



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

APPELLANT: Patrick Rubey
DOCKET NO.: 11-31079.001-R-1
PARCEL NO.: 16-02-300-038-1027

The parties of record before the Property Tax Appeal Board are Patrick Rubey, the appellant(s), by attorney Adam E. Bossov, of the Law Offices of Adam E. Bossov, 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 A Reduction 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: \$ 517
IMPR.: \$1,714
TOTAL: \$2,231

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 2011 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 residential condominium unit within an 82 year-old building containing 41 residential units. The building was converted into condominiums in 2007, but only seven of the units were sold. The remaining 34 units were purchased in bulk in 2010 and are operated as rentals. The subject has a 2.37% ownership interest in the common elements and contains 676 square feet of living area. The property has a 15,602 square foot site and is located in West Chicago Township, Cook County. The subject is classified as a class 2-99 property under the Cook County Real Property Assessment Classification Ordinance.

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 \$18,000 as of December 3, 2011.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$3,607. The subject's assessment reflects a market value of \$36,070 when applying the 2011 statutory assessment level of 10% as indicated by the Cook County Real Property Assessment Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted a condominium analysis detailing sales in the subject's building that sold during 2007 and 2008. The analysis indicated a full market value of the condominium property of \$5,192,665, with a resulting market value for the subject unit of \$123,066.

At hearing, the appellant's attorney offered his appraisal as evidence that the subject is overvalued. The board of review's representative objected to the valuation contained in the appraisal as the appraiser was not present at the hearing to offer testimony.

The appellant's attorney argued that the board of review's sales were from 2007 and 2008 and therefore not reflective of the subject's market value as of January 1, 2011. He further explained that the subject unit was devalued due to the bulk sale, and that even though the appraiser used foreclosure sales in his analysis, those sales were reflective of the market.

Conclusion of Law

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 met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant's appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. 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. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined. Therefore, the appraiser's conclusion of value is given no weight.

The Board also gives no weight to the sale comparables submitted by the board of review as they are too far removed from the January 1, 2011 valuation date.

The Board will, however, examine the unadjusted sale comparables submitted by the appellant. The appellant submitted five unadjusted sale comparables into evidence. They were all recent sales that were similar in size and location to the subject property. Therefore, the Board finds the best comparables contained in the record are the appellant's comparables contained in the appraisal. These unadjusted sale comparables range in value from \$16.88 to \$37.72 per square foot, including land. The subject's current assessment reflects a market value of \$53.36 per square foot, which is above the range of these comparables. Accordingly, after considering the similarities and differences between the subject and the best comparables contained in the record, the Board finds that the appellant has met its burden by a preponderance of the evidence and that the subject does 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



Member



Member



Member

Member

DISSENTING: _____

CERTIFICATION

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 22, 2016



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.