



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

APPELLANT: Olivia Lopez
DOCKET NO.: 16-43919.001-R-1
PARCEL NO.: 17-31-423-005-0000

The parties of record before the Property Tax Appeal Board are Olivia Lopez, 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: \$5,312
IMPR.: \$25,520
TOTAL: \$30,832

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 a 118 year-old, two-story, dwelling of masonry construction containing 1,638 square feet of living area. The property has a 3,125 square foot site in Chicago, South Chicago Township, Cook County. The subject is classified as a Class 2 property under the Cook County Real Property Assessment Classification Ordinance. The appeal was filed on behalf of Olivia Lopez, 451 West 38th Place, Chicago, Illinois.

The appellant contends the assessment of the subject property as established by the decision of the Property Tax Appeal Board for the 2015 tax year should be carried forward to the 2016 tax year pursuant to Section 16-185 of the Property Tax Code. (35 ILCS 200/16-185). The appellant submitted a brief arguing that the subject property qualified for a rollover and that it

was the subject matter of an appeal before the Property Tax Appeal Board in the prior year under Docket Number 15-32825.001-R-1. In that appeal, the Property Tax Appeal Board issued a decision lowering the assessment of the subject property to \$11,500 based on the evidence submitted by the parties. The appellant submitted a copy of that decision. The appellant asserted that the subject qualifies for a rollover of the Board's 2015 decision to the instant lien year. The appellant did not submit further evidence of whether the subject was occupied by the owner as her principal place of residence or in support of her attorney's statement that it merely qualified for a rollover.

The appellant's appeal is also based on overvaluation. In support of this argument, the appellant submitted a settlement statement and an Escrow Receipt and Disbursement Authorization disclosing the subject property was purchased on July 1, 2013, for \$115,000 in an all-cash transaction. The subject's sale price reflects a market value of \$70.21 per square foot of living area including land. The settlement statement disclosed the subject's street address is 1629 West 37th Place, Chicago, Illinois but, that the appellant's address was 451 West 38th Place, Chicago, Illinois. The Board notes that this 451 West 38th Place address is the same listed by the appellant as her address on her Petition filed in the instant 2016 appeal. The appellant provided information in Section IV—Recent Sale Data of the Residential Appeal that the subject was not transferred between related parties; was sold by a realtor and; was sold in settlement of a contract for deed. 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.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$34,736. The subject's assessment reflects a market value of \$347,360, or \$212.06 per square foot of living area, 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 its contention of the correct assessment, the board of review indicated that it would stipulate to a rollover of the Board's 2015 decision to the instant lien year.

Conclusion of Law

The appellant raised a contention of law asserting that the assessment of the subject property as established by the Property Tax Appeal Board for the 2015 tax year should be carried forward to the 2016 tax year pursuant to Section 16-185, *supra*. When a contention of law is raised, the burden of proof is a preponderance of the evidence. (See 5 ILCS 100/10-15). The Board finds the appellant 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 record plainly disclosed the address of appellant, Olivia Lopez, was 451 West 38th Place, Chicago, Illinois. Yet, the subject's address was 1629 West 37th Place, Chicago, Illinois. Hence, the threshold question is whether the appellant/owner occupies the subject as her principal place of residence.

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 status of a party to "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.

The appellant cannot physically nor legally reside in more than one property for the purpose of claiming homestead exemption status. The burden weighs on the appellant as the moving party to the appeal to submit evidence to establish whether the appellant occupies the subject building as owner and as her principal place of residence. The appellant has failed to do this by a preponderance of the evidence.

However, the Board must address the effect of the board of review's stipulation that the subject qualifies for a rollover. "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 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 the appellant qualifies for a rollover. This legal conclusion is inoperative, and the Board is not bound by it because the evidence disclosed the appellant cited two separate residential properties, even though she can occupy only one as her principal

residence. Therefore, the appellant is not eligible for a rollover of the 2015 assessment reduction to the instant lien year.

The appellant also 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.

The subject sold in July 2013, during a prior general assessment period. 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 South Chicago Township began in 2015 and renews every three years thereafter. Cook County, Ill., Code of Ordinances, ch. 74, §§31-32.

The Board gave little weight to the subject's sale because it did not occur proximately in time to the 2016 assessment date at issue. It also occurred in a prior general assessment period. Therefore, the Board finds the subject does not warrant an assessment reduction based on her overvaluation argument.

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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