



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

APPELLANT: Sternard Group LLC
DOCKET NO.: 16-43657.001-R-1
PARCEL NO.: 10-25-416-042-0000

The parties of record before the Property Tax Appeal Board are Sternard Group 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: \$7,254
IMPR.: \$40,578
TOTAL: \$47,832

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 an approximately 64 year-old, three-story, multi-family, dwelling of masonry construction containing 4,827 square feet of living area. The subject has 5,580 square feet of land in Chicago, Rogers Park Township, Cook County. The appeal was brought by the owner, Sternard Group, LLC (Sternard). The subject is a Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant argues overvaluation and a contention of law as the bases of the appeal. In support of the overvaluation argument, the appellant submitted a Real Property Transfer Tax Declaration (Tax Declaration) disclosing the subject property was purchased by Sternard on November 25, 2013, for \$330,000 in a short sale transaction. The appellant also submitted many pages from

Redfin website describing various characteristics of the subject property, including that it was offered as a short sale subject to bank approval. The subject's sale price reflects a market value of \$68.37 per square foot of living area including land. The appellant did not submit information in Section IV–Recent Sale Data of the Residential Appeal.

In support of the contention of law, the appellant submitted the Board’s decision regarding the subject property in docket number 15-24232.001-R-1. The appellant in that appeal was Sternard. The Board reduced the 2015 assessment in that decision to \$33,000. Based on this evidence, the appellant requested the Board to rollover the reduction in the 2015 decision to the instant 2016 lien year.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$47,832. The subject's assessment reflects a market value of \$478,320, or \$99.09 per square foot of living area including land, 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 did not submit evidence in support of the assessment. However, it included a notation in its Notes on Appeal that it stipulated the appellant complied with the statutory requirements of the rollover statute. It referred to the Board’s decision in docket #15-24232.

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 has not met the burden of proof for its overvaluation argument based on a recent sale.

The subject was sold three years prior to the 2016 lien year and in a prior general assessment period. This raises the issue of whether the sale was recent and reliable evidence of the market value in the lien year. “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.” Section 16-185, *supra*. The subject property is in Rogers Park Township, Cook County. The general assessment period for properties in counties of at least 3,000,000 inhabitants, such as Cook County, is every three years. 35 ILCS 200/9-220; 86 Ill.Admin.Code §1910.5(b)(12). The general assessment period for Rogers Park Township began in 2015 and renews every three years thereafter. Cook County, Ill., Code of Ordinances, ch. 74, §§31-32. Yet, the subject was sold in 2013, during a prior general assessment period. The Board finds the appellant did not meet the burden of proof by a preponderance of the evidence that the subject was overvalued in 2016.

The appellant also raised a contention of law that the Board's 2015 decision reducing the subject's assessment should be rolled-over to the instant 2016 lien year. The appellant submitted a brief and a copy of the Board's 2015 decision in support of this contention of law. "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. Although the appellant submitted a brief and a copy of the Board's 2015 decision in #15-24232.001-R-1, it failed to prove by a preponderance of the evidence that a reduction for the 2016 lien year is 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 nature of the appellant is relevant to determine if the elements of the rollover statute have been satisfied. The instant appeal was brought in the name of a corporate entity, not a natural person. The salient questions, therefore, are whether a corporate entity may receive the benefit of a rollover of the 2015 assessment reduction to the instant 2016 lien year and what legal effect does the board of review's stipulation of compliance with the rollover statute have to establish Sternard as eligible for that rollover.

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 record on appeal is clear is that Sternard, a corporation, cannot reside in the residential subject property. However, the Board must address the effect of the board of review's stipulation that owner Sternard occupies the subject and is entitled to a rolled-over assessment reduction.

“A stipulation is an agreement made by the parties with regard to business before the court.” American Pharmaseal v. Tec Systems, 162 Ill.App.3d 351, 355 (2nd Dist. 1987). “Courts generally favor stipulations that are designed to save costs or to settle or simplify litigation, and will enforce them against parties who have assented unless the stipulation is shown to be ‘unreasonable, the result of fraud or violative of public policy.’”

The board of review stipulated that Sternard qualified for a rollover. Yet, as the Court in American Pharmaseal observed, “while parties may bind themselves by stipulation, they ‘cannot bind a court by stipulating to a question of law or the legal effect of facts.’” *Id.* at 356; *citing Domagalski v. Industrial Com’s*, 97 Ill.2d 228 (1983). The Supreme Court in People v. Levisen, 404 Ill. 574 (1950), held “a stipulation as to the legal conclusions arising from facts is inoperative... The court cannot be controlled by agreement of counsel on a related question of law.” *Id.* at 578-79.

The Board finds the board of review's stipulation in the instant appeal was offered to establish the legal conclusion that a corporation, namely the appellant Sternard, qualifies for a rollover. This legal conclusion is inoperative, and the Board is not bound by it. To quote the Supreme Court in Proviso, “the owner-occupant must be a natural person.” Proviso, *supra*, at 240-41. Sternard is not a natural person who resides in residential property and is, therefore, not eligible for a rollover of the 2015 assessment reduction.

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



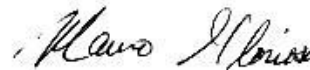
Member

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

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