



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

APPELLANT: 1530 North State Building Corporation
DOCKET NO.: 17-42751.001-R-3
PARCEL NO.: 17-04-210-026-0000

The parties of record before the Property Tax Appeal Board are 1530 North State Building Corporation, the appellant(s), by attorney Nicholas Jordan, of Worssek & Vihon in Chicago; the Cook County Board of Review; the Chicago Board of Education intervenor, by attorney Ares G. Dalianis of Franczek P.C. in Chicago.

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: | \$203,350 |
| IMPR.: | \$1,546,650 |
| TOTAL: | \$1,750,000 |

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 consists of a 17-story, 12-unit cooperative apartment building with 57,472 square feet of gross living area. The gross living area includes common areas such as the lobby and stairwells in addition to the marketable units located on floors two through fifteen. The gross living area does not include: the 4,820 square foot basement; the 3,536 square foot enclosed garage; and the 16th and 17th floors which contain storage and elevator mechanicals. The dwelling was constructed in 1929 and is located on a 14,525 square foot parcel of land in North Chicago Township, Cook County. The subject is classified as a class 2-13 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant appeal form indicates the subject property was appealed to the Property Tax Appeal Board in 2015, Docket Number 15-35361.001-R-3. The appellant contends overvaluation

as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$16,300,000 as of January 1, 2015. The appellant requested an assessment reduction to 10% of the appraised value, or \$1,630,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$2,000,000. The subject's assessment reflects a market value of \$20,000,000, including land, when applying the 2017 level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 10%. In support of its contention of the correct assessment, the board of review submitted a description of the subject property. The description included a chart that indicated each of the subject unit's number of shares owned as well as each unit's percentage of ownership. The total number of shares owned is 8,455 and the total percentage of ownership is 100%. The board argued that based on the recent sales in the subject that had a combined sale price of \$5,500,000 and 1,925 shares sold, the subject's market value is \$24,375,765. The board of review's analysis reduced this market value by 10% to account for personal property, for a total adjusted market value of \$21,939,078.

In written rebuttal, the appellant submitted a copy of the subject property's prior year Property Tax Appeal Board's decision issued in November 2018 Docket Number 15-35361.001-R-3. 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 2017 tax year pursuant to section 16-185 of the Property Tax Code. (35 ILCS 200/16-185). The appellant asserted that tax years 2015 and 2017 are within the same general assessment period. The appellant asserted that the subject property is an owner-occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number 15-35361.001-R-3. In that appeal the Property Tax Appeal Board issued a decision lowering the assessment of the subject property to \$1,750,000 based on a stipulated agreement between the board of review and the appellant. The Board notes the Intervenor was not a party in the prior year.

The Property Tax Appeal Board held a virtual hearing on this matter. None of the parties objected to having the hearing held virtually. At the start of the hearing, the parties agreed to incorporate the testimony of the appraisers' who testified at hearing earlier the same day regarding another coop located near the subject property. The Property Tax Appeal Board Docket Numbers 16-34239.001-R-3 and 17-42748.001-R-3. The appraisers used the same methodology for both buildings and the review appraiser had the same critique for the appraisals of both properties.

At hearing, Dean Lerner testified that he is an executive vice president of Sudler Management, the subject properties management company. He stated the subject's bylaws do not allow units to be leased to third party tenants.

Incorporating the testimony from the earlier Property Tax Appeal Board hearings for 16-34239.001-R-3 and 17-42748.001-R-3, as agreed by all parties, the appellant's appraiser, Kevin Byrnes of Byrnes and Walsh, LLC stated he performed the appraisal of the subject. (Appellant's Exhibit No. 1). He testified he has been an appraiser for 30 years, holds an MAI designation from the Appraisal Institute, and has performed approximately 4,800 appraisals with

approximately 40% of them performed for ad valorem tax purposes. He has appraised 19 cooperatives and, in previous Property Tax Appeal Board (“PTAB”) hearings, has been qualified to be an expert in the valuation of cooperative buildings. The appellant offered Mr. Byrnes as an expert in the valuation of residential cooperative buildings for real estate tax purposes. The Administrative Law Judge (“ALJ”) accepted Mr. Byrnes as such.

Mr. Byrnes stated he personally inspected the subject property. He explained that a cooperative apartment building is unique as it is not the same as an apartment building or a condominium building. He stated the subject buildings are older but well maintained. He stated cooperative buildings have one Permanent Index Number and, as such, he his analysis assumed the subject property would be sold to one buyer, or a consortium of buyers acting as one buyer.

