



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

APPELLANT: Rogan Beckman
DOCKET NO.: 11-35131.001-R-1
PARCEL NO.: 14-33-110-028-0000

The parties of record before the Property Tax Appeal Board are Rogan Beckman, the appellant, by attorney Scott Longstreet, of Park & Longstreet, P.C. in Rolling Meadows; 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: \$27,000
IMPR.: \$59,622
TOTAL: \$86,622

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 consists of a two-story dwelling of masonry construction that has 3,171 square feet of living area. The dwelling is 121-year-old. Features include a full basement and a two-car garage. The property has a 3,600 square foot site located in North Chicago Township, Cook County. The subject is classified as a Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends both assessment inequity and overvaluation as the bases of the appeal. In support of the inequity argument, the appellant submitted information on eight suggested equity comparables. They consist of two and three-story residential buildings of masonry exterior construction that are from 30 to 131-years-old. The dwellings range in size from 3,098 to 3,240 square feet of living area. Features include full basement, 2 to 3-car garage, and zero to 3

fireplaces. The comparables have improvement assessments ranging from \$38,931 to \$66,978 or from \$12.43 to \$21.29 per square foot of living area.

With respect to the overvaluation claim, the appellant argued that the subject was not habitable during the 2011 tax year. The appellant submitted an affidavit attesting to the uninhabitable condition of the subject dwelling, a copy of a building permit from the City of Chicago, a Case Management Order from the Circuit Court of Cook County, a Remediation Report prepared by Roger Keys, and interior photographs of the subject dwelling.

At hearing, appellant's attorney made a motion that the Board dismiss the board of review and strike all documents submitted by the board of review. In support of this motion, appellant's attorney alleged the board of review negotiated in bad faith when attempting to reach a settlement on each year of the triennial assessment period and then failed to honor its settlement for the appeal at issue in this matter. The board of review responded that there was no evidence of such agreement. The Board denied the motion.

Appellant's attorney called the owner of the subject property, Rogan Beckman (Beckman), to testify. Beckman testified that he purchased the subject property in 2005. He testified that the subject was in poor condition and needed to be rehabbed. Beckman testified that he hired a general contractor to rehab the property and build a two-story addition on the back of the dwelling. Beckman testified that permits were issued for the rehab project, which were marked as Appellant's Exhibit D. Demolition and construction started in 2006 and the contractor completed about 30% of the project before the contractor ceased working. Beckman testified that the contractor stopped working because of inexperience and inability to follow through on the blue prints. Beckman testified that after the contractor stopped working, the subject dwelling was a shell with no insulation and was not livable.

Beckman testified that he sued the contractor in Circuit Court. A copy of the court's case management Order was included in the record and marked as Appellant's Exhibit E. Next, Beckman obtained a Remediation Report, prepared by Roger W. Keys and dated June 12, 2007 that was marked as Appellant's Exhibit F. The purpose of the Remediation Report was to evaluate the work performed by the former general contractor. Beckman asserted the report reflects the condition of the property in 2011. Beckman obtained an opinion letter from a structural engineer that was prepared by Moshe Calamaro, marked as Appellant's Exhibit G and dated January 5, 2009. The report addressed the inadequacy of the work previously performed by the general contractor. Beckman further testified that he obtained an estimate of \$424,000 by Alma Construction for the completion of the project, which was marked as Appellant's Exhibit G-2, and dated June 3, 2010. Beckman testified that the photographs of the subject dwelling depicting its uninhabitable condition were taken by him in approximately 2008. He testified the photographs reflect the condition of the subject dwelling as of the 2011 tax year. The photographs were marked as Appellant's Group Exhibit H.

The appellant's attorney next called the board of review's representative, Brendan Seyring (Seyring) as an adverse witness. Seyring testified that he has worked for the board of review as an analyst for eight years. Seyring further testified that the two pages with black background attached to the board of review's "Notes on Appeal" are printouts from the Cook County Assessor's website that included a detailed description of the subject dwelling. Seyring testified that the subject

dwelling has a home improvement exemption of \$17,500. Seyring further testified that there was no diminution in value for the subject dwelling's uninhabitable condition because the adjustment factor reflected on the Assessor's printout is zero. In other words, Seyring testified the Assessor's Office considered the subject dwelling's remodeling to be complete as of the 2011 tax year. Seyring conceded that the board of review did not submit any evidence to contradict appellant's testimony and evidence showing that the subject was uninhabitable during the 2011 tax year. He also conceded that none of the board of review's suggested comparable properties received vacancy relief due to being uninhabitable. Seyring also conceded that the Assessor's Office has a general policy for providing vacancy relief for assessments and that policy is evidenced by Appellant's Exhibit A, which is a printout from the Cook County Assessor's Office website. However, no testimony was elicited or proffered as to the application and methodology of Cook County's vacancy policy.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$34,883 to reflect its vacant uninhabitable condition and be equitable.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$129,022. The subject's assessment reflects a market value of \$1,290,220 when applying the Cook County Real Property Assessment Classification Ordinance level of assessment for Class 2 property of 10%. The subject property has an improvement assessment of \$102,022 or \$32.17 per square foot of living area.

In support of the subject's assessment, the board of review submitted information on four suggested equity comparables. The comparables consist of two and three-story building of masonry or frame and masonry exterior construction that are from 121 to 131-years-old and range in size from 2,280 to 3,352 square feet of living area. Features include a full basement, zero to three fireplaces, and 2-car garage. The comparables have improvement assessment ranging from \$67,668 to \$94,326 or from \$28.05 to \$29.68 per square foot of living area. The board of review did not submit any market value evidence, such as similar comparable sales, to support its assessment of the subject property.

