



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

APPELLANT: Gaelic Construction Inc.
DOCKET NO.: 08-29010.001-R-1
PARCEL NO.: 31-20-314-008-0000

The parties of record before the Property Tax Appeal Board are Gaelic Construction Inc., the appellant(s), by attorney George Michael Keane, Jr., of Keane and Keane 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:

LAND: \$ 5,122
IMPR: \$ 34,921
TOTAL: \$ 40,043

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 8,537 square feet of land, which is improved with a one year old, two-story, frame and masonry, single-family dwelling. The subject's improvement size is 4,330 square feet of living area, which equates to an improvement assessment of \$8.06 per square foot of living area. Its total assessment is \$40,043, which yields a fair market value of \$417,115, or \$96.33 per square foot of living area (including land), 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, made a contention of law as the basis of this appeal.

The appellant alleges that the subject was completed sometime in January 2008, and since that time, the subject has been used as a model home for the appellant's surrounding development. The appellant's first legal argument is that the subject is entitled to a 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 and was not finished 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 Tadgh O'Reilly, an employee of

the appellant's, as the affiant. Mr. O'Reilly stated that, for tax year 2008, the appellant "erroneously failed to apply for model home status." Mr. O'Reilly stated that the appellant applied for model home status for tax year 2009. Mr. O'Reilly also stated "[t]hat this property is this property is [sic] used solely as a display or demonstration model home for prospective buyers and has never been sold, leased or occupied." The model home status application made to the Cook County Board of Review for 2009 was also submitted.

The appellant asserts that the 2008 model home application was not submitted because the statutory deadline was April 30, 2008, but all other counties accept the application year-round. The appellant asserts that the statutory deadline is "patently unfair" because it "creates an unreasonable situation when a structure is completed after April 30 and used as a model but unable to file the application. The appellant further asserts that, since the subject was used as a model home after its completion in January 2008, it should be assessed as a model home.

In support of the pro rata assessment due to new construction argument, Mr. O'Reilly states that the subject's construction was "completed on or about January 2008." 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 subject's total assessment of \$40,043 was disclosed. In support of the subject's assessment, the board of review submitted descriptive and assessment information for four properties suggested as comparable to the subject. The comparables are described as two-story, frame and masonry, single-family dwellings. Additionally, the comparables range: in age from one to three years; in size from 3,699 to 4,054 square feet of living area; and in improvement assessments from \$.75 to \$9.26 per square foot of living area. The comparables also have several amenities. The board of review's grid sheet also states that the subject sold in October 2006 for \$77,177, or \$17.92 per square foot of living area, including land; Comparable #1 sold in October 2006 for \$72,116, or \$17.79 per square foot of living area, including land; Comparable #2 sold in October 2006 for \$16,455, or \$4.40 per square foot of living area, including land; and that Comparable #4 sold in November 2007 for \$43,500, or \$10.88 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the record 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. The Board also takes judicial notice of the Board's 2007 decision regarding the subject property: Docket Number 07-21078.001-R-1. 86 Ill. Admin. Code § 1910.90(i).

The appellant asserts that the subject should be assessed as a model home 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 for tax year 2008. In fact, the appellant expressly admitted that no such application was filed. The O'Reilly affidavit stated that the appellant "erroneously failed to apply for model home status" for tax year 2008. Since no application was filed, the Board finds that the subject is not entitled to a model home assessment.

The Board does not find the appellant's argument regarding the unfairness of Section 10-25 persuasive. Section 10-25 is clear and unambiguous. Under this statutory law, which required 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 this 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 O'Reilly affidavit states that the subject was completed sometime in January 2008. However, in the Board's 2007 decision regarding the subject, the Board found that the subject was substantially completed in September 2007. The appellant provided no evidence in this case to show that the subject was substantially completed in January 2008. The appellant appears to argue that the subject was not *completely* finished until January 2008. However, the date when the subject was completely finished is irrelevant. Under Section 9-180, the relevant dates are the date the occupancy permit was issued *or* when the dwelling was *substantially* completed. The Board will not disturb its previous finding that the subject was substantially completed in September 2007, especially without the submission of any pertinent evidence to contradict that finding. As the subject was substantially completed prior to January 1, 2008, Section 9-180 does not apply. As such, the Board finds that the subject is not entitled to a reduction.

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: December 20, 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.