



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

APPELLANT: Prendergast Builders, Inc.
DOCKET NO.: 06-29658.001-R-1 through 06-29658.003-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Prendergast Builders, Inc., the appellant, by attorney George Michael Keane, Jr., of Keane and Keane, 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
06-29658.001-R-1	16-22-201-040-0000	5,124	0	\$5,124
06-29658.002-R-1	16-22-201-041-0000	5,124	0	\$5,124
06-29658.003-R-1	16-22-202-023-0000	4,661	0	\$4,661

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of three residential lots. The parcels contain a total of 9,400 square feet of land area. The property is located in West Chicago Township, Cook County.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant partially completed Section VI - Recent Construction along with a brief of counsel with additional documentation. The appellant contends two of the parcels were purchased in May 2005 for \$26,000 each (copy of two Settlement Statements attached) and the third parcel was purchased in March 2005 for \$40,000 (copy of the Settlement Statement attached). When purchased each parcel was reportedly a vacant lot. Thus, the entire land cost is \$92,000.

The appellant contends permits were obtained in June and July 2006 for each lot to construct a three-unit residential building on each lot (copies attached). The appellant asserts that construction proceeded through the end of 2006 with work still in

progress and no habitable structure being in place by the end of 2006.

As set forth in an attached affidavit, none of the buildings were completed until March 2007. As of the filing of this appeal, there was no City of Chicago occupancy permit and there was reportedly no lease or occupancy until April 2007. (Copies of four leases to date attached to appeal).

As part of the appeal, the appellant acknowledges that the assessing officials added the new improvements "on a partial basis" and assessed each as a Class 2-11 improved property. The appellant contends, however, that none of the improvements were substantially completed, habitable or occupied. (See 35 ILCS 200/9-180). As the subject structures neither had an occupancy permit nor were habitable and fit for occupancy, the appellant contends the assessment should be for land only.

Next, the appellant argues that removing the improvement assessment and then converting the land to a Class 1-00 vacant parcel with an assessment level of 22%, the land assessments should be \$7,046 each for parcels -040 and -041 and \$6,409 for parcel -023.

The board of review submitted its "Board of Review Notes on Appeal" for each parcel wherein the property classification of Class 2-11 and the subject's total assessments of \$12,924, \$12,924 and \$10,935 were disclosed.

The board of review's evidence depicts for each parcel an improvement of a one-year-old, three-story masonry multi-family dwelling that contains 3,724 square feet of building area on a concrete slab foundation. Two of the buildings have improvement assessments of \$7,800 and the third building has an improvement assessment of \$6,274.

In support of the subject's assessment, the board of review presented equity information on two comparable properties and sales data on two additional comparable properties. The board of review did not address or refute the appellant's assertions that the dwellings did not have an occupancy permit and the buildings were not habitable and fit for occupancy. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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 improvement assessment is warranted.

Section 9-160 and section 9-180 of the Property Tax Code work in concert when valuing and assessing newly constructed improvements. Section 9-160 reads in part that:

Valuation in years other than general assessment years. On or before June 1 in each year other than the general assessment year, . . . and as soon as he or she reasonably can in counties with 3,000,000 or more inhabitants, the assessor shall list and assess all property which becomes taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements. The assessment shall also include or exclude, on a proportionate basis in accordance with the provisions of Section 9-180, all new or added buildings, structures or other improvements, the value of which was not included in the valuation of the property for that year. . .

Beginning January 1, 1996, the authority within a unit of local government that is responsible for issuing building or occupancy permits shall notify the chief county assessment officer, by December 31 of the assessment year, when a full or partial occupancy permit has been issued for a parcel of real property. The chief county assessment officer shall include in the assessment of the property for the current year the proportionate value of new or added improvements on that property from the date the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use until December 31 of that year. If the chief county assessment officer has already certified the books for the year, the board of review or interim board of review shall assess the new or added improvements on a proportionate basis for the year in which the occupancy permit was issued or the new or added improvement was inhabitable and fit for occupancy or for intended customary use. . . .

35 ILCS 200/9-160 [Emphasis added]. It is clear from this section of the Code that the assessor, supervisor of assessments and the board of review have the authority to assess new or added improvements on a proportionate basis from the date of the occupancy permit or the date the property was inhabitable and fit for occupancy.