The board of review also submitted a brief arguing that no vacancy relief should be granted to the subject. The board of review argued that section 9-180 of the Property Tax Code (35 ILCS 200/9-180) specifically excludes assessment relief when the condition of the property is diminished as the result of the intentional acts by the owner. The board of review claimed the rehabilitation of the subject dwelling is the kind of intentional act intended by section 9-180 of the Property Tax Code.

Based on this evidence, the board of review requested confirmation of the subject property's assessment.

In written rebuttal, appellant's attorney argued that the board of review incorrectly interpreted section 9-180 of the Property Tax Code. The appellant's attorney argued that the standard enumerated under the Property Tax Code is "willful misconduct." (See 35 ILCS 200/9-180). Appellant's attorney cited Black's Law Dictionary defining "willful misconduct" as acts that are illegal, unlawful, or dereliction of duties. In this case, counsel argued that the appellant did nothing illegal, unlawful, or dereliction of duties by simply attempting to rehabilitate the subject dwelling.

Furthermore, appellant's attorney argued that the board of review conceded the county's uniform policy of granting assessment relief for vacancy during renovation by not disputing this issue. In support of the uniform policy, appellant's attorney cited appellant's Exhibit A, which states in pertinent part:

“Your home may be eligible for a partial assessment if your home was uninhabitable for any part of the previous year...This includes new buildings still under construction or existing buildings that are being renovated.”

Appellant's attorney argued that vacancy relief must be granted pursuant to the Constitution's uniformity clause, which requires that the county's uniform policy be followed. In support of this argument, appellant's attorney cited Oregon Comm. Unit School Dist. No. 220 v. Property Tax Appeal Bd, where the appellate court relied upon Article IX, Sec. 4(a) of the Illinois Constitution. 674 N.E.2d 129, 285 Ill. App.3d 170, 220 Ill.Dec. 858. Finally, appellant's attorney distinguished the board of review's suggested comparables from the subject property based on size.

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 Board finds the board of review's contention that the appellant committed “willful misconduct” as provide in section 9-180 of the Property Tax Code (35 ILCS 200/16-180) to be misplaced. The Board finds that the appellant's attempt to remodel/rehabilitate the subject dwelling from being in a state of disrepair and uninhabitable to a state of repair and habitable does not constitute “willful misconduct.” Furthermore, the board of review cited no case law or any other legal authority to support this proposition.

The Board finds that the appellant clearly demonstrated that subject property was vacant, uninhabitable, and in a state of disrepair for the duration of the 2011 tax year. The Board finds that the board of review failed to submit any credible evidence to rebut the appellant's testimony and photographic evidence that the rehabilitation project was incomplete or that the dwelling was vacant and in a state of disrepair for the entirety of the 2011 tax year. However, the Board also finds that the appellant failed to submit market value evidence, such as an appraisal or sales of similar comparable properties in support of the overvaluation claim based on the subject being in poor condition in a state of disrepair. Rather, appellant's counsel simply requested the assessment be reduced because it was vacant. The Board finds vacancy¹, in and of itself, is not grounds or a basis to reduce an assessment of real property before this Board, regardless of the inarticulate policy of Cook County Assessment Officials. Furthermore, this record contained no statutory authority or case law that suggests this nebulous policy is binding upon the Property Tax Appeal Board.

¹ The Board notes vacancy is one factor considered by valuation experts when developing the income approach to value.

Based on the limited evidence contained in this record, the Board finds the only indication of the subject's market value is its assessment of \$129,022, which reflects a market value of \$1,290,220 when applying the Cook County Real Property Assessment Classification Ordinance level of assessment for Class 2 property of 10%. This value estimate was not refuted by the appellant as assessing the dwelling as habitable and in a state of repair as of the assessment date. Furthermore, the record is clear that Cook County Assessment Officials valued and assessed the subject property as being in good condition and habitable, which is not supported by the evidence in the record. Considering the subject's estimated market value as reflected by its assessment of \$1,290,220 and the estimated cost to cure its condition to make the dwelling habitable of \$424,000, the Board finds the subject property has a fair market value of \$866,220 as of the January 1, 2011 assessment date.

The taxpayer also argued assessment inequity as the basis to 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 no further reduction is warranted based on the principals of uniformity.

The record contains 12 suggested assessment comparables for the Board's consideration. The comparables have varying degrees of similarity when compared to the subject in location, design, dwelling size, age, and features. However, the record shows none of the comparables are uninhabitable and in a state of disrepair like the subject. The Board finds the most similar comparables to the subject to be appellant's comparable #1, #2, #5, #7, and #8, and the board of review's #2 and #4. The comparables have improvement assessments ranging from \$38,931 to \$94,326 or from \$12.43 to \$28.14 per square foot of living area. Based on the subject's reduced assessment for market value consideration, the subject has a revised improvement assessment of \$59,622 or \$18.80 per square foot of living area. Based on this record, the Board finds the subject dwelling is equitably assessed given the assessment reduction granted for its diminished market value based on its condition. Therefore, no further reduction is 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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.

Chairman



Member



Member



Member



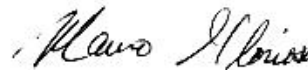
Member

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: June 18, 2019



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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