



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

APPELLANT: Thomas Elden
DOCKET NO.: 16-39525.001-R-3 through 16-39525.004-R-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Thomas Elden, the appellant(s), by attorney David C. Dunkin, of Saul Ewing Arnstein & Lehr LLP in Chicago; the Cook County Board of Review; the Chicago Board of Education intervenor, by attorney Ares G. Dalianis of Franczek P.C. in Chicago.

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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
16-39525.001-R-3	17-04-210-029-1002	7,105	16,628	\$23,733
16-39525.002-R-3	17-04-210-029-1003	4,872	11,402	\$16,274
16-39525.003-R-3	17-04-210-029-1004	3,045	7,126	\$10,171
16-39525.004-R-3	17-04-210-029-1008	2,476	5,796	\$8,272

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 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 four residential condominium units contained in a 40-year-old, 46- unit residential condominium building of masonry construction. Each unit was designated by a Property Index Number (PIN). The four units of the subject were PINs 1002, 1003, 1004 and 1008. Ownership of the common elements was: PIN 1002, 2.8801%; PIN 1003, 1.9749%; PIN 1004, 1.2343%; and PIN 1008, 1.0039%. The property is situated on 17,622 square feet of land in North Chicago Township, Cook County. It is a Class 2-99 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant submitted a City of Chicago Building Permit, issued June 6, 2016; a Vacancy/Occupancy Affidavit (Affidavit) that disclosed one unit occupied from January through June, 2016, but vacant thereafter, and three units vacant for the entirety of 2016; various photographs of the units under construction down to the studs and with open ceilings; a schematic drawing of the construction plans; and a construction schedule. Based on the Affidavit, the appellant requested application of a 12.00% occupancy factor to the improvement assessment for \$40,952.¹

In support of its contention of the correct assessment, the board of review submitted a condominium analysis with information on suggested comparable sales for three units in the building. These units sold from 2014 through 2015 for a total consideration of \$6,938,500. The board of review applied a 10.00% market value reduction for personal property to arrive at an adjusted market value of \$6,244,654. The units sold comprised 12.3466% of the common elements of the building. The result was a full value of the property at \$50,577,924. Since the subject owned 7.0933% of the common elements, the board of review suggested the market value of the subject was \$3,587,643.

The Chicago Board of Education appeared as an Intervenor. It submitted a one-page brief in support of not changing the assessments. The Intervenor cited five prior Board decisions, which dated from 1997 through 2005. The Intervenor did not supply copies of these decisions but argued that they pertained to taxpayers' requests for assessment reductions based on vacancy. According to the Intervenor's brief, the Board denied those requests for assessment reductions. The Intervenor based its hearing request on the opportunity to address the Board in oral argument on the appellant's contention of law.

At hearing, the parties stipulated that the material facts in support of the appellant's contention of law and the Intervenor's responses were not in dispute. Three of the four residential units were under deconversion construction beginning on June 27, 2016, to combine them into one larger unit. They were vacant from that date through the remainder of 2016. The construction was not completed until 2017. This construction involved stripping the units down to their studs. The fourth unit was occupied up to July 1, 2016, after which date it was unoccupied for the remainder of 2016. The appellant argued that the contention of law was not based on vacancy, but on the subject's diminished value during the construction period of 2016 due to uninhabitability. The appellant requested the Board to reduce the improvement assessments from the date of the beginning of the construction through the remainder of the 2016 lien year to \$31,295² for the

¹ The appellant calculated its reduced improvement assessment request based on the Assessor's total for the four improvements of \$406,613. This amount, reduced by a 12.00% occupancy factor, would be \$48,793. The board of review reduced the total of the four improvement assessments to \$341,266. The Board uses this reduced amount from the board of review as the basis for revising the appellant's total improvement assessment request to \$40,952. The appellant made another arithmetic error on page three of its brief by subtracting the land assessment value from the revised improvement assessment values, to a difference of \$31,295. The Board corrects this error by adding the land assessment value to the appellant's revised total for a sum of \$58,450, the subject's total assessment value request.

² See fn. 1.

improvement assessed values for the four units combined. The appellant cited Section 9-160 of the Property Tax Code as statutory authority for a reduction of the improvement assessments. 35 ILCS 200/9-160.

