



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

APPELLANT: August Off Inc
DOCKET NO.: 16-43093.001-R-1
PARCEL NO.: 27-36-202-011-1006

The parties of record before the Property Tax Appeal Board are August Off Inc, the appellant(s), by attorney Jessica Hill-Magiera, Attorney at Law in Lake Zurich; 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: \$448
IMPR.: \$7,246
TOTAL: \$7,694

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 is a residential condominium unit contained in a 44 year-old, three-story residential condominium building of masonry construction. The subject represents 8.57% of the common elements of the condominium property. The subject contains 14,595 square feet of land in Tinley Park, Orland Township, Cook County. The appeal was brought by the owner, August Off, Incorporated (August Off). The subject is a Class 2-99 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's sole basis of the appeal is a contention of law. In support of this argument, the appellant argued in a one-page brief that the subject qualifies for application of Section 16-185 of the Property Tax Code (35 ILCS 200/16-185), commonly known as a rollover. The appellant

submitted a copy of the Board's decision in docket #15-28226.001-R-1. The appellant in that appeal was August Off. The Board found in that prior appeal that the subject warranted an assessment reduction based on an overvaluation argument. The Board reduced the 2015 assessment in that decision to \$4,400. Based on this evidence, the appellant requested a rollover reduction for the instant 2016 lien year of the subject's assessment to \$4,400.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$7,694. The subject's assessment reflects a market value of \$76,940 when using the 2016 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 a condominium analysis with information on the suggested comparable sale for one unit in the building, specifically the 2008 sale of the subject unit for \$145,000. The board of review applied a 15.00% market value reduction for personal property to arrive at an adjusted market value of \$123,250. The unit sold consisted of 8.57% of the common elements of the building. The result was a full value of the property at \$1,438,156.

In rebuttal, the appellant reiterated the argument that the subject qualifies for a rollover of the Board's 2015 decision. The appellant acknowledged that the board of review submitted evidence in support of the assessment. However, the appellant stated that the board of review did not dispute whether the subject was owner-occupied and qualifies for a rollover.

Conclusion of Law

The appellant sole assertion is a contention of law that the subject qualifies for a rollover of the prior year's assessment to the instant lien year pursuant to Section 16-185 of the Property Tax Code (35 ILCS 200/16-185). "The Property Tax Appeal Board may consider appeals based upon contentions of law. Such contentions of law must be concerned with the correct assessment of the subject property. If contentions of law are raised, the party shall submit a brief in support of his position." 86 Ill.Admin.Code §1910.65(d). "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 has not met this burden of proof and a reduction in the subject's assessment is not warranted.

Section 16-185 provides that the prior year's decision lowering the assessment should be carried forward to the current tax year, subject only to equalization, where the property is an owner-occupied residence and the tax years are within the same general assessment period.

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.

The 2015 and 2016 appeals were filed in the name of August Off, a corporate entity, not a natural person. The salient question, therefore, is whether a corporate entity may receive the benefit of a rollover of the 2015 assessment reduction to the instant 2016 lien year. August Off is not a natural person who resides in residential property and is, therefore, not eligible for a rollover of the 2015 assessment reduction.

The Illinois Supreme Court in Proviso Township High School District No. 209, et al. v. Hynes, 84 Ill.2d 229 (1980), addressed the issue of whether a corporation can “reside” in a building to qualify for homestead exemption status. The plaintiff school district filed individually and on behalf of other governmental bodies a class action for declaration that the homestead exemption applies to owners who occupy residential property. The Court found that the person claiming the exemption must occupy the property as a residence. *Id.* at 236. In dispositive language, the Court held, “[i]n connection with the question under consideration, the plaintiffs 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.” *Id.* at 240-41.

Contrary to the assertion by the appellant in its rebuttal brief that the board of review did not dispute the basis of the appellant’s appeal, the board of review did submit evidence in support of the current assessment. That the board of review, in the appellant’s words, “does not dispute that this property is owner-occupied” did not obviate the burden on the appellant to meet its burden of proof by a preponderance of the evidence.

After considering all evidence and argument submitted by both parties, the Board finds that the appellant failed to establish by a preponderance of the evidence that it qualified for a rollover of the 2015 assessment reduction to the instant 2016 lien year. Based on the foregoing analysis, the Board holds that a reduction in the subject's assessment 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

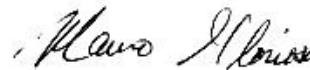
DISSENTING: _____

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:

April 21, 2020



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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