



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

APPELLANT: Joseph De Vito
DOCKET NO.: 16-32218.001-R-1
PARCEL NO.: 17-17-417-041-0000

The parties of record before the Property Tax Appeal Board are Joseph De Vito, the appellant(s), by attorney Thomas M. Battista, of the Law Offices of Thomas M. Battista 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: \$8,733
IMPR.: \$23,267
TOTAL: \$32,000

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Property Tax Appeal Board pursuant to sections 16-160 and 16-185 of the Property Tax Code (35 ILCS 200/16-160, 16-185) 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

The subject property consists of a two-story dwelling of frame construction with 1,600 square feet of living area. The dwelling was constructed in 1889. Features of the home include a full basement and a two-car garage. The property has a 2,911 square foot site in Chicago, West Chicago Township, Cook County.

The appellant contends overvaluation on two alternative bases. In his Residential Appeal Petition, post-marked March 22, 2017, the appellant stated that his argument of overvaluation was based on Comparable Sales. In support, the appellant submitted a brief and a grid sheet of three comparable sales with improvements ranging from 924 to 2,419 square feet, or from

\$148.82 to \$195.40 per square foot of living area including land. These sales occurred from 2013 through 2015.

The appellant submitted a revised petition, post-marked November 3, 2017, wherein he argued that the assessment should be reduced due to overvaluation because the Board had published a decision on October 20, 2017 reducing the subject's assessment for the prior year. The appellant marked "Rollover" on the face of this revised petition. The appellant argued that the prior decision, docket number 15-33003, should be carried forward to the 2016 tax year pursuant to section 16-185 of the Property Tax Code, which states:

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.

Appended to this revised petition was a copy of the Board's 2015 decision. The Board lowered the assessment of the subject property in that decision to \$31,680 based on the evidence submitted by the parties. The appellant's attorney asserted that tax years 2015 and 2016 were within the same general assessment period. However, nowhere in the Board's prior decision, nor in any of the evidence or brief the appellant submitted for either alternative argument in the instant appeal, did the appellant disclose that the subject property was an owner-occupied residence during the 2016 lien year.

The appellant requested the Board to reduce the subject's 2016 assessment to \$27,800.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$35,981. The subject's assessment reflects a market value of \$359,810 or \$224.88 per square foot of living area, land included, when using the Cook County Real Property Assessment Classification Ordinance level of assessment for class 2 property of 10.00%.

The board of review did not submit documentary evidence in support of the assessment.

Conclusion of Law

The appellant 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 this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds no merit to the appellant's overvaluation argument based on application of Section 16-185 of the Property Tax Code. (35 ILCS 200/16-185). The appellant did not argue in his brief that the subject was owner-occupied in 2016, and the entire record is devoid of any evidence tending to prove it was. Since the material element of owner-occupancy was not established, the Board finds an assessment reduction based on Section 16-185 is not warranted.

However, the appellant submitted three recently sold properties to establish a range of comparable properties. The Board finds the best evidence of market value to be the appellant's comparable sale(s) #1, #2 and #3. These comparable properties sold for prices ranging from \$148.82 to \$195.40 per square foot of living area, including land. The subject's assessment reflects a market value of \$224.88 per square foot of living area including land, which is above the range established by the best comparable sales in this record. The Board finds the appellant's comparable #2 most similar since it sold most recently to the lien year in 2015, is close in proximity to the subject, and contains 1,781 square feet of living area. The Board notes that the board of review did not submit documentary evidence of selected comparable sale properties. Based on this evidence, the Board finds a reduction in the subject's assessment is justified.

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: March 19, 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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