



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

APPELLANT: Sangev Teku
DOCKET NO.: 09-21396.001-R-1
PARCEL NO.: 14-20-321-055-1003

The parties of record before the Property Tax Appeal Board are Sangev Teku, 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 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: \$ 8,163
IMPR: \$ 50,469
TOTAL: \$ 58,632**

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 2009 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a class 2-99 condominium dwelling within a three unit condominium building. The subject has a 41.05% ownership interest according to the Condominium Declaration filed with the Cook County Recorder of Deeds. The subject is located in Lake View Township, Cook County. The subject and the two remaining units within the buildings sold in June and July 2004, and there have been no subsequent sales.

The appellant's sole request for relief is that the subject's percentage of ownership is not reflective of the sales of the subject and the remaining two units in 2004, and that this alleged misappropriation of the percentages of ownership is inequitable. The appellant states that the building's percentage of ownership pursuant to the condominium declaration is broken down as follows: Unit 1 - 28.54%; Unit 2 - 30.41%; and the subject, Unit 3 - 41.05%. The condominium declaration was not submitted in the appellant's initial evidentiary submission. The appellant argues that the units sold in 2004 for the following prices: Unit 1 - \$343,000; Unit 2 - \$375,500; and the subject, Unit 3 - \$460,000. Using these sales figures, the total price of all three units is \$1,178,500. Therefore, Unit 1's sale price constitutes 29.1% of the total value of the subject's building, Unit 2's sale price constitutes 31.86% of the building's value, and the subject constitutes 39.03% of the building's value. The appellant's sole argument is that these percentages should be used in determining the subject's percentage of ownership in lieu of the percentages delineated on the condominium declaration.

The appellant also argued that the subject's assessment was reduced by the board of review for tax year 2005 using this same argument. The appellant's submission to the board of review for that tax year was submitted as evidence for the instant appeal.

The Cook County Board of Review submitted its "Board of Review Notes on Appeal," wherein the subject's total assessment of \$58,632 was disclosed. In support of the subject's assessment, the board of review submitted a memo from Matt Panush, Cook County Board of Review Analyst. The memorandum shows that one unit in the subject's building, or 26.91% of ownership, sold in 2007 for \$373,500. An allocation of 2.00% for personal property was subtracted from the sale price, and then divided by the percentage of interest of the unit to arrive at a total market value for the building of \$1,360,200. The subject's percentage of ownership of 47.84% was then utilized to arrive at a value for the subject of \$650,719.

In rebuttal, the appellant argued that the board of review's evidence does not take into account that the sale occurred prior to a significant decline in real estate values. The appellant contends, without documentation, that the decline caused a 20% decrease in the subject's market value. The appellant then argued that the subject's market value should be reduced by 20% of the board of review's market value conclusion. In laying out

the calculations, the appellant used the subject's percentage of ownership of 41.05% as stated in the condominium declaration.

The appellant, in rebuttal, also submitted the condominium declaration. Exhibit B of the condominium declaration states that the subject's percentage of ownership is 41.05%. The percentage of ownership is handwritten, while the rest of the condominium declaration is typed. This document contains the signature of the appellant, but is otherwise not signed or notarized by any other individuals. It also does not contain a stamp from the Cook County Recorder of Deeds' office indicating the date it was filed.

At hearing, counsel for the appellant conducted a direct examination of Sangev Teku, the appellant in this case. Mr. Teku testified that he has owned the subject since 2004, that he is the condominium association president, and that he is familiar with all three units within the subject's building. Mr. Teku testified that the condominium association dues in 2009 were \$112 for Unit 1, \$120 for Unit 2, and \$158 for the subject, Unit 3.

On cross-examination, Mr. Teku testified that the condominium declaration states that the percentage of ownership for the units was 41%, 28%, and 31%. The witness did not clarify which percentage of ownership correlated to which unit. Mr. Teku stated that these were the percentage of ownerships given to him by the seller when he purchased the subject in 2004. The board of review analyst then presented Mr. Teku with a copy of the condominium declaration, which was allegedly obtained from the Cook County Recorder of Deeds' website. This document was accepted into evidence and marked as "Board of Review Hearing Exhibit A." This exhibit contains signatures of the seller, and is notarized. Furthermore, the exhibit contains a stamp from the Cook County Recorder of Deeds' office showing that it was received on July 7, 2004. Mr. Teku read the percentage of ownership for each unit as expressed in the exhibit, which states that Unit 1's percentage of ownership is 25.25%, Unit 2's percentage of ownership is 26.91%, and the subject's percentage of ownership is 47.84%. Mr. Teku testified that he has never seen these percentages of ownerships. Mr. Teku also stated that he is not aware of the condominium declaration ever being amended during his ownership of the subject.

On re-direct examination, Mr. Teku testified that he received a different allocation of the units' percentage of ownerships, and referenced the condominium declaration submitted by the

appellant in his written rebuttal evidence. Mr. Teku stated that he used the figures in this document to determine the appropriate level of association dues, and that the other unit owners operate under these figures.

