



**AMENDED ON REMAND
FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Alexander Alemis
DOCKET NO.: 09-27807.001-C-1
PARCEL NO.: 26-06-410-001-0000

The parties of record before the Property Tax Appeal Board are Alexander Alemis, the appellant(s), by attorney Arnold G. Siegel, of Siegel & Callahan, P.C. in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented in this matter, 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: \$ 6,095
IMPR.: \$ 131,828
TOTAL: \$ 137,923

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 two-story building of masonry construction with 10,920 square feet of living area. The building is 79 years old. The property has a 5,418 square foot site, and is located in Chicago, Hyde Park Township, Cook County. The subject is classified as a class 5-92 property under the Cook County Real Property Assessment Classification Ordinance (the "Classification Ordinance").

The appellant contents that the subject should be classified as a 3 property, and not a 5-92 property. In support of this argument, the appellant submitted photographs of the subject's interior, an affidavit from the appellant stating that the subject meets the criteria for a class 3 property, a rent roll, and a residential lease.

The appellant also contends assessment inequity as the basis of the appeal. In support of this argument, the appellant submitted information on three equity comparables, which were all class 3 properties.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$137,923. The subject property has an improvement assessment of \$131,923, or \$12.07 per square foot of living area.

In support of its contention of the correct assessment, the board of review submitted information on four sale comparables from the CoStar Comps service.

In rebuttal, the appellant argued that the board of review's evidence should be given no weight because it did not address the appellant's equity or class change arguments. The appellant also submitted an appraisal which was not previously submitted. The appellant asserted that the appraisal supports the appellant's position that the subject is a class 3 property.

Conclusion of Law

The appellant argued that the subject's classification was inaccurate. "Subject to such limitations as the General Assembly may hereafter prescribe by law, counties with a population of more than 200,000 may classify or continue to classify real property for purposes of taxation. Any such classification shall be reasonable and assessments shall be uniform within each class." Ill. Const. of 1970 art. IX, § 4(b). "Classification refers to the categorizing of real property according to its use, for the purpose of determining at which percentage of fair market value the property should be assessed." People ex rel. Costello v. Lerner, 53 Ill. App. 3d 245, 250 (5th Dist. 1977) (citing People ex rel. Jones v. Adams, 40 Ill. App. 3d 189, 195 (5th Dist. 1976)). "Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence." 5 ILCS 100/10-15. Based on the evidence submitted by the parties, the Board finds that the appellant has not shown that the subject's classification should be changed by a preponderance of the evidence.

In accordance with Section 4(b) of Article IX of the Illinois Constitution, Cook County classifies property within it, and applies different assessment levels to different classes of properties. The Illinois Constitution states that the classifications "shall be uniform within each class." The Illinois Appellate Court interpreted this state constitutional provision to mean that real property could be classified according to use. Costello, 53 Ill. App. 3d at 250. As stated above, the subject is classified as a commercial building for tax year 2009 (class 5-92). The Classification Ordinance defines a class 5-92 property as a "Two or three story building containing part or all retail and/or commercial space." The appellant asserts that the subject is a multi-family building (class 3). While the appellant does not assert which sub-classification the subject should fall under, the Board presumes that the appellant was arguing that the subject should be classified as a class 3-18 property.¹ The Classification Ordinance defines a class 3-18 property as a "Mixed use commercial/residential building with apartments and commercial area totaling seven units or more ***with a square foot area of over 20,000 square feet***" (emphasis added).

¹ The Board makes this presumption as the subject contains both residential and commercial units, and no class 3 definitions under the Classification Ordinance mention commercial property, except for class 3-18. The Board also notes that the equity comparables submitted by the appellant were all classified as class 3-18 properties.

The subject consists of 10,920 square feet of building area. To be classified as a class 3-18 property, the subject must contain more than 20,000 square feet of building area. Therefore, the Board finds that it would be improper to classify the subject as a class 3-18 property.² The subject does not meet any of the other requirements under the remaining class 3 sub-classifications for similar definitional reasons. For these reasons, the Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject is improperly classified as a class 5-92 property.

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

The Board finds that none of the comparables submitted by the parties are similar to the subject. For the reasons stated above, the subject is a class 5-92 property, while all of the comparables submitted by the appellant are class 3-18 properties. 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.

² The Board notes that the three equity comparables submitted by the appellant are all classified as class 3-18 properties, and all of these comparables contain less than 20,000 square feet of building area. However, the appellant's burden is to prove that the *subject* is improperly classified, and not that other properties are improperly classified.

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.

Mario Alvares

Chairman

[Signature]

Member

Member

Robert Hoffman

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: June 24, 2016

[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.