Mr. Byrnes stated the appraisal is based on the sales and income approaches to value. In the sales approach, Mr. Byrnes explained the term “aggregate sellout amount” by stating it is the price that all shares would sell for on a certain date. However, Mr. Byrnes stated this amount should be discounted since the units would be sold over time during the absorption period. Byrnes stated he reviewed The Appraisal of Real Estate and Appraisal of Subdivisions when determining the method of adjusting the aggregate sellout value. He stated cooperatives are less desirable than condominiums as cooperatives require a potential purchaser to undergo review by the cooperative board while a potential condominium unit buyer does not need to be approved by others on the condominium.

Mr. Byrnes testified he developed his conclusions based on price per square foot of living area as opposed to a price per share because share prices can be distorted over time based on renovations and the combining of units. He found nearby sales of cooperative units that took place from 2012 through 2015 and after adjustments opined an average sale price of \$400.00 per square foot of living area. When this amount is multiplied by the subject’s square footage of 57,472 square feet of living area, the resulting gross sell out value is \$34,841,945. This amount was discounted by a 2% commission for each sale and an additional 7.25% per year to account for the value of the dollar decreasing over time. In addition, Byrnes looked at the absorption periods for six existing cooperative projects and extracted the number of units sold per year, divided by the total number of units in each project to determine the percentage of each building sold per year. Based on this data, Mr. Byrnes concluded the subject’s sell out rate would be 6% per year and the estimated absorption rate would be 8 years. This analysis resulted in a value using the sales comparison approach of \$16,460,000.

To develop the subject’s value using the income approach, Mr. Byrnes used the direct capitalization method with an overall rate. Nearby rentals of comparable older/ vintage apartments had monthly rental rates that ranged from \$1.52 to \$3.23 per square foot of living area while newer apartment rentals had a monthly rental rate that ranged from \$2.32 to \$5.24 per square foot of living area. After adjusting the comparable rental rates, Mr. Byrnes opined that the subject units would have a rental rate of \$3.00 per square foot of living area per month.

The rental rate of \$3.00 per square foot per month was multiplied by the subject’s living area of 57,472 square feet to determine the potential gross rent would be \$172,416 per month, or \$2,068,992 potential gross annual rent. A 5% vacancy and collection loss was deducted, resulting in an effective gross income of \$1,965,542.

Byrnes looked to the Institute of Real Estate Management Study for Chicago Elevator Buildings 2014 and determined the subject's expenses would be 35% of effective gross income. Thus, the net operating income was calculated to be \$1,277,602. The subject's capitalization rate of 6.0% was determined from the market extraction using sales, the mortgage equity technique, and market surveys. The effective tax rate of 1.86% was added to the capitalization rate resulting in a loaded capitalization rate of 7.86%. After dividing the net operating income by the loaded capitalization rate, the resulting value using the income approach was \$16,255,000. Mr. Byrnes stated the sales and income approaches to value were reconciled with slightly more weight given to the income approach resulting in a market value for the subject on January 1, 2015, of \$16,300,000.

The Administrative Law Judge ("ALJ") asked the appraiser to clarify whether units in the subject building typically sell in two to six months. Mr. Byrnes stated that a unit would generally take one year to sell.

Mr. Byrnes was cross-examined by the Intervenor. Mr. Byrnes stated the subject property is not an income-generating property. His appraisal considered the sales and income approaches to value, although less weight was placed on the sales approach to value. Upon additional questioning, he said he did not use apartment capitalization rates which were 6.00%.

During redirect of Mr. Byrnes, he stated his appraised value represents the bulk value of the subject building as a whole.

The board of review's representative stood on the previously submitted evidence which consisted of the Board of Review Notes on Appeal.

The Intervenor called Mr. Dost to testify. Upon direct examination, Mr. Dost testified he is the president of Dost Valuation Group and has been an MAI appraiser since 1993. He stated he has performed or reviewed approximately 3,500 appraisals and that 10 to 15 were appraisals of cooperatives. Mr. Dost was tendered as an expert in the appraisal of real estate and review of appraisal reports. There was no objection from the appellant. The ALJ accepted Mr. Dost as an expert in the appraisal of real estate and review of real estate appraisal reports.

