



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

APPELLANT: 1439 W. Henderson, LLC
DOCKET NO.: 14-23602.001-R-1
PARCEL NO.: 14-20-321-008-0000

The parties of record before the Property Tax Appeal Board are 1439 W. Henderson, LLC, the appellant(s), by attorney George Michael Keane, Jr., of Keane and Keane 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 **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: \$14,375
IMPR.: \$134,601
TOTAL: \$148,976

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 2014 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 one year-old, three-story dwelling of masonry construction containing 3,430 square feet of living area. The property has a 3,125 square foot site located in Lake View Township, Cook County. The record does not disclose whether the subject was owner-occupied in the lien year. Moreover, the subject was owned by a limited liability corporation. The subject is classified as a Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on a contention of law. The builder, the appellant herein, owned the subject from prior to January 1, 2014 through the sale date of October 28, 2014. The appellant argued in its brief that the subject was under construction from January 1, 2014, the beginning of the instant lien year, through October 28, 2014 and was, therefore, uninhabitable and unfit for occupancy during that time. Consequently, the appellant argued it is entitled to a

pro-ration of its 2014 assessment to account for the time it was still under construction. The appellant cited Section 9-180 of the Property Tax Code (35 ILCS 200/9-180) as authority for a pro-rated assessment. The subject sold on October 28, 2014 for \$2,100,000. By application of the 2014 level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance, the appellant suggests the total assessment before pro-ration should be \$210,000. The appellant subtracted the land assessment of \$14,375 to arrive at an improvement assessment of \$195,625. The appellant further argued that this \$195,625 improvement assessment should be pro-rated by a factor of 17.80% for the 65 days in 2014 that the subject was uninhabitable and occupied (from October 28 through December 31, 2014). Based on this calculation, the appellant argued the improvement assessment should be \$34,821. After adding the \$14,325 land assessment back, the appellant argued the total pro-rated assessment for 2014 should be \$34,821.

In support of this argument, the appellant submitted a settlement statement disclosing the subject property was sold by the appellant on October 28, 2014 for \$2,100,000 as a newly constructed home. The subject's sale price reflects a market value of \$612.24 per square foot of living area including land. The appellant also submitted an affidavit of Robert Krueger, the agent of the builder of the property, dated September 23, 2014. Krueger attested: 1) that as agent of the owner, he began construction of the dwelling after receiving a building permit; 2) that the owner entered into a contract to sell the subject property for an October 15, 2014 closing date; and 3) that as of the date of the affidavit, the property was still under construction and would "not be substantially completed, leased nor occupied and no occupancy permit issued" prior to the anticipated closing date. The appellant submitted a copy of the building permit, issued on July 10, 2013, and a black-and-white photograph of the constructed dwelling's exterior with a notation of October 2014.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price when applying the 2014 level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance, with a pro-ration of 17.65% for the improvement.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$148,976. The subject's assessment reflects a market value of \$1,489,760, or \$434.33 per square foot of living area, when applying the 2014 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 four suggested comparable sales.

In rebuttal, the appellant argued that the board of review failed to address the appellant's contention of law based on Section 9-180 of the Property Tax Code. *Supra*. The appellant reaffirmed the request for a pro-rated reduction in the total assessment to account for the partial year of uninhabitability.

At hearing, the appellant reiterated its argument that the improvement assessment should be pro-rated to reflect its uninhabitable and unoccupied state from January 1, 2014 through October 28, 2014. The board of review argued that there is no evidence that the improvement was uninhabitable and not fit for occupancy at any time in 2014. The board of review pointed out

that the appellant did not submit any evidence, such as a photograph, of the interior of the subject to display its uninhabitable condition. The board of review offered into evidence a copy of Section 9-180 of the Property Tax Code (*supra*), and the Board entered it into evidence as BOR Exhibit #1.

Conclusion of Law

When a contention of law is the basis of the appeal, the appellant “shall submit a brief in support of his position” 86 Ill.Admin.Code §1910.65(d). The appellant must prove his case by a preponderance of the evidence. “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 appellant raises a contention of law in conjunction with a recent sale of the subject. He argues that the total assessment should be pro-rated for the time in 2014 that the subject was not inhabited and fit for occupancy or for its intended customary use. That there was no occupancy permit is irrelevant, and as the appellant stated at hearing, since the City of Chicago does not issue those permits. Rather, the issue is whether there was sufficient evidence of uninhabitability. The appellant’s argument does not meet the burden of proof of preponderance of the evidence. The appellant did not submit evidence of the interior condition of the improvement. Krueger’s affidavit does not establish exactly how the dwelling was uninhabitable. The appellant does not explain what, in the words of Krueger’s affidavit, “substantially completed...” means. Nor does the appellant offer any evidence of why the dwelling was not completed at any time prior to the October 28th sale. Marking the sale date as the time when the dwelling construction is completed, and therefore habitable and fit for occupancy, does not grant the appellant a pro-ration of improvement assessment for the portion of the lien year prior to the sale. To allow this as the relevant date of completion would allow the timing of a successful sale negotiation to control the time allotted to a pro-ration of assessment to the time the property is deemed habitable. Therefore, based on the evidence presented, the Board finds that an assessment reduction 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: April 17, 2018



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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