



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

APPELLANT: Michal Chrabaszc
DOCKET NO.: 13-28158.001-R-1
PARCEL NO.: 12-15-107-038-0000

The parties of record before the Property Tax Appeal Board are Michal Chrabaszc, the appellant(s); 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: \$ 2,180
IMPR.: \$ 34,983
TOTAL: \$ 37,163**

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 2013 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 property is improved with a class 2-11, four unit residential apartment building containing 4,486 square feet of living area. The building was constructed in 1964. The property has a 4,360 square foot site and is located in Schiller Park, Leyden Township, Cook County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating the subject property had a market value of \$275,000 as of June 15, 2012.

The appellant contends assessment inequity as the basis of the appeal. In support of this argument the appellant submitted information on four equity comparables.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$37,163. The subject property has an improvement assessment of \$34,983 or \$7.80 per square foot of living area. The subject's assessment reflects a market value of \$371,630 or \$82.84 per square foot of living area, land included, when using the 2012 three year average median level of assessment for Cook County of 10%.

In support of its contention of the correct assessment, the board of review submitted eight equity comparables with sale information for four of the equity properties.

In rebuttal, the appellant stated that subject's neighborhood includes excessive plane noise and a copy of the O'Hare noise complaint. In support, the appellant submitted a four minute movie showing plane noise. The Official Rules of the Property Tax Appeal Board prohibit the submission of new evidence as rebuttal and, therefore, the movie cannot be considered by the Board. 86 Ill.Admin.Code 1910.66.

At hearing, the appellant reviewed the evidence previously submitted.

The board of review analyst, Mr. Israel Smith, at hearing objected to the appraisal, as the appraiser was not present at hearing, and was not available for cross examination.

Conclusion of Law

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

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 finds the appellant has not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the best evidence of assessment equity to be the board of review's comparables #1, #2, #3, and #4 and the appellant's comparables. These comparables had improvement assessments that ranged from \$6.90 to \$7.88 per square foot of living area. The subject's improvement assessment of \$7.80 per square foot of living area falls within the range established by the best comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

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.

The Board does not find the appraisal submitted by the appellant persuasive. At hearing, the board of review analyst argued that the appraisal was hearsay evidence because the appraiser was not able to testify. The Board finds this to be the case. For proceedings before the Board, "[t]he procedure, to the extent that the Board considers practicable, shall eliminate formal rules of pleading, practice and evidence,..."³⁵ ILCS 200/16180. However, in Novicki v. Department of Finance, 373 Ill.342,26 N. E.2d 130 (1940), the Supreme Court of Illinois stated , [t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an

opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. At 344. Thus, while the Board's rules allow for informal rules of evidence, the Board cannot repeal a basic rule of evidence under Supreme Court's holding in Novicki. Therefore, the Board finds that the appraisal is hearsay evidence for which no exception exists, and that the appraiser's adjustments shall not be considered as relevant evidence in this appeal.

In looking at the appraisal's raw sales data, the Board finds that two of the appraisal's comparables analyzed were REO/short sales and two were active listings. Only one of the sale comparables used in the appraisal's analysis was an arm's length transaction. Since the appraiser cannot testify as to why REO/short sales data and active listings were analyzed, these comparables cannot be used by the Board in finding the subject's fair market value. The appellant's one remaining similar comparables does not constitute a range. Therefore, the Board finds the market value argument unpersuasive.

Furthermore, The Board finds that the appellant failed to prove that the subject which is affected by plane noise should be valued at a lower amount. No evidence such as an appraisal or expert witness was provided that showed that the subject is adversely hindered by the plane noise and that the value of the subject property is reduced.

Furthermore, the mere presence of a plane noise on the subject property does not automatically warrant a reduction in its assessed value. Therefore, the Board finds that a reduction in the subject's assessment is not warranted.

Accordingly, in determining the fair market value of the subject property, the Board finds that the appellant failed to submit sufficient evidence to show the subject was overvalued. Therefore, the Board finds that the appellant has not met its burden by a preponderance of the evidence and that the subject does not warrant a reduction based upon the market data submitted into evidence.

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

Mark Albino

Member

[Signature]

Member

Member

Jerry White

Acting 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: July 24, 2015

[Signature]

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.