



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

APPELLANT: Mike Donahue
DOCKET NO.: 13-36170.001-R-1
PARCEL NO.: 14-29-224-002-0000

The parties of record before the Property Tax Appeal Board are Mike Donahue, 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:

LAND: \$15,500
IMPR.: \$50,231
TOTAL: \$65,731

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 a 124 year-old, two-story dwelling of frame construction containing 3,469 square feet of living area. Features of the subject include a full finished basement containing an apartment, central air conditioning and a two-car garage. The property has a 3,100 square foot site in Chicago, Lake View Township, Cook County. The subject is a Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant, Mike Donahue, contends a contention of law and assessment inequity as the bases of the appeal. Prior to hearing, the parties sent an email, dated April 14, 2019, 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 cases: 1) they waived their right to a hearing and requested the ALJ to write the decisions 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.

The appellant’s basis for his contention of law is 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). The email listed the eight cases pending before the Board. The list included the instant appeal, docket #13-36170, and the appeal for docket #13-36168. The appellant in these two appeals is Mike Donahue. The parties stipulated “in these appeals that the rollovers are owner-occupied.”² The appellant submitted a copy of the Board’s 2012 lien year decision in docket #12-22773.001-R-1, wherein the Board reduced the subject’s assessment to \$57,128 pursuant to an agreement between appellant Mike Donahue and the board of review.

In support of the assessment inequity argument, the appellant submitted information on eight suggested equity comparable properties. These properties ranged from 3,370 to 3,552 square feet of living area, or from \$9.95 to \$11.90 per square foot.

The board of review submitted its "Board of Review Notes on Appeal." The total assessment for the subject of \$65,731. The subject property has an improvement assessment of \$50,231, or \$14.48 per square foot of living area. In support of its contention of the correct assessment, the board of review submitted information on four suggested equity comparable properties. These properties ranged from 3,208 to 3,471 square feet of living area, or from \$15.17 to \$17.34 per square foot.

Conclusion of Law

The appellant’s basis for his 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 based on his contention of law is not warranted.

The appellant submitted the April 14, 2019, email letter in which he and the board of review stipulated “in these appeals that the rollovers are owner-occupied.” The emailed letter referred to the docket number for the instant appeal and to the appeal for docket #13-36168. Mike Donahue is the appellant for these two appeals. The letter’s closing disclosed the names of the appellant’s attorney and the board of review representative. The Board reduced the subject’s assessment in the 2012 lien year to \$57,128. That year and the instant 2013 appeal were in the

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

² The email, dated April 14, 2019, is made part of the record on appeal.

same general assessment period. Consequently, the parties stipulated that the 2012 assessment be rolled over to the 2013 lien year.

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.

The threshold question regarding application of the rollover statute is whether the subject was “owner-occupied” in 2013. Section 15-175 of the Property Tax Code provides home owners an exemption of a portion of their assessments as a General Homestead Exemption. 35 ILCS 200/15-175. Subsection (f) defines, in relevant part, Homestead Property as “residential property that is occupied by its owner or owners as his or their principal dwelling place.” 35 ILCS 200/15-175(f). The April 14th email letter sent by the appellant’s attorney, which was made part of the record, referred to two 2013 pending appeals owned by appellant Mike Donahue. The Board finds, to state the obvious, appellant Mike Donahue cannot occupy more than one principal dwelling place in the 2013 lien year.

The remaining question is what is the effect of the stipulation between the parties that the subject qualifies for a rollover of the 2012 assessment reduction? Section 1910.55(b) of the Rules of the Property Tax Appeal Board (86 Ill.Admin. Code 1910.55(b)) provides:

If a stipulation revising and correcting an assessment is agreed to by all interested parties, it may be taken into consideration by the Property Tax Appeal Board provided it is fair and reasonable based on the evidence in the record. The Board reserves the right to write a decision based on the facts, evidence and exhibits in the record.

“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 Mike Donahue 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.” American Pharmaseal, *supra*, 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 stipulation in the instant appeal was offered to establish the legal conclusion that the appellant Mike Donahue qualifies for a rollover in the instant appeal, even though he also claims a rollover as an owner-occupant of a different residence in the same lien year. This legal conclusion is inoperative, and the Board is not bound by it. To quote from the Property Tax Code, Homestead Property is a “residential property that is occupied by its owner or owners as his or their principal dwelling place.” 35 ILCS 200/15-175(f). The appellant Mike Donahue has not presented evidence of how he can reside in two different residential properties as his principal dwelling place in the same lien year. Any argument that he can is patently unreasonable under the Board’s Rule 1910.55(b), previously cited. The Board finds the appellant has not met the burden of proof by a preponderance of the evidence that he warrants an assessment reduction by the rollover of the 2012 assessment reduction to the instant 2013 lien year.

The appellant also 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 comparable properties 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 considers the assessment inequity comparable properties submitted by the parties. The Board finds the best evidence of assessment equity to be the appellant's comparable(s) #1, #2 and #4, and the board of review's comparable(s) #2 and #3. These comparable properties were most similar with the subject and had improvement assessments that ranged from \$9.95 to \$17.34 per square foot of living area. The subject's improvement assessment of \$14.48 per square foot of living area falls within the range established by the best comparable properties 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 holds that a reduction in the subject's assessment is not justified.

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

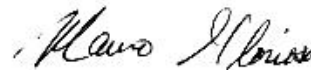
Member

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: November 19, 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

Mike Donahue, 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