

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Rock Builders, Inc.
DOCKET NO.: 06-29598.001-R-1
PARCEL NO.: 17-06-211-025

The parties of record before the Property Tax Appeal Board (PTAB) are Rock Builders, Inc., the appellant, by attorney Allen Lefkovitz in Chicago and the Cook County Board of Review.

The subject property consists of a 2,400 square foot parcel of land improved with a 118-year old, two-story, masonry, multi-family dwelling containing 3,432 square feet of living area, three baths, and a full finished basement. The appellant argued the fair market value of the subject property is not accurately reflected in the assessed value.

In support of the equity argument, the appellant, via counsel, submitted a brief arguing that the subject property was purchased in July 2006 for \$575,000 along with an adjacent parcel for \$640,000. In addition, the appellant presented sales information on three additional properties located within the subject's neighborhood. The comparable's land size ranges from 2,400 to 3,250; descriptions on the improvements were not provided. These properties sold from March 2004 to May 2006 for prices ranging from \$440,000 to \$460,000. The appellant included copies of the settlement statements for the three suggested comparables, their deeds, plats of surveys, and black and white and colored photographs of all the properties. The brief argues that the subject property sold at an inflated value when it was purchased with the adjacent parcel.

The appellant's second argument is that the subject property was vacant from the date of purchase in July 2006 until the improvement's demolition in January 2007. The appellant argues that the subject property should receive the benefit of a vacancy factor for this time period. In support of this, the appellant included documentation and a PTAB decision for an unrelated property and a copy of the board of review's rules. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

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

LAND: \$ 13,248
IMPR.: \$ 24,224
TOTAL: \$ 37,472

Subject only to the State multiplier as applicable.

PTAB/JBV

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's improvement assessment of \$51,435 or \$14.99 per square foot of living area was disclosed. In support of the subject's assessment, the board of review presented descriptions and assessment information on two properties suggested as comparable and located within the subject's neighborhood. The properties consist of two-story, masonry, multi-family dwellings with two or three baths and a full basement with one finished. The properties 115 and 128 years old, contain 3,360 and 3,246 square feet of living area, and have improvement assessments of \$15.04 and \$15.44 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted a copy of an affidavit from the President of Rock Builders stating the property was vacant from the time of purchase until its demolition in 2007 and that the property was purchased as part of an assemblage with the adjoining parcel. The affiant opined that appellant paid a premium for the subject property. The affidavit also indicated that the three suggested comparables were purchased by the appellant.

At hearing, the appellant's attorney argued that the subject's sale price was above market value because the property was purchased during the same month and by the same purchaser as the adjoining parcel for the development of a condominium. The appellant presented Appellant's Exhibit #1, a copy of a page from *The Appraisal of Real Estate, 12th Edition*, defining assemblage and plottage. The appellant's attorney argued that the appellant assembled two lots together and paid a premium to create this plottage. He argued that the sale of the suggested comparables shows that a premium was paid. The attorney submitted Appellant's Exhibit #3, a blank PTAX-203 Illinois Real Estate Transfer Declaration. He argued that this form asks if the buyer of the property is an adjacent property owner so to exclude the sale from others that are arm's length in nature.

The appellant's Attorney also presented Appellant's Exhibit #2, a copy of the board of review's rules. He argued that rule 21, which deals with partial vacancy, should apply to the subject property because the subject was vacant from the time of purchase in July 2006 until it was demolished in 2007. He argued that the property was occupied for only 53.9% of the year. In addition, the appellant argued that the evidence submission of the PTAB decision on the unrelated parcel is proof that the board of review grants assessment relief based on occupancy. This documentation included a PTAB decision by agreement of the party, a copy of the stipulation signed by the parties and the appellant's evidence arguing vacancy. He argued that vacancy must be applied uniformly to all properties. He acknowledged that these documents do not indicate the stipulation was based on occupancy, but argued that the stipulation was for one year only.

The board of review's representative, Lena Henderson, argued that closing statement for the subject property shows that the property and the adjoining parcel were not purchased at the same time. She also argued that the purchase price is the market value of the property. She indicated the properties may be adjacent, but sold separately. She also argued the board of review's suggested comparables show that the subject was assessed uniformly.

In response to questions, Ms. Henderson opined that there is a value to both the land and the building during a purchase. She argued that the value is determined by the willing buyer and seller. She acknowledged that the board of review does grant occupancy relief based on the rules. She also acknowledged that the 53.9% arrived at by the attorney is a correct figure if occupancy was to be given to the subject property.

After reviewing the record and considering the testimony, 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.

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, 331 Ill.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 PTAB concludes that the evidence indicates a reduction is not warranted.

In determining the fair market value of the subject property, the PTAB finds the best evidence to be the sale of the subject property in July 2006 for \$575,000. The PTAB finds the appellant's argument that this sale was above market value because it was an assemblage to be unpersuasive. The evidence does indicate that the subject property and the adjoining property were purchased in close proximity to one another. Although the properties, once sold, created an assemblage, there is no evidence that the sales were not market value; the buyer was willing to pay more for the subject property and the seller was willing to accept this amount.

The evidence indicates there buyer and seller are not related and there was no evidence to suggest the property was not on the market or was not purchased in an arm's length transaction. Appellant's Exhibit #3 does not establish that the subject's purchase was not arm's length. This document seeks information as to the characteristic of the property and/or sale; it does not state on the document that identifying one of the characteristics will result in the purchase being established as not arm's

length. Furthermore, the appellant failed to present a completed document as it pertained to the subject property.

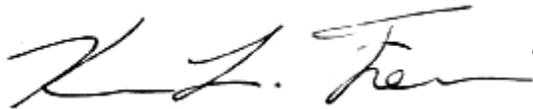
As to the occupancy argument, the PTAB finds the appellant submitted evidence to show that the subject property was vacant from the time of purchase until the end of the lien year. The appellant submitted an affidavit indicating the subject was vacant and a copy of the board of review rules indicating how to request relief for vacancy. In this particular appeal, there was testimony from the board of review's representative that the avenue of relief sought by the appellant, that of vacancy, does exist for property owners based on this rule. She did not provide any explanation as to why the subject property failed to meet the requirements for this relief. She also testified that the factor of 53.9% arrived at by the appellant would be the correct number used if relief would have been granted.

Therefore, based on the limited facts of this appeal only, the PTAB finds that the subject property contained a market value of \$575,000 for the 2006 assessment year. The value for the land based on the assessment is then removed from the purchase price to arrive at a market value for the improvement of \$444,091. A vacancy factor of 53.9% will then apply to this market value to arrive at a value of \$239,365. Since the value of the subject improvement has been established, the Department of Revenue median level of assessments for Cook County Class 2 property of 10.12% will apply. In applying this level of assessment to the subject, the total assessed value is \$37,472 while the subject's current total assessed value is above this amount. Therefore, the PTAB 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.



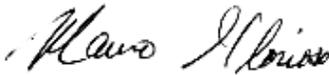
Chairman



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: July 28, 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.