at 373. (See 35 ILCS 200/9-180 and 9-185).

Based on this analysis of the provisions of the Property Tax Code and applicable case law, the Board finds that no change in the subject's land assessment is warranted.

In conclusion, the Property Tax Appeal Board finds that the subject's improvement assessment should be pro-rated to account for the demolition of the structure as of October 31, 2006 in accordance with Section 9-180, but no change in the subject's land assessment is justified on this record.

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 23, 2013

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.