Mr. Dost stated he reviewed Mr. Byrnes' appraisal of the subject property and prepared a review appraisal report of Mr. Byrnes' appraisal and developed his own conclusion of value. Mr. Dost's report was previously submitted and made part of the record. Mr. Dost stated his report conformed to the standards of the Uniform Standards of Professional Appraisal Practice ("USPAP"). Mr. Dost stated that it is unlikely a single buyer would purchase the subject property as it consists of 30 separately owned units. He stated Mr. Byrnes' bulk value premise assumes the owners would accept a huge discount, whereas normally, a premium would be paid to control an entire project. Mr. Dost stated, in his opinion, the market value of the subject property is the sum of the individual units' values.

Mr. Dost stated he found Mr. Byrnes' lack of use of an inflation rate to be problematic. Typically, units are forecast to increase in price over time.

Mr. Dost stated he reworked the absorption period methodology. He opined that based on average marketing times, a likely absorption period for the subject building is three years, with ten units sold per year. The sale price for the first year is based on Mr. Byrnes' price per square foot of \$400, or a price per unit of \$1,915,733. Holding costs of \$30,000 per unit were deducted and an annual price increase of 3% for each year after the first year, results in a bulk market value of the subject \$18,189,000. After adding holding costs of \$50,000 per unsold unit to account for real estate taxes and association fees, Mr. Byrnes opined the subject's bulk value would be \$20,040,000,

Mr. Dost discussed Mr. Byrnes' use of the income approach to value. He stated that Mr. Byrnes' income approach is not adequately supported as there is no detail provided for the comparable properties or adjustments to the comparable properties. Mr. Dost stated actual sales in the marketplace would be a better method of developing a capitalization rate instead of relying on national surveys. Mr. Dost said Mr. Byrnes' opinion of the subject's bulk value was not credible.

Upon cross-examination by the appellant, Mr. Dost stated he does not believe the bulk value is representative of the market value and that Mr. Byrnes' bulk value calculations contained errors. Mr. Dost stated that Mr. Byrnes' capitalization rate was not necessarily incorrect, but it was not supported by data. Mr. Dost stated that his report utilized a 3% inflation factor based on the condominium market; however, he drew on his experience with multi-family residential units, but not specifically cooperatives, to opine that they increase in value over time. Mr. Dost stated that he was not aware of any developer inventory of newly constructed cooperatives. Mr. Dost stated there was a strong demand for all properties during the period in question, but conceded it is possible that the demand for cooperatives could be different. Mr. Dost stated his three-year absorption period was based on sales of rental apartments and condominiums.

Upon redirect, Mr. Dost stated that a seller who waited years to sell was likely under duress.

Conclusion of Law

The appellant, in part, 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 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). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant argued that the subject co-op is a residential property that falls under the purview of Section 16-185 of the Property Tax Code. (35 ILCS 200/16-185). The Board finds the appellant's argument persuasive. The Board finds the subject is classified as a class 2-13 property under the Cook County Real Property Assessment Classification Ordinance. This classification is used for residential properties and includes residential cooperative buildings such as the subject. Additionally, Section 10-15 of the Property Tax Code (35 ILCS 200/10-15) is titled "Condominiums and Cooperatives" and states in part that, "In counties with 200,000 or more inhabitants which classify property . . . land with improvements owned and operated as a cooperative, shall be assessed on the same basis as single family residences in such counties."

The Board finds the residents purchase shares in the corporation, which allow them a proprietary lease of an apartment within the cooperative. Each unit is used as a primary residence for the member of the cooperative. The record disclosed through the testimony of Dean Lerner that the subject's bylaws do not allow units to be leased to third parties.

The Property Tax Appeal Board finds that the assessment as established by the Board for the 2015 tax year in Docket Number 15-35361.001-R-3 should be carried forward to the tax year at issue subject only to equalization as provided by section 16-185 of the Property Tax Code.

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.

The record disclosed the Property Tax Appeal Board issued a decision reducing the subject's assessment for the 2015 tax year. The record further indicates that the subject property is an owner-occupied residence(s) and that 2015 and 2017 are within the same general assessment period for properties located within North Chicago Township. For these reasons the Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted to reflect the assessment as established in the Board's prior year's decision plus the application of an equalization factor, if any.

Based on this finding, the Property Tax Appeal Board will not further address the appraisals and review appraisal presented by the parties.

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 15, 2022



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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