



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

APPELLANT: 3707 Forest Ave LLC
DOCKET NO.: 16-43404.001-R-1
PARCEL NO.: 15-34-415-068-0000

The parties of record before the Property Tax Appeal Board are 3707 Forest Ave LLC, the appellant(s), by attorney Christopher G. Walsh, Jr., Attorney at Law 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: \$7,739
IMPR.: \$44,561
TOTAL: \$52,300

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 52 year-old, multi-family, two-story building of masonry construction containing 5,716 square feet of living area. Features of the subject include a full basement with an apartment. The subject contains 14,742 square feet of land in Brookfield, Proviso Township, Cook County. The appeal was brought by the owner, 3707 Forest Avenue LLC. The subject is a Class 2-11 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation and on a contention of law. In support of the overvaluation argument, the appellant submitted a settlement statement disclosing the subject property was purchased by 3707 Forest Avenue LLC on December 8, 2014 for \$450,000. The subject's sale price reflects a market value of \$78.73 per square foot of living area including land.

The appellant provided information in Section IV–Recent Sale Data of the Residential Appeal that the subject was not transferred between related parties; that the subject was sold by a realtor; and that it was not advertised for sale but that the “agent pursued owner.” Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price when applying the 2016 level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

In support of the contention of law, 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 #15-30232.001-R-1. The appellant in that appeal was Jason Radtke. The Board reduced the 2015 assessment in that decision to \$45,000. Based on this evidence, the appellant requested a rollover reduction for the instant 2016 lien year of the subject's assessment to \$45,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$52,300. The subject's assessment reflects a market value of \$523,000, or \$91.50 when using the 2016 level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance. The board of review included a notation “NOT H.O.E.”¹ in its Notes on Appeal. In support of its contention of the correct assessment, the board of review submitted four suggested sale comparable properties.

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

Regarding the appellant’s overvaluation argument, the Board finds the best evidence of market value in the record to be sales comparables #1, #2 and #3 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, each in the 2016 lien year. The comparables sold for prices ranging from \$115.99 to \$117.22 per square foot of living area, including land. The subject's assessment reflects a market value of \$91.50 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 occur proximately in time to the assessment date at issue and was not advertised or exposed on the open market. Moreover, the 2014 sale was to 3707 Forest Avenue LLC, not Jason Radtke as is reflected on the 2015 Board’s decision submitted by the

¹ The Board takes this notation to mean that the board of review’s position is that there was no homeowner’s exemption applied to the subject in the 2016 lien year.

appellant. The appellant has not submitted evidence or argument to resolve this discrepancy in the name of the owner and appellant.

Regarding the appellant's 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 Board finds the appellant has not met this burden of proof and a reduction in the subject's assessment is not warranted. "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.

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 2016 appeal was filed in the name of 3707 Forest Avenue LLC, a corporate entity, not a natural person. The 2015 appeal was filed in the name of Jason Radtke. 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. 3707 Forest Avenue LLC is not a natural person who resides in residential property and is, therefore, not eligible for a rollover of the 2015 assessment reduction, even if assuming, *arguendo*, the 2015 and 2016 appeals were brought by the same party.

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. The board of review submitted evidence in support of the current assessment and disputed the rollover application because the subject was "NOT H.O.E."

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



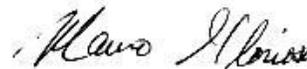
Member

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: July 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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