



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

APPELLANT: Willie Gardner  
DOCKET NO.: 17-40765.001-R-1  
PARCEL NO.: 17-34-309-048-0000

The parties of record before the Property Tax Appeal Board are Willie Gardner, the appellant(s), by attorney Arvin Boddie, 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:** \$ 6,200  
**IMPR.:** \$ 36,862  
**TOTAL:** \$ 43,062

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 (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

**Findings of Fact**

The subject consists of a three-story mixed-use building of masonry construction with 3,780 square feet of building area. The building is 124 years old. Features of the building include a partial unfinished basement and a four-car garage. The property's site is 4,480 square feet, and it is located in South Chicago Township, Cook County. The subject is classified as a class 2-12 property under the Cook County Real Property Assessment Classification Ordinance. No evidence was submitted as to whether the subject is owner-occupied.

The appellant makes a contention of law as the basis of the appeal. The appellant argues that the subject was vacant and uninhabitable for the entirety of tax year 2017. In support of this argument, the appellant submitted an affidavit naming Nykeba S. Gardner as the affiant, wherein the affiant stated that the subject "is not habitable due to electrical, plumbing, and other structural defects." The affiant also references code violation notices from the City of Chicago, and interior and exterior photographs of the subject, which are all included in the appellant's

evidence. The single code violation notice submitted lists three items in need of remediation: 1) a rusted exterior door; 2) improper fastening of several portions of the rear porch; and 3) the need to schedule an interior inspection of the subject. This code violation notice does not state that there are any electrical, plumbing, or structural defects (except for the defects regarding the rear porch), and does not state that the subject is uninhabitable. The appellant also submitted 15 black and white photographs of the subject's interior and exterior, including the front door, backyard, rear porch, first-floor commercial space, and apartments on the second and third floors. The subject's interior is in general disarray, with various materials strewn throughout; however, two of the photographs of the first-floor commercial space show that the overhead lights are on and functioning. Additionally, the apartments both have kitchen appliances, and plumbing fixtures installed.

In regards to the subject's alleged vacancy, the appellant cites Berwyn Development Corp., Ill. Property Tax Appeal Bd. Docket No. 05-20619.001-C-1 (Oct. 22, 2010), Andersen, Ill. Property Tax Appeal Bd. Docket No. 01-27601.001-F-1 (Apr. 20, 2004), and Swanson, Ill. Property Tax Appeal Bd. Docket No. 01-25877.001-R-1 (Mar. 17, 2005). The appellant asserts that these three decisions by the Board establish a "policy of granting reductions based on 'vacancy.'" Based on this evidence, the appellant requested a reduction in the subject's assessment to \$4,306.

The board of review submitted its "Board of Review Notes on Appeal" disclosing that the total assessment for the subject is \$43,062. The subject's assessment reflects a market value of \$430,620, or \$113.92 per square foot of building area, including land, when applying the 2017 statutory level of assessment for class 2 property of 10.00% under the Cook County Real Property Assessment Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted information on four equity comparables.

### **Conclusion of Law**

The appellant makes a contention of law as the basis of the appeal. "When, during the previous calendar year, any buildings, structures or other improvements on the property were destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means (excluding destruction resulting from the willful misconduct of the owner of such property), the owner of the property on January 1 shall be entitled, on a proportionate basis, to a diminution of assessed valuation for such period during which the improvements were uninhabitable or unfit for occupancy or for customary use. Computations under this Section shall be on the basis of a year of 365 days." 35 ILCS 200/9-180. Additionally, "[u]nless 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. The Board finds the appellant did not meet this burden of proof, and a reduction in the subject's assessment is not warranted.

The affidavit states that the subject "is not habitable due to electrical, plumbing, and other structural defects." The Board finds that there is not enough evidence in the record to show this is the case. In fact, contrary to the affiant's assertion, two of the interior photographs of the first-floor commercial space show that the overhead lights are on and functioning (meaning that

the subject has electrical power). Additionally, based on the photographs submitted by the appellant, all plumbing fixtures were installed, and there was no indication that the subject's interior had any structural damage. Moreover, the code violation notice merely states that the front door is rusted, and that the rear porch is improperly fastened. Neither of these two conditions render the property uninhabitable. Tellingly, the code violation notice (which was sent to the appellant after an inspector from the City of Chicago Department of Buildings inspected the subject's exterior) does not state that the subject is uninhabitable. While the subject's interior may be considered in disarray, the Board cannot find, based on this record, that the subject is uninhabitable. For these reasons, the Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject is uninhabitable.

Insofar as the appellant has made a claim for a reduction based on the subject's alleged vacancy, as opposed to its uninhabitability, the Board finds the appellate court's opinion in John J. Moroney and Co. v. Illinois Property Tax Appeal Bd., 2013 IL App (1st) 120493 is instructive. In that decision, whilst addressing a similar argument regarding alleged vacancy, the appellate court stated:

[The taxpayer] submits three [Board] decisions that it claims proves there is a policy of granting reductions based on an assertion of vacancy alone: Berwyn Development Corp., Ill. Property Tax Appeal Bd. Docket Mo. 05-20619.001-C-1 (Oct. 22, 2010), Andersen, Ill. Property Tax Appeal Bd. Docket No. 01-27601.001-F-1 (Apr. 20, 2004), and Swanson, Ill. Property Tax Appeal Bd. Docket No. 01-25877.001-R-1 (Mar. 17, 2005). However, in all three of these appeals, the [Board] was presented with evidence as to why each property was vacant as well as evidence of the assessor's and/or board of review's policy in granting reductions based upon that property's reason for vacancy. In Berwyn Development Corp., the [Board] was presented with an affidavit stating the property was vacant because it was part of a redevelopment project, was waiting to be demolished and, therefore, was uninhabitable. The [Board] was also presented with documents from the assessor's office to show that Cook County has a policy of granting such reductions based on habitability. In Andersen and Swanson, the taxpayers offered evidence showing that each property was vacant because the buildings were being rehabilitated and, as such, were uninhabitable. The taxpayers further offered evidence from the Cook County assessor regarding a policy of reducing assessments based on the property's habitability.

Here, there is no evidence in the record as to why the property at issue was vacated and no evidence that there is a policy in Cook County of granting reductions based on such a claim of vacancy alone.

Id. at ¶¶ 43-44. It is noteworthy that in all three of the Board decisions cited by the appellant/the appellate court, the Board only granted a reduction if the property was uninhabitable, and, therefore, the Moroney court implied that the Board does not have a policy of granting a reduction in a property's assessment based on vacancy that is separate and apart from its uninhabitability. Id. at ¶ 43. As such, the Board's finding above (that the appellant has not proven, by a preponderance of the evidence, that the subject is uninhabitable), also disposes of any claim the appellant has made regarding the subject's alleged vacancy, insofar as such a claim is

decoupled from the subject's inhabitability. The appellant has cited no statute or caselaw which dictates otherwise, or identified any such sources which would allow the Board to grant a reduction based on vacancy alone. For these reasons, the Board finds 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:

April 20, 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

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