



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

APPELLANT: Greenside Properties ,LLC  
DOCKET NO.: 13-36224.001-R-1 through 13-36224.002-R-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Greenside Properties ,LLC, 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 **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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
13-36224.001-R-1	25-20-416-012-0000	1,406	2,594	\$4,000
13-36224.002-R-1	25-20-416-013-0000	1,406	0	\$1,406

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 an 86 year-old, one and one-half-story dwelling of frame construction containing 1,260 square feet of living area. The subject is situated on two contiguous parcels in Chicago, Lake Township, Cook County. Only one of the parcels was improved with the dwelling; the other parcel was vacant land. Features of the subject include a full unfinished basement and a one-car garage. The appeal was brought by the owner, Greenside Properties, LLC (Greenside). The subject is a Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal based on a sales market approach and on a recent sale. In support of the sales market argument, the appellant submitted information on four suggested comparable sales of residential properties.

In support of the recent sale argument, the appellant submitted an incomplete settlement statement disclosing the subject property was purchased on May 4, 2012, for \$21,000 in an all-cash transaction. The seller was Federal Home Loan Mortgage Corporation (Fannie Mae). The subject's sale price reflects a market value of \$16.66 per square foot of living area including land. The appellant also submitted an affidavit of Dave Sperry (Sperry) dated November 26, 2012, attesting that he was the owner of the subject property; and that it was purchased from "U.S. Dept. of HUD" for \$21,000 in an arm's-length transaction on May 4, 2012. Sperry also attested that the "property was not purchased in settlement of an installment contract, a contract for deed, or a foreclosure..." Sperry did not disclose in his affidavit how the transaction was settled. However, the appellant included information in Section IV—Recent Sale Data of the Residential Appeal that the subject was not sold as a transfer between related parties; was advertised and sold through a realtor; and was purchased from U.S. Dept. of HUD on May 4, 2012 for \$21,000. The appellant also submitted the Board's decision in docket number 12-25286. The appellant in that appeal was Dave Sperry. The Board reduced the 2012 assessment in that decision to \$4,500 pursuant to a proposed stipulation submitted by the parties. Based on this evidence, the appellant requested a reduction for the instant 2013 lien year of the subject's assessment to \$4,500.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$8,359. The subject's assessment reflects a market value of \$83,590, or \$66.34 per square foot of living area, when using the 2013 level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance. In support of its contention of the correct assessment, the board of review submitted information on five suggested comparable sales. Four of these sales were for land only; the fifth sale was for a commercial property.

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.<sup>1</sup> 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 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

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

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 has not met the burden of proof for its overvaluation argument based on a recent sale. The Board accords minimal weight to the affidavit of Sperry. He attested that he purchased the subject property from U.S. Dept. of HUD in an arm's-length transaction without evidence establishing his qualifications to render the legal conclusion that it was at arm's-length. Sperry also attested that the subject was not purchased in settlement of an installment contract, contract for deed, or a foreclosure. The appellant failed to explain exactly what alternative methods existed to settle the transaction. The Board finds that the sale of the subject from Fannie Mae in May 2012 for \$21,000 lacks enough evidence to prove overvaluation by a preponderance of the evidence. The settlement statement is incomplete and disclosed the seller was Fannie Mae and the purchaser Greenside. This conflicted with the additional evidence submitted by the appellant that the seller was U.S. Dept. of HUD and Sperry's affidavit that he was the owner of the subject.

The appellant asserted a contention of law in its stipulation with the board of review 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.

After the time for submission of evidence or briefs, but prior to hearing, both parties stipulated that the subject was owner-occupied and qualified for a rollover of the 2012 assessment reduction in the Board's decision in docket number 12-25286. The only additional information that may be gleaned from the evidence is that the appellant for the 2012 appeal was Dave Sperry and for the 2013 appeal was Greenside.

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 2012 and 2013 appeals were filed in the names of different appellants. Greenside, through its attorney, failed to prove the nexus between these parties. But of greater import is the nature of the 2013 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 2012 assessment reduction to the instant 2013 lien year and what legal effect does the stipulation have to establish Greenside 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 Dave Sperry, the 2012 appellant, and Greenside, the 2013 appellant. What is clear is that Greenside, a corporation, cannot reside in the residential subject property. However, the Board must address the effect of the stipulation between the parties that owner Greenside 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 (2<sup>nd</sup> 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 Greenside qualified 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 Greenside, 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. Greenside is not a natural person who resides in residential property and is, therefore, not eligible for a rollover of the 2012 assessment reduction.

Regarding the appellant's sales market argument, the Board finds the best evidence of market value to be the appellant's comparable sale(s) #1, #2, #3 and #4. These comparable properties sold for prices ranging from \$12.00 to \$22.18 per square foot of living area, including land. The subject's assessment reflects a market value of \$66.34 per square foot of living area including land, which is above the range established by the best comparable sales in this record. Based on this evidence, the Board finds a reduction in the subject's assessment is justified.

After considering all evidence and arguments submitted by both parties, the Board finds a reduction in the subject's assessment based on the appellant's sale market argument of overvaluation is 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.

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Chairman



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Member

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Member



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Member

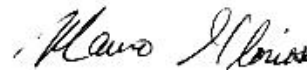
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Member

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



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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

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