On re-cross, the analyst asked that the Board note that the condominium declaration submitted by the board of review has a stamp from the Recorder of Deeds' office, while the appellant's condominium declaration submitted in rebuttal has no such stamp.

Counsel for the appellant then asked the Board to take judicial notice of a previous decision from the Board under docket number 05-22646, wherein the subject received a reduction based on a stipulated agreement between the parties. The Board took judicial notice of this decision. The appellant also submitted a property record card for the subject. The property record card states that the subject's percentage of ownership is 47.84%. The Board also accepted this document into evidence and marked it has "Appellant's Hearing Exhibit #1."

The appellant also sought to introduce various pleadings from property tax appeals before the board of review and the Board. The analyst objected to the admission of these documents. The Board sustained the objection under 86 Ill.Admin.Code § 1910.67(k). Counsel for the appellant then requested permission to make an offer of proof as to what this documentary evidence would prove were it to be admitted into evidence. The Board granted counsel's request. Counsel for the appellant argued that, were these pleadings admitted into evidence, it would prove that the board of review accepted the 2004 sale prices as controlling the percentages of ownership among the units within the subject.

Counsel for the appellant then emphasized that the instant appeal was commenced under equitable principles, and was not a market value argument. Counsel argued that the Board could use its equitable powers to use information outside the condominium declaration to determine the subject's percentage of ownership.

Counsel for the appellant then stated that the subject's assessment was reduced to \$39,515 for tax year 2010 under Board docket number 10-21062. Mr. Teku testified that no changes were made to the subject between tax year 2009 and tax year 2010.

The Cook County Board of Review analyst argued that the condominium declaration that was recorded with the Cook County Recorder of Deeds is controlling in determining the subject's

percentage of ownership. The analyst also reaffirmed the evidence previously submitted.

The analyst also read and cited the following language:

Moroney's reliance on Hoyne Savings & Loan Ass'n v. Hare, 60 Ill.2d 84, 322 N.E.2d 833 (1974), and 400 Condominium Ass'n v. Tully, 79 Ill.App.3d 686, 35 Ill.Dec. 1, 398 N.E.2d 951 (1979), for the proposition that "subsequent actions by assessing officials are fertile grounds to demonstrate a mistake in prior year's assessments" is misplaced. First, neither Hoyne nor 400 Condominium involved a taxpayer seeking an assessment reduction based on vacancy.... Further, in each of those unique cases, *which are confined to their facts*, there were glaring errors in the tax assessments...

John J. Moroney and Co. v. Ill. Prop. Tax Appeal Bd., 2013 IL App (1st) 120493, ¶46 (emphasis added by analyst at hearing). The analyst argued that this ruling by the appellant court precludes the Board from using the reduction in the subject's assessment for tax year 2010 as relevant evidence in determining the subject's assessment for tax year 2009.

In rebuttal, counsel for the appellant argued that there is a "glaring error" in the subject's 2009 assessment, which is akin to the situation in Hoyne. Therefore, counsel argued that the Moroney case is inapplicable, and the Hoyne case is relevant to the instant appeal.

Conclusion of Law

The taxpayer contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). "The Board shall make a decision in each appeal or case appealed to it, and the decision shall be based upon equity and the weight

of evidence and not upon constructive fraud, and shall be binding upon appellant and officials of government." 35 ILCS 200/16-185. The Board finds the appellant has not met this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant argued that the Board could use its equitable powers to enforce a different percentage of ownership, because all three condominium unit owners allegedly mistakenly believe that the allocation is different from what was recorded. The Board does not find this argument persuasive. It would be inequitable to lower the subject's percentage of ownership from the percentage established in the recorded condominium declaration. Were the Board to do so, a portion of the subject's building would not be assessed, resulting in an inequitable appropriation of real estate tax assessments among the condominium unit owners. Moreover, the only documentary evidence submitted in support of this assertion was the condominium declaration submitted by the appellant. This document was not signed by the developer, was not notarized, and was not recorded. Additionally, the percentages of ownership were handwritten. The condominium declaration submitted by the board of review was signed by the developer, notarized, recorded, and had the percentages of ownership typed. The Board finds this latter document more persuasive.

The appellant argued that the subject's percentage of ownership should be calculated based on the 2004 sale prices of the subject and the two other units within the subject's building. The Board finds this argument unpersuasive. The condominium declaration that was recorded with the Cook County Recorder of Deeds is the document that controls the subject's percentage of ownership. As stated on the property record card, and the recorded condominium declaration, the subject's correct percentage of ownership is 47.84%.

Finally, the Board does not find the Hoyne case applicable in this appeal. Moroney stated that the ruling in Hoyne was limited to the facts of that case, where there was a "glaring error" in Hoyne's assessment from one year to the next. The Board does not find such a "glaring error" in this appeal. For these reasons, the Board does not find that the subject's assessment is inequitable, and a reduction in the subject's 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.

Ronald R. Crit

Chairman

K. L. F...

Member

Richard A. ...

Member

Mark ...

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: October 24, 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.