



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

APPELLANT: Champaign Midtown Plaza, LLC
DOCKET NO.: 16-00041.001-C-1
PARCEL NO.: 46-21-07-354-002

The parties of record before the Property Tax Appeal Board are Champaign Midtown Plaza, LLC, the appellant, by attorney Rebecca E. P. Wade of Meyer Capel, P.C. in Champaign; and the Champaign 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 **Champaign** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$33,590
IMPR.: \$15,960
TOTAL: \$49,550

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Champaign County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2016 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

As of January 1, 2016, the subject property was improved with a one-story commercial building with 2,046 square feet of ground area. The building was constructed in 1963. The property is in Champaign, City of Champaign Township, Champaign County.

The appellant's appeal is based on a contention of law. The appellant contends the subject improvements were demolished during 2016 and pursuant to Sections 16-160 and 16-180 of the Property Tax Code (35 ILCS 200/16-160 & 16-180) the improvement assessment should be reduced on a pro-rated basis using 365 days. Included with the appellant's submission was an affidavit from Daniel H. Hamelberg, Manager of The University Group, LLC ("The University Group"). Hamelberg stated that The University Group was the general contractor for a project involving six (6) collective and adjoining properties. Hamelberg declared the properties included parcels with property index numbers 46-21-07-354-001, 46-21-07-354-003, 46-21-07-

353-008, 46-21-07-353-001, 46-21-07-353-007, and 46-21-07-354-002. The affiant asserted that the project included the demolition of all improvements previously located on the properties. Hamelberg claimed the demolition of the improvements on the properties occurred over the course of several days and was completed on June 15, 2016.

Appellant's counsel also submitted a Voluntary Destruction of Real Estate Improvements form, signed by counsel and dated 9-8-16, asserting that the all the improvements reflected on the subject's property record card were demolished in the 2016 assessment year. Based on this record the appellant's counsel requested the subject's improvement assessment be reduced to \$15,762.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total equalized assessment for the subject of \$68,660. The subject improvements had an equalized assessment of \$35,070.

The board of review stated it denied the appeal at the local level due to the voluntary demolition associated with the above referenced properties. The board of review asserted that Section 9-180 of the Property Tax Code relates to properties which were, "destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means." The board of review contends the above referenced properties were not destroyed by accidental means but were rather demolished to construct a mixed-use commercial building. It explained that voluntary destruction forms are provided to taxpayers as a way to notify the local township assessor of the demolition for the following assessment year to ensure the destruction of improvements does not go unnoticed.

In conclusion the board of review stated that no claim is being made that the improvements were destroyed by accidental means such as fire or natural disaster, rather, the improvements were destroyed as part of a coordinated project. The board of review contends no reduction in the assessment for the 2016 assessment year is warranted.

In rebuttal appellant's counsel argued that in contravention of the Illinois Property Tax Code, the Champaign County Board of Review contends that a diminution or proration in assessed value is permitted only for the involuntary destruction of improvements. Counsel argued Section 9-160 of the Property Tax Code provides in pertinent part that an assessment shall "include or exclude, on a proportionate basis in accordance with the provisions of Section 9-180, . . . all improvements which were destroyed or removed" in a calendar year. Counsel further asserted that Section 9-180 of the Property Tax Code goes on to provide that "[w]hen, during the previous calendar year, any buildings, structures or other improvements on the property were destroyed and rendered uninhabitable. . . the owner of the property on January 1 shall be entitled, on a proportionate basis, to a diminution of assessed value for such period during which the improvements were uninhabitable or unfit for occupancy or for customary use," with computations under this section calculated "on the basis of a year of 365 days." Appellant's counsel also referenced three decisions issued by the Property Tax Appeal Board where the improvement assessment was prorated following the voluntary demolition of the improvements. Based on this record the appellant requested the subject's improvement assessment be reduced for the 2016 tax year.

Conclusion of Law

The appellant raises a contention of law with respect to the application of Sections 9-160 and 9-180 of the Property Tax Code to the improvement assessment after the voluntary demolition of the improvements to make way for new construction. Where a contention of law is made the standard of proof is the preponderance of the evidence. (See 5 ILCS 100/10-15). The Board finds the appellant met this burden of proof and a reduction in the subject's improvement assessment is justified.

Section 9-160 of the Property Tax Code (35 ILCS 200/9-160) provides in pertinent part:

Valuation in years other than general assessment years. . . 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.

Furthermore, Section 9-180 of the Property Tax Code (35 ILCS 200/9-180) provides in part:

Pro-rata valuations; improvements or removal of improvements. . .

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.

The Board finds that Section 9-160 of the Property Tax Code provides for a proportionate assessment when an improvement is either destroyed or removed. The only preclusion to the proportionate assessment due to the removal of the improvements is if the improvement destruction is the result from the "willful misconduct" of the owner of the property. The voluntary removal of a building or structure to make way for the construction of a new improvement by the owner of the property is not "willful misconduct" but a management decision by the owner to enhance the value and use of the property. The Board finds that fact that the owner voluntarily removed the improvement does not preclude the proportionate improvement assessment as provided by Sections 9-160 and 9-180 of the Property Tax Code.

The affidavit provided by the appellant established that the demolition of the improvements on the properties occurred over the course of several days and was completed on June 15, 2016. The fact that the improvements were removed in 2016 was not disputed by the board of review. Additionally, the appellant did not provide any evidence that the improvement assessment was incorrect other than it should be prorated. The Board finds the subject property had an equalized improvement assessment of \$35,070. Using a 365-day year, there were 199 days remaining from

the date the improvements were removed. The Board finds the improvement assessment should be reduced by 54.5% (199/365) for the 2016 tax year resulting in a prorated improvement assessment of \$15,960.

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: May 21, 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

Champaign Midtown Plaza, LLC, by attorney:
Rebecca E. P. Wade
Meyer Capel, P.C.
306 West Church Street
P.O. Box 6750
Champaign, IL 61820-6750

COUNTY

Champaign County Board of Review
Champaign Co Brookens Admin Cntr
1776 East Washington Street
Urbana, IL 61802