



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

APPELLANT: James Frainey
DOCKET NO.: 17-22307.001-R-1
PARCEL NO.: 14-29-310-054-1007

The parties of record before the Property Tax Appeal Board are James Frainey, the appellant(s); and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$4,582
IMPR.: \$29,048
TOTAL: \$33,630

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 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 is a residential condominium unit contained in a nine year-old residential condominium building of masonry construction. There are seven units in the building, each with its own Property Index Number (PIN). The subject unit is on the top floor of the four-story building. The subject unit owns 20.30% of the common elements of the building. The property has a 6,226 square foot site in Chicago, Lake View Township, Cook County. The property is a Class 2-99 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends a contention of law as the basis of the appeal. In support of this argument, the appellant submitted a brief in which he argued that the subject unit was uninhabitable from June 1, 2017 through April 2018. The appellant disclosed that he and his wife purchased the unit in 2006 and lived there since. They owned the subject unit during the

lien year, but could not live there due to structural damage to the roof trusses and membrane. The appellant argued that this damage rendered the subject unit too dangerous to inhabit. Consequently, they moved in June 2017 and did not return to their unit until early 2018. The appellant requested a total assessment reduction to account for a vacancy of seven months of the 2017 lien year.

The appellant attached a three-page report from Leopold Consulting, Ltd. (LCL), a structural and architectural engineering company, to his Petition. That report was addressed to Christina Kiel, the then-president of the appellant's condominium homeowner's association (HOA). The report was prepared after LCL inspected the subject unit and the entire roof of the building. The engineer found decay of load-bearing trusses to the extent that the roof was not safe for foot traffic. The decay caused fungal growth and rust in addition to the damage to the trusses. This unsafe decay rendered the subject unit uninhabitable. The appellant also submitted an estimate of damages from Travelers Casualty Insurance Company to the HOA for insurance coverage for the damage to the common elements. The appellant also submitted four color photographs of the roof damage and interior construction.

In support of its contention of the correct assessment, the board of review submitted a condominium analysis with information on suggested comparable sales for three units in the building. These units sold from 2014 through 2016 for a total consideration of \$1,924,900. The units sold consisted of 39.85% of all units in the building. The result was a full value of the property at \$4,347,329.

At hearing, the appellant and Holly Berman, co-owner of the subject unit and the appellant's wife, testified that they had to leave the subject unit for about ten months while the common elements roof and the ceiling and walls of their unit were repaired. They had to rent an apartment during that time. The rent was reimbursed to them by their personal insurance company. They moved to admit into evidence a February 15, 2018 report from the architectural and structural engineering company Klein & Hoffman. This report was admitted into evidence as Appellant's Hearing Exhibit #1 without objection by the board of review. The report contained findings of the damage and concluded the damage could have been caused by design, construction or maintenance defects. These engineers recommended replacement of the decayed trusses and appropriate repairs. The appellant reiterated his request for application of a vacancy factor of seven months in the lien year 2017 to be reduced from the total 2017 assessment.

Conclusion of Law

The appellant raises a contention of law concerning the correct assessment of the subject property. "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. "If contentions of law are raised, the party shall submit a brief in support of his position." 86 Ill.Admin.Code §1910.65(d). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the engineering reports and the witness testimony compelling. The reports and the witnesses described the extensive damage to the common elements and to the subject unit. Defectives resulting in roof damage rendered the subject unit uninhabitable. As a result, the appellant had to vacate the unit for seven months in the 2017 lien year and at least an additional three months in 2018. Therefore, the Board finds the subject warrants an assessment reduction commensurate with the seven-month period in the 2017 lien year it was uninhabitable.

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: December 23, 2019



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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