



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

APPELLANT: Vista Investment Partners, LLC
DOCKET NO.: 14-35848.001-R-1 through 14-35848.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Vista Investment Partners, 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 **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
14-35848.001-R-1	25-05-303-022-0000	937	5,051	\$ 5,988
14-35848.002-R-1	25-05-303-023-0000	1,875	9,380	\$ 11,255

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 16-185 of the Property Tax Code (35 ILCS 200/16-185) challenging the assessment for the 2014 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a two-story dwelling of frame and masonry construction with 3,959 square feet of living area. The dwelling is 75 years old. Features of the home include a partial finished basement and a two and one-half-car garage. The property has a 1,562 square foot site, and is located in Chicago, Lake Township, Cook County. The subject is classified as a class 2-11 property under the Cook County Real Property Assessment Classification Ordinance.

The subject property was the subject matter of an appeal before the Board in 2012 under docket numbers 12-25278.001-R-1 and 12-25278.002-R-1. In that appeal, the Board rendered a decision lowering the subject's assessment to \$11,085. The appellant submitted a letter requesting that the subject's assessment for tax year 2012 be carried forward to tax year 2014 based on section 16-185 of the Illinois Property Tax Code. In the letter, the appellant states that

the subject is owner occupied. The appellant also submitted a copy of the Board's decision for docket numbers 12-25278.001-R-1 and 12-25278.002-R-1.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$17,243.

In support of the subject's assessment, the board of review submitted four equity comparables. The board of review also submitted a supplemental brief, arguing that the subject is not owner occupied because it is owned by a business entity. In support of this assertion, the board of review submitted a printout from the Cook County Recorder of Deeds' website, showing that the subject was conveyed to the appellant, Vista Investment Partner, LLC in July 2010.

In rebuttal, the appellant argued that the subject is owner occupied, despite being owned by a business entity. In support of this assertion, the appellant cites City of Chicago v. Illinois Dept. of Revenue, 147 Ill.2d 484 (1992) ("Chicago Dock"). According to the appellant, that case stands for the proposition that the word "owner" is broader than simply meaning the title holder of a property. Instead, according to the appellant, for property tax purposes, "owner" is defined by the "realities of ownership," which looks to the entity, corporate or otherwise, which exercises control over the property with the right to enjoy the benefits of ownership.

Conclusion of Law

Section 16-185 of the Illinois Property Tax Code provides, in relevant part:

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. "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." 5 ILCS 100/10-15. The appellant argues that the subject is owner-occupied, while the board of review argues that it is not.

The appellant cites Chicago Dock, for the proposition that the "realities of ownership" test applies in determining the true owner of property. This case discusses several previously decided cases regarding the ownership of property, and whether the owner is liable for property taxes or qualified for certain exemptions. However, there is no dispute about ownership in the instant appeal. Both parties acknowledge that the appellant, Vista Investment Partners, LLC, is the owner of the subject. Moreover, both parties acknowledge, implicitly or otherwise, that the subject is owned by a limited liability company, and not a natural person. Thus, Chicago Dock is inapposite.

What the parties dispute is whether the appellant, a business entity, *occupies* the subject property; or, put more precisely, whether a business entity can ever occupy a property. In determining this issue, the Board finds Proviso Twp. High School Dist. No. 209 v. Hynes, 84 Ill.2d 229 (1980) instructive. In that case, a class of school districts challenged the constitutionality of the homestead exemption, as that exemption was applied in Cook County. Id. at 231. At the time, “homestead property” included “residential property that is occupied by the owner or owners thereof as his or their principal dwelling place or, in counties where real property is classified for purposes of taxation in accordance with Section 4 of Article IX of the Constitution, residential properties classified in the lowest assessment classification.” Id. at 232-33 (citing Ill. Rev. Stat. 1979, ch. 120, par. 500.23-4, sec. 19.23-1a). In finding the homestead exemption constitutional, the Illinois Supreme Court stated, “In connection with the question under consideration, the plaintiffs [school districts] 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.” Proviso Twp., 84 Ill.2d at 240-41.

Thus, in interpreting a property tax statute with a similar “owner occupancy” requirement as section 16-185, the Illinois Supreme Court found that a corporation cannot “reside” in a building, and is not eligible for a homestead exemption. The Board will follow the court’s reasoning on this point, and finds that the appellant, a limited liability company, cannot occupy the subject. As such, the appellant has failed to prove, by a preponderance of the evidence, that the subject’s assessment for tax year 2012 is eligible to be carried forward to tax year 2014, as the subject is not an owner-occupied residence. The appellant has not raised any further arguments for a reduction in the subject’s assessment. Therefore, the Board finds that a 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



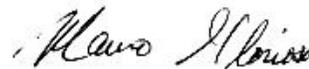
Member

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: 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

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