



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

APPELLANT: Dennis Kulak
DOCKET NO.: 07-30236.001-R-1
PARCEL NO.: 14-31-139-018-0000

The parties of record before the Property Tax Appeal Board are Dennis Kulak, the appellant, by attorney Lisa A. Marino, of Marino & Assoc., PC 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: \$ 12,696
IMPR.: \$ 33,990
TOTAL: \$ 46,686

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 3,450 square feet of land, which is improved with a 116 year old, one-story, frame, multi-family building. The subject's improvement size is 1,152 square feet of building area, and its total assessment is \$47,840. This assessment yields a fair market value of \$476,494, or \$413.62 per square foot of building area (including land), after applying the 2007 Illinois Department of Revenue three year median level of assessment for Class 2 properties of 10.04%. The appellant, via counsel, argued that the fair market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal.

In support of the market value argument, the appellant submitted evidence showing that the subject sold in June 2007 for \$465,000. This evidence included Cook County Recorder of Deeds printout. Furthermore, the appellant's pleadings state that the sale was not between related parties, that the subject was advertised for sale on the open market, that the parties did not use a real estate broker, and that the sale was not pursuant to a foreclosure or a short sale.

In addition, the appellant submitted a building permit dated April 22, 2008 for the subject property and a vacancy affidavit

from the appellant indicating that the subject property was 58.3% vacant in 2007 due to anticipated demolition and reconstruction of the subject property. 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 \$47,840 was disclosed. In support of the subject's assessment, the board of review submitted descriptive and assessment information for three properties suggested as comparable to the subject. The comparables are described as one-story, frame, multi-family dwellings. Additionally, the comparables range: in age from 116 to 128 years; in size from 1,075 to 1,368 square feet of living area; and in improvement assessments from \$30.32 to \$38.04 per square foot of living area. The comparables also have several amenities. The board of review's grid sheet confirms that the subject sold in June 2007 for \$465,000, or \$403.65 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant's attorney argued that the assessed value for the property should reflect the recent sale and that the property was 58.33% vacant for the year of 2007. Further, a 41.67% occupancy factor should be applied to the improvement which corresponds to a fair market value of \$184,363, or assessment of \$29,498.

Also at hearing, the board of review submitted the county's printout showing that the subject property received vacancy relief for the property in 2008. He further argued that although the property was vacant in 2007, it was nevertheless habitable, therefore subject to a full assessed valuation.

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

Pursuant to Section 9-180, assessors are to pro-rate valuations based on the year of 365 days. Section 9-180 of the Property Tax Code states in relevant 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 the year....

(35 ILCS 200/9-180)

The statute measures the value of an improvement to the property either from the date "when the occupancy permit was issued" or from the date the improvement "was inhabitable and fit for occupancy" prior to December 31 of the same year. The appellant failed to establish by a preponderance of the evidence that the subject was inhabitable and unfit for occupancy prior to December 31, 2007. The appellant failed to submit any evidence such as photographs, contractor statements and/or building permits stating that the property was uninhabitable in 2007. The evidence submitted including this building permit were issued in 2008. Therefore, based on this record, the Board finds that the subject's improvement assessment is supported and a reduction in the subject's assessment is not warranted.

When overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(c). Having considered the evidence presented, the Board finds that the evidence indicates a reduction is warranted.

In determining the fair market value of the subject property, the Board finds the best evidence to be the sale of the subject in June 2007 for \$465,000. The sale is within of the 2007 lien date, and the appellant's pleadings support the arm's-length nature of the transaction because the buyer and seller are not related, the subject was advertised for sale on the open market, and the sale was not pursuant to a foreclosure or a short sale. The Board gives little weight to the board of review's evidence as it was raw sales data that did not make any adjustments for age, exterior construction, improvement size, improvement type, location, or market conditions.

Therefore, the Board finds the subject had a market value of \$465,000 for the 2007 assessment year. Since the market value of this parcel has been established, the 2007 Illinois Department of Revenue three year median level of assessment for Class 2 property of 10.04% will apply. 86 Ill. Admin. Code § 1910.50(c)(2)(A). In applying this level of assessment to the subject, the total assessed value is \$46,686, while the subject's current total assessed value is above this amount. Therefore, the Board 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: April 19, 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.