



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

APPELLANT: Rock Builders, Inc.  
DOCKET NO.: 07-29421.001-R-1 through 07-29421.002-R-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Rock Builders, Inc., the appellant(s), by attorney Allen A. Lefkovitz, of Allen A. Lefkovitz & Assoc. 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 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
07-29421.001-R-1	17-06-211-025-0000	22,977	16,973	\$39,950
07-29421.002-R-1	17-06-211-026-0000	22,977	17,232	\$40,209

Subject only to the State multiplier as applicable.

**ANALYSIS**

The parties dispute the status of the subject properties that are the subject of this appeal as of the lien date of January 1, 2007. The immediately following facts are undisputed and presented in sequential order. However, while these events are in *sequential* order, the parties dispute the exact dates of the events.

The appellant, Rock Builders, Inc., purchased the subjects, which were two adjacent parcels of land, with the intent of demolishing the improvements thereon, and constructing a new building. For purposes of this appeal, the parcel with property identification number 17-06-211-025-0000 will be identified as Parcel #1. Both parties submitted consistent evidence regarding the description of the older improvement on Parcel #1 which was demolished. The appellant submitted such evidence with its original submission, and the Cook County Board of Review submitted such evidence after hearing at the request of the Property Tax Appeal Board (the "Board"). This improvement is described as a 118 year old, two-story, multi-family apartment building containing 3,432 square feet of living area. This improvement includes three baths, and a full finished basement with an apartment. Parcel #1 has 2,400 square feet of land.

Neither party originally submitted evidence of what the older, now demolished improvement was on Parcel #2 (PIN 17-06-211-026-0000). The appellant did submit a printout from the Cook County Assessor's Office from 2008 showing that Parcel #2 contained 2,400 square feet of land, but no description of the improvement was provided. In the appellant's original pleadings, it is alleged that the improvement is 118 years old and contains 2,646 square feet of living area.

The parties agree that the improvements on Parcel #1 and Parcel #2 were both demolished, that both parcels were vacant for a period of time, and that a new apartment building that was built across both parcels was eventually constructed. The dates of when these various events happened are in dispute.

According to the appellant's pleadings, the subjects were purchased on July 17, 2006 and July 19, 2006. In support of this assertion, the appellant submitted two warranty deeds. The first states that Parcel #1 was sold on July 17, 2006 to Julian View, LLC. The second states that Parcel #2 was sold on July 14, 2006 to Julian View, LLC. No real estate transfer tax stamps were included on the deeds.

Next the appellant asserted that, shortly after the subjects were purchased, a demolition permit was issued, and that the older improvements did not exist as of January 1, 2007. The appellant provided a copy of a demolition permit for Parcel #2, which is dated January 29, 2007. While the appellant states that a demolition permit for Parcel #1 was included, it is not in the appellant's evidence.

The appellant also submitted a letter dated May 12, 2009 listing six properties which purportedly were granted a reduction in assessed value from the board of review based on vacancy. However, the appellant only included the board of review's decision letter for five of the properties, and, of those five letters, only three state that the reduction was the result of "vacancy, demolition, fire or natural disaster, or is exempt or a C of C." A seventh property was granted a reduction from the Cook County Assessor, and the letter from the Assessor that the appellant enclosed in this filing states that the reduction "is the result of the total vacancy of your property."

Finally, the appellant argued that both parcels were vacant land as of January 1, 2007, and that their assessments should be reduced to reflect as such. Parcel #1's total assessment was \$57,500, and Parcel #2's total assessment was \$58,173 according to the board of review decision letter submitted by the appellant. Based on this evidence, the appellant requested a reduction in the subjects' assessments.

The board of review submitted its "Board of Review-Notes on Appeal" wherein the Parcel #1's improvement assessment was disclosed to be \$44,252, and Parcel #2's improvement assessment was disclosed to be \$44,925. The board of review also provided a

description of the newly constructed building on the subjects. This building is described as a three year old, three-story, masonry, apartment building with 12,057 square feet of living area. The building has 10 baths, air conditioning, five fireplaces, a two-car garage, and a full basement with an apartment. In support of the subjects' assessment, the board of review submitted a list of sales of properties located within the subject's neighborhood. This list included the property identification number, deed number, the date of the sale, and the sale price for 39 properties. No further information was provided regarding these properties. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant provided a Freedom of Information Request printout from the Cook County Assessor's office describing the older improvement on Parcel #1. The appellant also provided assessment history information for both subjects.

At hearing, the appellant's attorney, Chris D. Sarris, of Allen A. Lefkovitz & Associates, PC argued that the subjects were purchased in July 2006, and that they were demolished prior to January 1, 2007. The appellant's second attorney, Allen Lefkovitz of Allen A Lefkovitz & Associates, Inc., argued that construction of the new building began in 2007, and that the building was not substantially completed as of December 31, 2007.

The Cook County Board of Review representative, Paul Lee, Cook County Board of Review Analyst, argued that the board of review asked for additional documents from the appellant at the oral hearing before the board of review, but the appellant never provided these requested documents. Mr. Lee pointed to the back page of the board of review's evidence which states as such. Mr. Lee also argued that the demolition permit for Parcel #1 was issued on January 29, 2007, and that this would contradict the appellant's argument that Parcel #1 was demolished prior to January 1, 2007.

