



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

APPELLANT: Andrzej Fudula
DOCKET NO.: 07-28350.001-R-1
PARCEL NO.: 18-12-411-017-0000

The parties of record before the Property Tax Appeal Board are Andrzej Fudula, the appellant(s), by attorney Herbert B. Rosenberg, of Schoenberg Finkel Newman & Rosenberg LLC 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: \$3,694
IMPR: \$0
TOTAL: \$3,694

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 3,732 square feet of land. The improvement on the property was in the process of building built. The appellant argued the fair market value is not accurately reflected in the assessed value.

In support of this argument, the appellant, via counsel, submitted a copy of the building permit issued by the Village of Summit on September 11, 2006 and several other construction permits which are undated. In addition, the appellant presented an affidavit stating the land was purchased in April 2006, the appellant is the general contractor overseeing the construction of a single-family home on the property, and the anticipated completion date of this improvement is in 2009. The appellant also included black and white photographs of the improvement during construction. The appellant asserts that the subject should be assessed as vacant land for the 2007 assessment year as the improvement was not complete during that year. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$18,935 was disclosed. Of this amount, \$16,248 was allocated to the improvement. In support of the subject's assessment, the board of review presented descriptions and assessment information on three properties suggested as comparable to the subject and located within the subject's neighborhood. The properties consist of two-story, masonry, single-family dwellings. The properties are one year old and range in size from 2,022 to 2,410 square feet of living area and in improvement assessments from \$7.31 to \$15.48 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 letter asserting that the board of review did not address the subject's argument. They further argued that the subject should be assessed as vacant land.

At hearing, the appellant and his wife appeared to testify. The appellant's wife, Margaret Fudula, testified that she is part owner of the subject property and the construction company that is building the home. Ms. Fudula testified that the property was purchased in 2006 and began construction in the spring of 2007. She further testified that the construction of the building was not complete by December 31, 2007 nor was it fit for occupancy.

As to the photographs in evidence, the appellant, Andrzej Fudula, testified that he took the photographs of the subject and that all were taken at the same time. He testified the pictures were taken in 2009, but that the subject looked the same way in 2007. He testified there was a period of time there was no construction happening on the subject property.

Ms. Fudula testified that the change in the economy affected all their construction projects and many were put on hold for years until new financing could be secured. Ms. Fudula testified that they did not request an occupancy permit in 2007 because the improvement was not complete and did not get an occupancy permit until 2011.

The board of review's representative, Nicholas Jordan, testified that the documentation shows the assessor's office appraised the property in 2007 and applied a value and an occupancy factor of 47.1% to the improvement. He asserted that the permits submitted into evidence do not have readable dates and the board could not determine when work was being done. Jordan did not have personal knowledge as to what the assessor's office did or did not know at the time the property was appraised. He acknowledged that the subject received an occupancy factor of 10% for 2008 which would mean the subject was not occupied for 90% of that year. Jordan testified that the policy at the board is to place the assessment on the improvement when the occupancy permit is issued or the date of actual occupancy.

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, 331Ill.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 warranted.

The PTAB finds the appellant submitted sufficient evidence to show that no completed improvement existed on the subject property for the 2007 tax year. The evidence shows that the improvement was in the process of being built, but that it was not complete nor was the improvement habitable during 2007. The PTAB further finds that the policy of the board of review is to begin assessing the improvement when it is complete and an occupancy permit is issued or actual occupancy begins. Therefore, the PTAB finds that no assessable improvement existed for the 2007 assessment year on the subject's residential parcel and that a reduction in the subject's assessment 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.

Ronald R. Cuit

Chairman

Frank J. Huff

Member

Member

Shawn R. Lerbis

Member

Member

Mario M. Louie

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: September 23, 2011

Allen Castrovillari

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.