FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Harry Bovis
DOCKET NO.: 07-27303.001-C-1 through 07-27303.003-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Harry Bovis, the appellant(s), by attorney Brian P. Liston, of Law Offices of Liston & Tsantilis, P.C. in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***no change*** 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
07-27303.001-C-1	03-30-220-027-0000	41,562	57	$41,619
07-27303.002-C-1	03-30-220-028-0000	49,295	18,723	$68,018
07-27303.003-C-1	03-30-227-004-0000	44,257	137	$44,394

Subject only to the State multiplier as applicable.

ANALYSIS

The subject consists of three Property Index Numbers ("PINs"). The PINs ending in -027 and -004 have a minor commercial improvement upon them, while the PIN ending in -028 had an improvement upon it, until the improvement was demolished in March 2007. The appellant has made three arguments as the bases of this appeal. First, the appellant requested that, since the subject improvement was vacant for the time prior to the demolition, all three parcels should be assessed as vacant land. Second, the appellant argued that the subject should be reassessed on a *pro rata* basis for the time the improvement was upon the PIN, with a 20% occupancy factor being applied towards the improvement for the time prior to the demolition. Also, as part of this second argument, the appellant requested that the land be assessed as vacant land after the subject was demolished. In support of the land assessment argument, the appellant submitted three land equity comparables. Third, the appellant made the same argument as the second argument, but without requesting the application of the 20% occupancy factor.

In support of the demolition arguments, the appellant submitted: (1) a demolition permit from Cook County, which was valid from February 16, 2007 until March 16, 2007; (2) an asbestos removal

demolition permit, which was valid from November 29, 2006 until December 1, 2006; (3) a bid for demolition from Leon Construction Company for $30,000, dated September 29, 2006; (4) a copy of a check from the appellant to Leon Construction Company for $30,600, dated March 22, 2007; and (5) six undated, black and white photographs depicting the subject after demolition.

In support of the land equity argument, the appellant submitted descriptive and assessment information for three properties suggested as comparable to the subject. These properties are all vacant land, and range in size from 8,712 to 10,500 square feet of land. Additionally, these comparables have a land assessment of $1.21 or $2.75 per square foot of land. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total assessment of $154,031 was disclosed. In support of the subject's assessment the board of review submitted a property record card for each of the subject PINs. The property record cards indicate that all the improvements upon all three of the subject PINs received a 10% occupancy factor for tax year 2007. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant's attorney, Michael Frantz, reaffirmed the evidence previously submitted. Mr. Frantz also stated that he believes the subject was, in fact, demolished prior to March 16, 2007 based on the evidence submitted. Mr. Frantz also stated that he was unaware of who took the six undated, black and white photographs submitted in the appellant's evidence. The Cook County Board of Review Analyst, Michael Terebo, reaffirmed the evidence previously submitted. Mr. Terebo also asserted that the land comparables submitted by the appellant were not similar to the subject because they were much smaller in size than the subject.

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

When the demolition of a property is at issue, Section 9-180 of the Property Tax Code is applicable, which states, in relevant part:

> 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. The owner of property entitled to a diminution of assessed valuation shall, on a form prescribed by the assessor, within 90 days after the destruction of any improvements or, in counties with less than 3,000,000 inhabitants within 90 days after the township or multi-township assessor has mailed the application form as required by Section 9-190, file with the assessor for the decrease of assessed valuation. Upon failure so to do within the 90 day period, no diminution of assessed valuation shall be attributable to the property.
>
> Computations under this Section shall be on the basis of a year of 365 days.

35 ILCS 200/9-180. The appellant did not submit any evidence showing that a claim was made to the Cook County Assessor's Office seeking a diminution of the subjects' assessed value within 90 days of the subject's demolition. Under Section 9-180, such a request is required, and "[u]pon failure so to do within the 90 day period, *no diminution of assessed valuation shall be attributable to the property*." Id. (emphasis added). However, the Board is to make its decisions "based upon equity and the weight of evidence and not upon constructive fraud." 35 ILCS 200/16-185. Here, the Board finds that, in the interest of equity, the subject should be granted relief if it can be proven when the subject was demolished.

The Board finds that the evidence overwhelmingly supports the fact that the subject was demolished by March 16, 2007. The demolition permit, bid for demolition, and check from the appellant to the demolition company all support the fact that the subject was demolished prior to March 16, 2007. Therefore, the subject's improvement assessment, before application of the 10% occupancy factor applied by the board of review, shall be diminished by 79.7% (365 days – 74 days = 291 days ÷ 365 days = 79.7%). Thus, the PIN ending in -004 should have an improvement assessment of $281; the PIN ending in -027 should have an improvement assessment of $116; and the PIN ending in -028 should have an improvement assessment of $37,960.

The Board is not persuaded that an occupancy factor should be applied to the subject, as the appellant requested in the second argument for relief. The Board is charged with determining the correct assessment of property appealed to it based upon equity and the weight of evidence and not upon constructive fraud. 35 ILCS 200/16-180; 35 ILCS 200/16-185. There is no statutory authority for the Board to grant an occupancy factor to any property. Therefore, the Board cannot grant the subject an occupancy factor, and the appellant's second argument requesting relief is not persuasive.

The appellant's first and third arguments for relief both turn on the same issue: whether the subject can be reclassified as vacant land. The difference between the two arguments is the time at which the appellant wishes the reclassification to become effective. In the first argument for relief, the appellant requested that the subject be classified as vacant land as of January 1, 2007. In the second argument for relief, the appellant requested that the subject be classified as vacant land as of March 16, 2007, the date of the demolition. The Board finds both arguments unpersuasive for similar reasons.

Property in Illinois must be assessed as of January 1 of the tax year. 35 ILCS 200/9-155. In this case, that date is January 1, 2007. On that date, the subject was improved with a commercial improvement, and several minor commercial improvements. Therefore, those improvements must be taken into consideration when assessing the subject. The Board cannot reclassify the subject to vacant land for any date in 2007 because on January 1, 2007, there were commercial improvements upon the subject. Unlike Section 9-180 of the Property Tax Code, which was discussed above and allows for a *pro rata* diminishment of property when the improvements are demolished, there is no statutory authority to reclassify the subject to a different level of assessment. Thus, the Board finds that the appellant's first and third arguments for relief are not persuasive.

The Board, therefore, finds that the subject's improvement assessments should be as follows: the PIN ending in -004 should have an improvement assessment of $281; the PIN ending in -027 should have an improvement assessment of $116; and the PIN ending in -028 should have an improvement assessment of $37,960. All of these improvement assessments are greater than the subject's current improvement assessment. Therefore, the Board finds that the subject is not over-assessed, and no 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: June 21, 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.