



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

APPELLANT: The Flats on LaSalle Condominiums
DOCKET NO.: 08-23975.001-R-1 through 08-23975.004-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are The Flats on LaSalle Condominiums, the appellant, by attorney George J. Behrens, of McCracken, McCracken & Behrens, 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
08-23975.001-R-1	17-04-404-035-1012	877	18,565	\$19,442
08-23975.002-R-1	17-04-404-035-1040	608	12,876	\$13,484
08-23975.003-R-1	17-04-404-035-1193	622	13,175	\$13,797
08-23975.004-R-1	17-04-404-035-1197	537	11,378	\$11,915

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2008 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject is comprised of four residential units located in the Flats on LaSalle Condominium complex. The complex contains 250 units in an 80 year old building that was recently rehabbed. The total assessment for the four subject units is \$58,638, which yields a fair market value of \$610,813, after applying the 2008

Illinois Department of Revenue three year median level of assessment for Class 2 properties of 9.60%. The appellant, via counsel, argued that the market value of the subject property is not accurately reflected in its assessed value and also made a contention of law as the bases of this appeal.

In support of the overvaluation argument, the appellant alleges that 146 sales, or 59.030% of ownership, within the subjects' building occurred during 2006 through 2008, for a total of \$18,244,592. An allocation of five percent per unit for personal property, as well as a special sale incentive that included a monthly assessment waiver for either one year, eighteen months, or two years, was subtracted from the aggregate sales price then divided by the percentage of interest of units sold to arrive at a total market value for the building of \$28,269,182. The subjects' total percentage of ownership, 1.87%, was then utilized to arrive at an assessment for the four subject units totaling \$52,863. The appellant included: a photograph of the subject property; a copy of the condominium declaration; an excel spreadsheet listing the sales that occurred during 2006 through 2008 in the subjects' building; and an affidavit and sales contract reflecting the monthly assessment waiver incentive.

The appellant's first legal argument is that the subject units are entitled to a sales office/model home assessment, as described at 35 ILCS 200/10-25. The appellant's second legal argument is that the subject is entitled to a prorated assessment because it was not occupied as of the lien date of January 1, 2008, in accordance with 35 ILCS 200/9-180.

In support of the model home assessment request, the appellant submitted an affidavit declaring Daniel Dvorkin, an agent of the developer's, as the affiant. Mr. Dvorkin stated that the four subject units were vacant during all of 2008 and consisted of model units and a sales office. No further evidence was submitted.

In support of the pro rata assessment due to new construction argument, the appellant relied on the same affidavit indicated above. No further evidence was submitted.

Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review-Notes on Appeal" wherein the subjects' total assessment of \$58,638 was disclosed. This assessment reflects a market value of \$610,813 using the Illinois Department of Revenue's 2009 three year median level of assessment for class 2 property of 8.90%. In support of the subject's assessment, the board of review also submitted a memo from Matt Panush, Cook County Board of Review Analyst. The memorandum shows that 41 units, or 15.93% of ownership, within the subject's building sold between 2004 and 2007 for a total of \$5,261,532. An allocation of two percent per unit for personal property was subtracted from the aggregate sales price then

divided by the percentage of interest of units sold to arrive at a total market value for the building of \$5,156,326. The subject units' percentage of ownership, 15.93%, was then utilized to arrive at a market value for the subject building of \$32,368,650. The board also submitted a grid listing units that purportedly sold from 2006 through 2009. As a result of its analysis, the board requested confirmation of the subjects' assessments.

Conclusion of Law

First, the appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

In the instant appeal, the appellant provided the Board with a listing of 146 sales, while the board of review provided the Board with 62 recent sales. The appellant's brief indicates they used 137 sales in their analysis, while the board of review's memo indicates they analyzed 41 sales. As neither party submitted any evidence except their own in-house listing, and each parties' analysis contained conflicting information, the Board is unable to determine an accurate market value for the subject units. Additionally, the Board finds the appellant used a 5% personal property allocation in its analysis, while the board of review used a 2% personal property allocation in its analysis, with no evidence in the record to support either deduction. In fact, the contracts provided by the appellant make no separate allocation for personal property. There is also no legal basis for decreasing the units' gross purchase price by the amount of the incentive granted by the developer. Therefore, the Board finds the appellant's market value argument is without merit as the sales analysis provided by the appellant and board of review is speculative.

The appellant also asserts that the subject units should be assessed as a sales office/model homes for tax year 2008. Such an assessment is governed by 35 ILCS 200/10-25, which states, in relevant part:

Model homes, townhomes, and condominium units. If the construction of a single family dwelling is completed after December 29, 1986 or the construction of a single family townhome or condominium unit is completed after the effective date of this amendatory Act of 1994, and that dwelling, townhome, or condominium unit is not occupied as a dwelling but is used as a display or demonstration model home, townhome or condominium unit for prospective buyers of the dwelling or of similar homes, townhomes, or

condominium units to be built on other property, the assessed value of the property on which the dwelling, townhome, or condominium was constructed shall be the same as the assessed value of the property prior to construction and prior to any change in the zoning classification of the property prior to construction of the dwelling, townhome or condominium unit. . . . The person liable for taxes on property eligible for assessment as provided in this Section shall file a verified application with the chief county assessment officer on or before (i) April 30 of each assessment year for which that assessment is desired in counties with a population of 3,000,000 or more and (ii) December 31 of each assessment year for which that assessment is desired in all other counties. *Failure to make a timely filing in any assessment year constitutes a waiver of the right to benefit for that assessment year.*

Id. (emphasis added).

The appellant did not provide any evidence that a model home application was filed for the subject units for tax year 2008. Since no application was filed, the Board finds that the subject is not entitled to a model home assessment.

Section 10-25 is clear and unambiguous. Under this statutory law, which requires an application to be filed by April 30, 2008, and further states that "[f]ailure to make a timely filing in any assessment year constitutes a waiver of the right to benefit for that assessment year," the Board has no authority to grant a model home assessment to the subject. The Board will not contradict unambiguous statutory law. For these reasons, the Board finds the appellant's argument unpersuasive.

The appellant also argues for a reduced assessment under 35 ILCS 9-180, which 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 that year.*

Id. (emphasis added). The affidavit provided by the appellant does not state when the subject units were completed and fit for occupancy. The appellant provided no evidence in this case to show that the subject units were not substantially completed as of January 2008. Under Section 9-180, the relevant dates are the date the occupancy permit was issued or when the dwelling was substantially completed. As it is unclear when the subject was

substantially completed, Section 9-180 does not apply. As such, the Board finds that the subject is not entitled to a reduction.

For these reasons, the Board finds the appellant's arguments unpersuasive and a reduction in assessment is not 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.

Donald R. Cuit

Chairman

Tracy A. Huff

Member

Member

Marko M. Louie

Member

[Signature]

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: November 21, 2014

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.