At this point, Mr. Lefkovitz orally changed the original request for relief. Mr. Lefkovitz argued that, based on the date of the issuance of the demolition permit for Parcel #1, the improvements on both parcels were likely demolished sometime in March 2007 or April 2007. He further argued that the two buildings were uninhabitable prior to the demolition. When asked by the Board if he could provide any evidence that the improvements were uninhabitable, Mr. Lefkovitz simply stated that they were slated for demolition, and no one was living there. Therefore, Mr. Lefkovitz changed the appellant's request for relief to include a partial occupancy factor for the time the two older building were still standing, and that the subjects be assessed as vacant land for the remainder of the year.

Mr. Lee then continued with his case-in-chief, arguing that there is no evidence in the record to show when the buildings were actually demolished. Additionally, Mr. Lee stated that there

were no demolition permits or building permits for the subjects in the board of review's records system. At this point, the Board requested that the appellant provide evidence of when the buildings were actually demolished, and granted the appellant two weeks to provide such evidence. The Board also granted the board of review two weeks to search its records system again, to see if any permits (demolition, building, etc.) were issued for the subjects.

At this point, the Board asked that the parties turn their attention to the board of review's evidence, wherein the appellant's appeal at the board of review level was enclosed. In this appeal, a black and white picture of the property was included, which showed the subjects as vacant land. The photograph is captioned as having been taken on May 21, 2007. Mr. Lee argued that there was no way to substantiate that the picture was taken on that date. Mr. Lefkovitz then stated that he took the picture himself. The Board then asked Mr. Lefkovitz to go under oath, and testify as a fact witness regarding this picture. Mr. Lefkovitz did so, and testified that he took the picture on May 21, 2007, that he knows he took the picture because he takes all the pictures of the properties his law firm appeals to the board of review, and that he saw the subjects on May 21, 2007 and they were vacant on that date. At this point, Mr. Lee and Mr. Lefkovitz agreed to stipulate that the old buildings were demolished on May 21, 2007. Based on this stipulation, the Board requested that no evidence of the demolition be submitted as previously requested.

Next, the Board asked the parties to turn two pages, where a black and white photograph of the new building on the subjects was shown. This picture is captioned as having been taken on November 23, 2007. Mr. Lefkovitz testified that he took this picture as well. Mr. Lefkovitz could not say for sure whether the building was substantially completed at that time, but did "guess" that it was not. At this point, the Board granted the appellant two weeks to submit a better photograph of the new building, and, with that submission, to include a brief addressing whether the building is substantially completed as of November 23, 2007. The Board granted the board of review 30 days from receipt of the appellant's brief to respond.

The Board further asked for the parties to submit evidence of what was assessed on the subjects in 2007: the two older buildings, the vacant land, or the new building. The Board granted the parties two weeks to submit such evidence.

On August 8, 2012, the Board timely received a facsimile from Mr. Lee with the property characteristics for the improvement on Parcel #1 for tax year 2007, as stated above. The board of review did not submit the property characteristics for the improvement on Parcel #2 as of tax year 2007.

On September 7, 2012, the Board timely received a letter from Mr. Sarris which included the property characteristic sheets for

Parcel #1 and Parcel #2. The description of Parcel #1 matches the board of review's submission. The improvement on Parcel #2 is described as a 118 year old, two-story, multi-family dwelling containing 2,646 square feet of living area. The improvement also contains three baths, a two-car garage, and a slab.

The appellant also included a full page, color photograph of the new building as of November 23, 2007. The appellant argued that the building was not substantially completed and not habitable as of November 23, 2007 based on this photograph. In support of this assertion, the appellant made four points: there is a dumpster parked in front of the building on the street; the front exterior is not completed; the interior studs are not completely installed; and there was a short time from demolition to construction.

On October 5, 2012, Mr. Lee asked for a short extension to file the board of review's response brief, which the Board granted. On October 9, 2012, the Board received an email from Mr. Lee with the board of review's response brief. This brief states that the appellant has not provided consistent evidence of when the older buildings were demolished, or when the new building was constructed. The board of review argued that the appellant has failed to provide a consistent narrative of the facts and exact dates of various events, and, therefore, the evidence submitted by the appellant should not be considered credible. The brief further states that the appellant did not provide the Board with a vacancy affidavit, building permits, or construction preparation documents (i.e., architectural plans, contractor estimates, bid solicitations, etc.).

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

First, in accordance with the stipulation agreed to between the parties on the record at hearing, and the photographic evidence in the record in conjunction with the testimony of Mr. Lefkovitz, the Board finds that the two older buildings were demolished on May 21, 2007. Therefore, 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 provided no evidence to show that a claim was made to the Cook County Assessor's Office seeking a diminution of the subjects' assessed value within 90 days of their 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 subjects should be granted vacancy relief as of May 21, 2007.

The Board further finds that the new building was not habitable prior to December 31, 2007. The first paragraph of Section 9-180 of the Property Tax Code states that new improvements built on a property shall be assessed 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." The appellant provided evidence and made an argument that the subject was not completed, and thus, not habitable, as of November 23, 2007. The board of review did not refute that claim in its response brief.

As such, the Board finds that the board of review's assessment of the subjects shall remain unchanged from January 1, 2007 until May 21, 2007 (which equates to 140 days), and that the subjects shall be assessed as vacant land for the remainder of the year. The land and improvement assessments shall be multiplied by 140/365 (or 38.36%). The land assessment shall then be multiplied by 61.64%, the remaining percentage of the year when the vacancy relief will be granted. The value of the vacant land shall then be divided by the 2007 three-year median level of assessment for class 2 property of 10.04% as determined by the Illinois Department of Revenue. The assessment level for the vacant land shall be 22% in accordance with the Cook County Assessment Level Ordinance that was in effect for tax year 2007.

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

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

Member

*J. R.*

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: December 21, 2012

*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.