The board of review representative ceded the responding party's presentation to the Intervenor. The Intervenor argued the appellant cited Section 9-180 of the Property Tax Code, *supra*, as statutory authority in its brief. This Section pertained to pro-rata valuations for removed improvements. The Intervenor argued this Section states that a taxpayer shall notify the Assessor within 90 days when improvements "have been demolished, destroyed, rendered uninhabitable or otherwise unfit for occupancy." *Id.* The Intervenor argued there is no evidence the appellant notified the Assessor of the improvement construction within 90 days after it has begun.

The appellant argued a contention of law that the total assessment for the combined four units should be reduced to reflect the uninhabitable condition during the construction. "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.

Statutory and Case Law Authority

On or before June 1 in each year other than the general assessment year, in all counties with less than 3,000,000 inhabitants, and as soon as he or she reasonably can in counties with 3,000,000 or more inhabitants, the assessor shall list and assess all property which becomes taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements. The assessment shall also include or exclude, on a proportionate basis in accordance with the provisions of Section 9-180 [[35 ILCS 200/9-180](#)], all new or added buildings, structures or other improvements, the value of which was not included in the valuation of the property for that year, and all improvements which were destroyed or removed. In case of the destruction or injury by fire, flood, cyclone, storm or otherwise, or removal of any structures of any kind, or of the destruction of or any injury to orchard timber, ornamental trees or groves, the value of which has been included in any former valuation of the property, the assessor shall determine as near as practicable how much the value of the property has been diminished, and make return thereof.

Beginning January 1, 1996, the authority within a unit of local government that is responsible for issuing building or occupancy permits shall notify the chief county assessment officer, by December 31 of the assessment year, when a full or partial

occupancy permit has been issued for a parcel of real property. The chief county assessment officer shall include in the assessment of the property for the current year the proportionate value of new or added improvements on that property from the date the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use until December 31 of that year. If the chief county assessment officer has already certified the books for the year, the board of review or interim board of review shall assess the new or added improvements on a proportionate basis for the year in which the occupancy permit was issued or the new or added improvement was inhabitable and fit for occupancy or for intended customary use. The proportionate value of the new or added improvements may be assessed by the board of review or interim board of review as omitted property pursuant to Sections 9-265, 9-270, 16-50 and 16-140 [[35 ILCS 200/9-265](#), [35 ILCS 200/9-270](#), [35 ILCS 200/16-50](#) and [35 ILCS 200/16-140](#)] in a subsequent year on a proportionate basis for the year in which the occupancy permit was issued or the new or added improvement was inhabitable and fit for occupancy or for intended customary use if it was not assessed in that year.

35 ILCS 200/9-160.

“Occupancy permit” means the certificate or permit, by whatever name denominated, which a municipality or county, under its authority to regulate the construction of buildings, issues as evidence that all applicable requirements have been complied with and requires before any new, reconstructed or remodeled building may be lawfully occupied.

35 ILCS 200/9-165.

The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year. The owner of the improved property shall notify the assessor, within 30 days of the issuance of an occupancy permit or within 30 days of completion of the improvements, on a form prescribed by that official, and request that the property be reassessed. The notice shall be sent by certified mail, return receipt requested and shall include the legal description of the property.

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. The owner of property entitled to a diminution of assessed valuation shall, on a form prescribed by the assessor, within 90 days after the destruction of any improvements or, in counties with less than 3,000,000 inhabitants within 90 days after the township or multi-township assessor has mailed the application form as required by Section 9-190 [[35 ILCS 200/9-190](#)], file with the assessor for the decrease of assessed valuation. Upon failure so to do within the 90 day period, no diminution of assessed valuation shall be attributable to the property.

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

35 ILCS 200/9-180.

Conclusion of Law

The appellant argued a contention of law, based on the uninhabitable condition of the subject due to reconstruction. When a contention of law is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. “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 Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the appellant complied with the requirements in Section 9-160 of the Property Tax Code, *supra*, by applying for and obtaining a building permit with local government. The appellant established by a preponderance of the evidence that the subject was under extensive reconstruction during most of 2016, which rendered the subject uninhabitable. Based on this evidence, the Board finds a reduction in the subject's assessment is justified. The Board bases the beginning improvement assessment values on the board of review's decision for 2016 and reduces them by the appellant's requested percentages.

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:

February 15, 2022



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

Thomas Elden, by attorney:
David C. Dunkin
Saul Ewing Arnstein & Lehr LLP
161 North Clark
Suite 4200
Chicago, IL 60601

COUNTY

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

INTERVENOR

Chicago Board of Education, by attorney:
Ares G. Dalianis
Franczek P.C.
300 South Wacker Drive
Suite 3400
Chicago, IL 60606