



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

APPELLANT: Daniel Soto  
DOCKET NO.: 17-06576.001-R-1  
PARCEL NO.: 06-14-410-022

The parties of record before the Property Tax Appeal Board are Daniel Soto, the appellant, by Jessica Hill-Magiera, Attorney at Law, in Lake Zurich, and the Kane County Board of Review.

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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$ 6,188  
**IMPR.:** \$ 9,950  
**TOTAL:** \$16,138

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a 2016 Final Administrative Decision of the Property Tax Appeal Board pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) in order to challenge the assessment for the 2017 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 a two-story multi-family building containing two apartment units.<sup>1</sup> The building is of brick exterior construction with 1,267 square feet of building area. The building was built in 1920. Features include a full unfinished basement and a 320 square foot garage. The property has a 4,465 square foot site and is located in Elgin, Elgin Township, Kane County.

The appellant through legal counsel contends the assessment of the subject property as established by the decision of the Property Tax Appeal Board for the 2016 tax year should be carried forward to the 2017 tax year pursuant to section 16-185 of the Property Tax Code. (35 ILCS 200/16-185). The appellant also reported the subject was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number 16-07345.001-R-1.

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<sup>1</sup> Descriptive data of the subject has been drawn solely from the prior decision of the Board issued in Docket No. 16-07345.001-R-1.

In that 2016 tax year appeal the Property Tax Appeal Board issued a decision on July 16, 2019 lowering the assessment of the subject property to \$14,972 based on the evidence submitted by the parties. The Board further takes judicial notice that the 2016 tax year appeal was based upon the recent sale of the subject property in March 2015 for a price of \$45,000 and filed within 30 days of the favorable decision issued by the Property Tax Appeal Board in Docket No. 15-01356.001-R-1. In that 2015 tax year appeal the Property Tax Appeal Board issued a decision on June 23, 2017 lowering the assessment of the subject property to \$14,999. (86 Ill.Admin.Code § 1910.90(i)).

For this pending 2017 tax year appeal, the appellant's attorney asserted that tax years 2016 and 2017 are within the same general assessment period. Furthermore, on the Residential Appeal petition, appellant's counsel marked that the subject property was not an owner-occupied residence, however, on the cover letter to the appeal counsel asserted the property was owner-occupied.

Based upon the foregoing contention of law, the appellant requested a reduced total assessment for the subject property of \$14,972.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$34,357. The subject's assessment reflects a market value of \$103,112 or \$51,556 per apartment unit or \$81.38 per square foot of building area, land included, when using the 2017 three-year average median level of assessment for Kane County of 33.32% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review asserted the taxpayer does not qualify for a "rollover" reduction for tax year 2017 as the subject property is not a residence occupied by the appellant. In support of this contention, the board of review cited to the appellant's Residential Appeal petition at Section 1(b) in answering "no" to the question: Is this an owner-occupied residence? Furthermore, the board of review submitted the statutory language of Section 16-185 requiring occupancy by the property owner to apply the "rollover" provision (35 ILCS 200/16-185). Additionally, the evidence provided by the board of review disclosed that a township equalization factor of 1.07790 was applied in 2017. The board of review provided no other evidence in support of the subject's assessment.

Based on the foregoing argument, the board of review requested confirmation of the subject's assessment.

In rebuttal, counsel for the appellant asserted that "the wrong box in section 1b on the appeal form was checked due to an automated computer error." Counsel further asserted the subject property is owner-occupied and stated the subject property "has been owner occupied since the Appellant purchased the property in 2015." Counsel further reported that although the appellant had been unaware that he was not receiving the homestead exemption, the appellant has since applied for and been granted the exemption as of tax year 2018. In support of this latter assertion, printouts from the Kane County website for tax years 2018 and 2019 were submitted depicting that the subject's address and the appellant's mailing address were one-in-the-same and that an owner-occupied property exemption was requested and granted on July 23, 2018.

### 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 2016 tax year should be carried forward to the 2017 tax year pursuant to section 16-185 of the Property Tax Code. (35 ILCS 200/16-185). When a contention of law is raised the burden of proof is a preponderance of the evidence. (See 5 ILCS 100/10-15). Due to the conflicting evidence, the Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted on this basis.

The Property Tax Appeal Board finds one of the key elements for the "rollover" provision to be applied is that the subject property must be owner-occupied. Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) states in part:

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. [Emphasis added.]

The record disclosed and the Board takes notice that the Property Tax Appeal Board issued decisions in both tax years 2015 and 2016 reducing the subject's assessment. The record further indicates that for tax year 2016 appellant's counsel pursued a "direct appeal" from the favorable 2015 tax year decision of the Board. Only in the cover letter for the 2017 tax year appeal and the subsequent rebuttal filing for tax year 2017, counsel first raised the factual assertion that the property was owner-occupied since its purchase in 2015. To support the factual assertion, the appellant supplied data for tax years 2018 and 2019 which depict that as of July 23, 2018 the appellant applied for and was granted an owner-occupied homestead exemption on the subject property.

The Board finds in this record, however, there is no evidence that the subject property was an owner-occupied residence in tax year 2017 which is the year at issue in the instant appeal. Moreover, appellant's counsel did not assert in Docket No. 16-07345.001-R-1 before the Property Tax Appeal Board that the subject property was entitled to a "rollover" as an owner-occupied dwelling from the previous decision in Docket No. 15-01356.01-R-1. For these reasons, the Property Tax Appeal Board finds that the appellant failed to meet the burden of proof that the subject property was an owner-occupied residence as mandated by the requirements of Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) as of the 2017 tax year.

Nevertheless, the Board takes judicial notice of its prior decisions in the 2015 and 2016 tax years reducing the subject's assessment to reflect the property's purchase price. In this appeal, the board of review did not provide any evidence of value to otherwise support the subject's assessment. Therefore, after taking notice of the decisions issued in the 2015 and 2016 tax years

and considering 2015 through 2017 are in the same general assessment period, the Board finds a reduction is appropriate.

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: March 16, 2021



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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