Section 9-180 of the Code also sets forth the authority for allowing pro-rata valuations on newly constructed or added buildings. This section provides in part:

Pro-rata valuations; improvements or removal of improvements. The owner of property on January 1 also

shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year.

. . .

35 ILCS 200/9-180 [Emphasis added]. The court in Long Grove Manor v. Property Tax Appeal Board, 301 Ill.App.3d 654, 704 N.E.2d 872, 235 Ill.Dec.299 (2nd Dist. 1998), construed both section 9-160 and 9-180 of the Code. There the court stated in part that:

[S]ection 9-160 requires the assessor to record any new improvements and to determine the value they have added to the property. By its terms, section 9-180, applies only after a building has been substantially completed and initially occupied. Reading these two sections together, section 9-160 clearly requires the assessor to value any substantially completed improvements to the extent that they add value to the property. Section 9-180 then defines the time when the improvement can be fully assessed. This occurs when the building is both substantially completed and initially occupied.

Long Grove Manor, 301 Ill.App.3d at 656-657. In Brazas v. Property Tax Appeal Board, 339 Ill.App.3d 978, 791 N.E.2d 614, 274 Ill.Dec. 522 (2nd Dist. 2003) the court clarified its decision in Long Grove Manor by stating that:

Long Grove Manor stands for the principle that section 9-160 allows the assessor to value any partially completed improvement to the extent that it adds value to the property regardless of whether the improvement is "substantially complete". Furthermore, section 9-180 addresses when the assessor is allowed to fully assess the improvement, i.e., when it is "substantially completed or initially occupied or initially used."

Brazas, 339 Ill.App.3d at 983. It should be noted that Public Act 91-486, effective January 1, 2000, amended the first paragraph of section 9-180 by substituting in the first sentence the language "the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended use" and deleted the language "the improvement was substantially completed or initially occupied or initially used," and in the second sentence, inserted "within 30 days of the issuance of an occupancy permit or".

The Property Tax Appeal Board finds the section 16-160 of the Code clearly provides the authority for the assessing officials to calculate assessments on new or added improvements on a

proportionate basis for the year in which the occupancy permit was issued or the new or added improvement was inhabitable and fit for occupancy or for intended customary use. The only evidence in this record as to the improvements was presented by the appellant who contends that in 2006 the buildings on these three parcels did not have occupancy permits and were not habitable and/or fit for occupancy or for intended customary use. In the absence of any evidence to refute the appellant's contention and evidence, the Property Tax Appeal Board finds that the improvements on these three parcels were not assessable under Sections 9-160 and/or 9-180 of the Property Tax Code in 2006.

As to the appellant's second contention that the land for 2006 should be reclassified to Class 1-00 vacant land and assessed at 22% under the Cook County Real Property Assessment Classification Ordinance, the Board finds no merit in this assertion.

First, the land assessments of these three parcels at the 16% level for residential property reflects an estimated market value of \$93,181. The appellant has requested increases in the land assessments of the three parcels and application of the 22% level of assessment for vacant land that would reflect an estimated market value of the three parcels of \$93,186. The only market value evidence presented was the 2005 purchase prices of the parcels that totaled \$92,000. Thus, the Board finds no substantive basis in market value to change the land assessments of these three parcels for 2006.

Second, the appellant contends the parcels should be classified as Class 1-00 vacant land for 2006. The appellant's evidence was that building permits were obtained in June and July 2006 for each lot and construction of three-unit residential buildings commenced on each lot with construction proceeding through the end of 2006. Thus, the lots were not "vacant" for 2006 and the parcels are properly classified as Class 2 residential parcels.¹

In conclusion the Property Tax Appeal Board finds removal of the subject's improvement assessment is justified based on this record, but no change in the subject's land assessment is warranted.

¹ While the classification could be changed to Class 2-00 to reflect residential land, the change is meaningless where the level of assessment of 16% applies to both Class 2-11 and Class 2-00.

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.



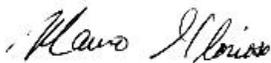
Chairman



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.