



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

APPELLANT: Leo Birov
DOCKET NO.: 14-24000.001-R-1
PARCEL NO.: 05-17-407-020-0000

The parties of record before the Property Tax Appeal Board are Leo Birov, the appellant, by attorney Robert Rosenfeld, of Robert H. Rosenfeld and Associates, LLC 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 **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: \$24,375
IMPR.: \$51,311
TOTAL: \$75,686

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 consists of a 2-story dwelling of frame construction with 4,060 square feet of living area. The dwelling was 116 years old. Features of the home include a partial unfinished basement, 2 fireplaces and a 3-car garage. The property has a 15,000 square foot site and is located in Winnetka, New Trier Township, Cook County. The subject is classified as a class 2-06 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation. The appellant purchased the property June 16, 2014 for \$1,225,000. In July, 2014, the appellant secured the proper permits and demolished the existing dwelling to make way for construction of a new dwelling. In support of this argument the appellant submitted evidence disclosing the subject's original dwelling was demolished and a permit for construction of a new dwelling on the parcel was obtained August 11, 2014. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to

reflect the partial year the dwelling existed prior to demolition arguing that a 50% “occupancy factor” should be applied.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$112,721. The subject's assessment reflects a market value of \$1,135,156, land included, when using the 2014 three-year average median level of assessments for class 2 property of 9.93% under the Cook County Real Property Assessment Classification Ordinance as determined by the Illinois Department of Revenue. In support of its contention of the correct assessment, the board of review, in a supplemental brief, cited 35 ILCS 200/9-180 and 35 ILCS 200/9-180. The board of review claimed that “the Property Tax Code specifically excludes vacancy relief for uninhabitability caused by the intentional act of the owner, i.e. rehabilitation. The Code mandates vacancy relief only where the property is destroyed, removed, or otherwise rendered unfit by *accidental* means. The owner’s choice to renovate is insufficient under the Code to mandate vacancy relief” according to the board of review and thus the assessment should be affirmed.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation along with a contention of law concerning demolition of the original structure. Section 10-15 of the Illinois Administrative Procedure Act (5-ILCS 100/10-15) provides:

Standard of proof. 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.

The rules of the Property Tax Appeal Board are silent with respect to the burden of proof associated with an argument founded on a contention of law. See 86 Ill.Admin.Code §1910.63. The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant does not refute the assessment of the property as of January 1, 2014. The appellant submitted evidence that the subject was purchased on June 16, 2014 for \$1,225,000 and the improvement was demolished on or about July 31, 2014 to make way for new construction. As to the appellant's claim for reduced assessment on the improvement due to its demolition as of July, 2014, Section 9-160 of the Property Tax Code (35 ILCS 200/9-160) is relevant and provides in pertinent part:

The assessment shall also include or exclude, on a proportionate basis in accordance with the provisions of Section 9-180, . . . all improvements which were destroyed or removed. [Emphasis added.]

Section 9-180 of the Property Tax Code provides:

When, during the previous calendar year, any buildings, structures or other improvements on the property were destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means

(excluding destruction resulting from the willful misconduct of the owner of such property), the owner of the property on January 1 shall be entitled, on a proportionate basis, to a diminution of assessed valuation for such period during which the improvements were uninhabitable or unfit for occupancy or for customary use.

...

Computations under this Section shall be on the basis of a year of 365 days.

In light of these provisions of the Property Tax Code, where the improvement was destroyed on or about July 31, 2014, the subject property would be entitled to a diminution in assessed value after the demolition. The assessment date at issue in this proceeding is January 1, 2014. As set forth in the Property Tax Code, the structure(s) were to be assessed by the assessing officials until such time as demolition occurred. Therefore, the Property Tax Appeal Board finds a pro rata reduction in the subject's improvement assessment is warranted on this record based on a year of 365 days.

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.



Chairman



Member



Member



Acting Member



Acting 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: _____

May 19, 2017



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 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 the subsequent year 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.

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.