



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

APPELLANT: 5737 Winthrop, LLC
DOCKET NO.: 15-23320.001-R-1
PARCEL NO.: 14-05-405-006-0000

The parties of record before the Property Tax Appeal Board are 5737 Winthrop, LLC, the appellant(s), by attorney Michael E. Crane, of Crane and Norcross 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: \$15,000
IMPR.: \$38,268
TOTAL: \$53,268

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 2015 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 102 year-old, two-story dwelling of masonry construction containing 3,498 square feet of living area. Features of the subject included a full basement containing an apartment and central air conditioning. The property has a 3,750 square foot site located in Chicago, Lake View Township, Cook County. It is a Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends assessment inequity and overvaluation as the bases of the appeal. The appellant filed its Residential Appeal Petition in the name of 5737 Winthrop, LLC. In support of the assessment inequity argument, the appellant submitted information on five suggested equity comparable properties. In support of the overvaluation argument, the appellant submitted two

alternative sub-arguments: an income capitalization approach and a recent sale of the subject. For the income capitalization approach, the appellant submitted an Income and Expense Summary for 2015; Profit and Loss statements for 2012 through 2014; and a current rent roll affidavit. The appellant applied a 45.00% actual expense rate and argued that it was within the range for properties of this type. The appellant did not deduct a vacancy allowance. The appellant selected an overall 12.86% capitalization rate to arrive at an income approach estimated market value of \$157,201. In further support of an overvaluation argument, the appellant submitted a settlement statement disclosing the subject property was sold by Relu Stan and purchased by Mihal Lehene on April 18, 2012 for \$268,700. The subject's sale price reflects a market value of \$76.82 per square foot of living area including land. The appellant also submitted a closing statement. The only information the appellant provided in Section IV—Recent Sale Data of the Residential Appeal was that the subject was not transferred between related parties; the date and price of the sale and the name of the seller. The appellant requested a reduction in the subject's assessment to \$15,720.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$53,268. The subject has an improvement assessment of \$38,268, or \$10.94 per square foot of living area. The subject's assessment reflects a market value of \$532,680, or \$152.28 per square foot of living area including land, when applying the 2015 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 descriptive and assessment information on eight suggested equity comparables and four suggested sale comparables. In support of the overvaluation argument based on a recent sale, the board of review submitted a brief arguing the sale was compulsory. It appended its Exhibit A to the brief. It disclosed, in relevant part: a *lis pendens* and foreclosure notice had been recorded on the subject property against Relu Stan on March 23, 2010; a Warranty Deed from Relu Stan to Mihal Lehene recorded on May 8, 2012; and a Warranty Deed from Mihal Lehene to 5731-37 Winthrop, LLC recorded two years later on May 8, 2014.

At hearing, the parties reiterated their respective arguments pertaining to assessment inequity and overvaluation.

Conclusion of Law

The appellant 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 comparables 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 finds the best evidence of assessment equity to be the appellant's comparable(s) #2 and #5, and the board of review's comparable(s) #2, #3 and #7. These comparables had

improvement assessments that ranged from \$9.56 to \$15.42 per square foot of living area. The assessment of \$10.94 per square foot of living area falls within the range established by the best comparables 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.

The appellant also 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 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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant relied upon an income capitalization approach to establish overvaluation. In support of this argument, the appellant submitted a rent roll, Profit and Loss Statements and actual income and expense information for 2015.

In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the Illinois Supreme Court stated:

[I]t is clearly the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held by the owner... [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved... [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value"... [M]any factors may prevent a property owner from realizing an income from property which accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes.

Id. at 430-31.

Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant made this argument, the appellant did not demonstrate that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income, one must establish with market data: the market rent; vacancy and collection losses; and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. The appellant did not provide such evidence. Therefore, the Board gives this argument no weight. Based on this evidence, the Board finds a reduction in the subject's assessment for overvaluation is not justified.

The appellant also relied on a recent sale in support of its overvaluation argument. In support, the appellant submitted a settlement statement and a closing statement, each disclosing the buyer was Mihal Lehene. In response, the board of review submitted a brief and deed trail in support

of its argument the subject's sale was compulsory. The appellant is 5737 Winthrop, LLC. The board of review's deed trail disclosed 5737 Winthrop, LLC was the grantee of a Warranty Deed from Mihal Lehene on May 8, 2014. The record is devoid of any evidence that the grant of title to 5737 Winthrop, LLC was an arm's-length transaction for fair cash value. Indeed, Section IV of the Residential Appeal Petition filed by the appellant does not contain any information as to whether or how the subject was marketed for sale, the vehicle by which the sale was settled, or whether a realtor or some other entity was used to sell the subject property. Without such supporting evidence, the Board cannot find the subject was overvalued based on a recent sale.

In contrast to the lack of supporting evidence from the appellant, the Board finds the best evidence of market value in the record to be sales comparables #2, #3 and #4 submitted by the board of review. These comparables were similar with the subject in location, style, construction, features, age, living area and land area. These properties also sold proximately in time to the assessment date at issue. The comparables sold for prices ranging from \$172.17 to \$206.38 per square foot of living area, including land. The subject's assessment reflects a market value of \$152.28 per square foot of living area, including land, which is below the range established by the best comparable sales in this record. The Board gave little weight to the subject's sale because it did not have the elements of an arm's-length transaction for fair cash value.

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: July 16, 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

5737 Winthrop, LLC, by attorney:
Michael E. Crane
Crane and Norcross
2 North LaSalle Street
Suite 900
Chicago, IL 60602-3869

COUNTY

Cook County Board of Review
County Building, Room 601
118 North Clark Street
Chicago, IL 60602