



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

APPELLANT: Norwood Park Properties
DOCKET NO.: 12-36022.001-R-1 through 12-36022.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Norwood Park Properties, the appellant(s), by attorney Stephanie Park, 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 **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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
12-36022.001-R-1	12-11-302-035-0000	3,375	11,826	\$15,201
12-36022.002-R-1	12-11-302-036-0000	3,375	11,826	\$15,201

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 2012 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 situated on two contiguous parcels in Norridge, Leyden Township, Cook County. Each parcel was assessed at \$15,201 for the instant lien year. The appeal was brought by the owner, Norwood Park Properties. The subject is a Class 2 property under the Cook County Real Property Assessment Classification Ordinance. No further information about the subject's property characteristics was submitted by the parties.

The appellant's sole basis for its appeal is a contention of law that the subject qualifies for a rollover of the prior year's assessment to the instant lien year pursuant to Section 16-185 of the Property Tax Code (35 ILCS 200/16-185). In support of this argument, the appellant submitted a brief in which it argued that the subject was "an owner-occupied residence" during the 2012 lien

year; that 2011 and 2012 were in the same general assessment period as defined by Section 9-215 of the Property Tax Code (*supra*, §§9-215-9-225); and that the subject had not been sold during the general assessment period. The appellant appended the Board's decision in docket number 11-34336. The appellant in that appeal was Peter Kleszcz. The Board reduced the 2011 assessment to \$28,000 pursuant to a proposed stipulation submitted by the parties.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$30,402, or \$15,201 for each of the two subject parcels. The subject property had an improvement assessment of \$23,840, or \$11,920 for each of the two improved subject parcels. The board of review submitted a brief in which it argued that the subject did not qualify for a rollover of the Board's 2011 decision pursuant to Section 16-185 because the "[a]ppellant does not occupy the residence." The board of review cited the rollover statute and highlighted its language that the subject must be "a residence occupied by the owner."

Prior to hearing, the parties sent an email to the Administrative Law Judge (ALJ) acting on behalf of the Board. This email referred to the instant appeal and seven additional appeals for hearing before the Board brought by the same attorney.¹ The parties asserted two positions regarding the case: 1) they waived their right to a hearing and requested the ALJ to write the decision based on the evidence and briefs previously submitted; and 2) they stipulated "in these appeals that the rollovers are owner-occupied." The email was made part of the record on appeal.

Conclusion of Law

The appellant's sole basis for its appeal is a contention of law that the subject qualifies for a rollover of the prior year's assessment to the instant lien year pursuant to Section 16-185 of the Property Tax Code (35 ILCS 200/16-185). "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. The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The sole evidence submitted by the appellant is its brief in which it argues the subject qualifies for a rollover of the Board's 2011 decision, and a copy of that decision. The sole evidence submitted by the board of review is its brief arguing the subject was not owner-occupied. After the time for submission of evidence or briefs, but prior to hearing, both parties stipulated that the subject is owner-occupied and qualifies for a rollover of the 2011 assessment reduction. The only additional information that may be gleaned from the evidence is that the appellant for the 2011 appeal was Peter Kleszcz and for the 2012 appeal was Norwood Park Properties.

¹ The docket numbers are: 12-36022; 13-36166; 13-36168; 13-36170; 13-36173; 13-36183; 13-36219; and 13-36224.

Section 16-185 provides that the prior year's decision lowering the assessment should be carried forward to the current tax year, subject only to equalization, where the property is an owner-occupied residence and the tax years are within the same general assessment period.

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

35 ILCS 200/16-185.

The 2011 and 2012 appeals were filed in the names of different appellants. Norwood Park Properties, through its attorney, failed to prove the nexus between these parties. But of greater import is the nature of the 2012 appellant. The instant appeal was brought in the name of a corporate entity, not a natural person. The salient questions, therefore, are whether a corporate entity may receive the benefit of a rollover of the 2011 assessment reduction to the instant 2012 lien year and what legal effect does the stipulation have to establish Norwood Park Properties as eligible for that rollover.

The Illinois Supreme Court in Proviso Township High School District No. 209, et al. v. Hynes, 84 Ill.2d 229 (1980), addressed the issue of whether a corporation can “reside” in a building to qualify for homestead exemption status. The plaintiff school district filed individually and on behalf of other governmental bodies a class action for declaration that the homestead exemption applies to owners who occupy residential property. The Court found that the person claiming the exemption must occupy the property as a residence. *Id.* at 236. In dispositive language, the Court held, “[i]n connection with the question under consideration, the plaintiffs assert that a homestead exemption cannot be validly granted where the owner is a corporation, since the latter cannot ‘reside’ in a building. We agree that the owner-occupant must be a natural person.” *Id.* at 240-41.

The record on appeal does not establish the nexus between the Peter Kleszcz, the 2011 appellant, and Norwood Park Properties, the 2012 appellant. What is clear is that Norwood Park Properties, a corporation, cannot reside in the residential subject property. However, the Board must address the effect of the stipulation between the parties that owner Norwood Park Properties occupies the subject and is entitled to a rolled-over assessment reduction.

“A stipulation is an agreement made by the parties with regard to business before the court.” American Pharmaseal v. Tec Systems, 162 Ill.App.3d 351, 355 (2nd Dist. 1987). “Courts generally favor stipulations that are designed to save costs or to settle or simplify litigation, and

will enforce them against parties who have assented unless the stipulation is shown to be ‘unreasonable, the result of fraud or violative of public policy.’”

The parties submitted their stipulation to bind themselves to the question of whether Norwood Park Properties qualifies for a rollover. Yet, as the Court in American Pharmaseal observed, “while parties may bind themselves by stipulation, they ‘cannot bind a court by stipulating to a question of law or the legal effect of facts.’” *Id.* at 356; *citing* Domagalski v. Industrial Com’s, 97 Ill.2d 228 (1983). The Supreme Court in People v. Levisen, 404 Ill. 574 (1950), held “a stipulation as to the legal conclusions arising from facts is inoperative...The court cannot be controlled by agreement of counsel on a related question of law.” *Id.* at 578-79.

The Board finds the stipulation in the instant appeal was offered to establish the legal conclusion that a corporation, namely the appellant Norwood Park Properties, qualifies for a rollover. This legal conclusion is inoperative, and the Board is not bound by it. To quote the Supreme Court in Proviso, “the owner-occupant must be a natural person.” Proviso, *supra*, at 240-41. Norwood Park Properties is not a natural person who resides in residential property and is, therefore, not eligible for a rollover of the 2011 assessment reduction.

The appellant did not submit evidence in support of any argument for an assessment reduction other than its contention of law that it qualified for a rollover. Therefore, after considering all evidence and argument submitted by both parties, the Board finds that the appellant failed to establish by a preponderance of the evidence that it qualified for a rollover of the 2011 assessment reduction to the instant 2012 lien year. Based on the foregoing analysis, the Board holds that 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. 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: October 15, 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

AGENCY

State of Illinois
Property Tax Appeal Board
William G. Stratton Building, Room 402
401 South Spring Street
Springfield, IL 62706-4001

APPELLANT

Norwood Park Properties, by attorney:
Stephanie Park
Park & Longstreet, P.C.
2775 Algonquin Road
Suite 270
Rolling Meadows, IL 60008

COUNTY

Cook County Board of Review
County Building, Room 601
118 North Clark Street
Chicago, IL 60602