



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

APPELLANT: Mark Garcia
DOCKET NO.: 18-37642.001-R-1
PARCEL NO.: 13-12-214-052-1045

The parties of record before the Property Tax Appeal Board are Mark Garcia, the appellant(s), by attorney Brian P. Liston, of the Law Offices of Liston & Tsantilis, P.C. 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: \$ 764
IMPR.: \$ 6,612
TOTAL: \$ 7,376

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) after receiving a decision from the Cook County Board of Review. The instant appeal challenges the assessment for tax year 2018. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of this appeal.

Findings of Fact

The subject consists of a condominium unit with a 1.812% ownership interest in the common elements. The property is located in Jefferson Township, Cook County. The subject is classified as a class 2-99 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant makes a contention of law as the basis of the appeal. In support of this argument, the appellant's legal brief states as follows:

Pursuant to the Illinois Property Tax Code, and the Cook County Real Property Assessment Classification Ordinance, real property that is used for residential purposes must be valued at 10% of its fair cash value. 35 ILCS 200/9-145; Cook County Code of Ordinances §74-60, *et seq.* Fair cash value is defined as "the

amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller, 35 ILCS 200/1-50, as determined by sales ratio studies for the 3 most recent years preceding the assessment. *Id* at 200/1-55.

As alleged factual evidence in support of this contention of law, the appellant submitted a condominium analysis showing that three units in the subject's building, or 5.031% of ownership in the common elements, sold between February 2017 and October 2017 for an aggregate price of \$208,500. The appellant deducted 15.00% from each comparable unit's sale price to account for personal property. The comparable units had a total assessed value of \$19,480. The appellant then divided the sale price for each unit, less the personal property deduction, by the unit's total assessment to arrive at a sale ratio for each unit. The average of the comparable units' sale ratios was 11.84%. The appellant then divided the 2018 statutory level of assessment for class 2 property of 10.00% under the Cook County Real Property Assessment Classification Ordinance by the average of the comparable units' sale ratios of 11.84% to arrive at an adjustment factor of 84.47%. The appellant argues that this adjustment factor should be applied to the subject's current assessment. In Section II of the appeal form, the appellant stated that the subject is not owner-occupied. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$6,231.

The board of review submitted its "Board of Review Notes on Appeal" disclosing that the total assessment for the subject is \$7,376. The subject's assessment reflects a market value of \$73,760 when applying the 2018 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 a condominium analysis showing that four units in the subject's building, or 6.42% of ownership in the common elements, sold between February 2017 and November 2018 for an aggregate price of \$288,500. The aggregate sale price was then divided by the percentage of ownership interest in the common elements of the units sold to arrive at a total market value for the building of \$4,493,770.

Conclusion of Law

The appellant makes a contention of law as the basis for the appeal. "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. The Board finds the appellant did not meet this burden of proof, and a reduction in the subject's assessment is not warranted.

The appellant's contention of law involves an issue of statutory construction.

When presented with an issue of statutory construction, [the Board's] primary objective is to ascertain and give effect to the intent of the legislature. Murphy-Hylton v. Lieberman Management Services, Inc., 2016 IL 120394, ¶ 25. All other rules of statutory construction are subordinate to this cardinal principle. Chicago Teachers Union, Local No. 1 v. Board of Education of the City of

Chicago, 2012 IL 112566, ¶ 15. The most reliable indicator of legislative intent is the language of the statute, which must be given its plain and ordinary meaning. **The statute is viewed as a whole**, construing words and phrases in context to other relevant statutory provisions and not in isolation. Murphy-Hylton, 2016 IL 120394, ¶ 25; J&J Ventures Gaming, LLC v. Wild, Inc., 2016 IL 119870, ¶ 25.

Oswald v. Hamer, 2019 IL 122203, ¶ 10 (emphasis added).

The appellant cites section 1-55 of the Property Tax Code for the proposition that sales ratio studies are used to determine “fair cash value.” The appellant’s citation to section 1-55 for such a proposition is misleading, at best. Section 1-55 is found in Article 1 of the Property Tax Code, which is entitled “Short Title and Definitions.” When viewing the statute “as a whole...and not in isolation,” Oswald, 2019 IL 122203, ¶ 10, one can see that section 1-55 simply defines the term “33 1/3%” as follows:

Sec. 1-55. 33 1/3%. One-third of the fair cash value of property, as determined by the Department’s sales ratio studies for the 3 most recent years preceding the assessment year, adjusted to take into account any changes in assessment levels implemented since the data for the studies were collected.

35 ILCS 200/1-55. The plain and ordinary meaning of section 1-55 is simple: it is the definition for the term “33 1/3%.” When used in another part of the Property Tax Code, readers can refer to section 1-55 to ascertain the meaning of “33 1/3%.” Thus, this definition has no effect unless it is used in conjunction with another section of the Property Tax Code that uses the term “33 1/3%.” The appellant makes no reference, either implicitly or explicitly, to another section of the Property Tax Code that uses the term “33 1/3%.” This is despite the fact that the term “33 1/3%” is used 46 times outside of Article 1 of the Property Tax Code. The appellant’s failure to cite an additional part of the Property Tax Code that utilizes the term “33 1/3%,” renders the appellant’s reference to section 1-55 meaningless.

Instead, the appellant, in an apparent attempt to mislead the Board, cherry-picks a phrase from section 1-55 and combines this phrase with the definition of “fair cash value” (35 ILCS 200/1-50) to support its contention of law. For the reasons cited above, this interpretation of the definitions in the Property Tax Code is untenable.

Even assuming, *arguendo*, that the appellant did cite and rely upon another section of the Property Tax Code that used the term “33 1/3%,” it would not help the appellant’s argument. Section 1-55 dictates a specific source that the sales ratio study must come from: the Illinois Department of Revenue. The appellant, in a seemingly misleading manner, restates the second clause of section 1-55 in the legal brief, yet omits two words: “the Department’s.” Were section 1-55 to read as the appellant suggests, the appellant’s attorney-prepared sales ratio study may be relevant. However, section 1-55 as drafted by the General Assembly provides that only sales ratio studies from the Illinois Department of Revenue can be used in defining “33 1/3%.” The appellant has not provided such evidence.

Instead, the appellant submitted the attorney-prepared sales ratio study. This evidence is also flawed. The appellate court has stated that when comparable properties used in a sales ratio

study are handpicked and not random, the sales ratio study cannot be viewed as representative of the county's assessments as a whole. Peacock v. Illinois Property Tax Appeal Board, 339 Ill.App.3d 1060, 1069 (4th Dist. 2003). The appellant's attorney-prepared sales ratio study only provided comparables from within the subject's building, and, thus, it is clear that these sale comparables were handpicked, as opposed to random. Under the appellate court's holding in Peacock, the Board may properly disregard an attorney-prepared sales ratio study such as the one submitted by the appellant; and the Board does so here by according no weight to the appellant's attorney-prepared sales ratio study.

The Board finds that the appellant's reliance on section 1-55 is meaningless, and that, even if it were meaningful, the sales ratio study provided by the appellant was not from the Illinois Department of Revenue, as required by the statute, and it included handpicked sale comparables instead of random sale comparables in violation of Peacock. Therefore, the Board accords the appellant's misleading contention of law no weight.

Insofar as the appellant contends that the market value of the subject property is not accurately reflected in its assessed valuation, the Board is also not persuaded. When market value is the basis of the appeal, the value of the property must be proven 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.

"Real property taxes . . . which are authorized by law to be assessed against and levied upon real property shall be assessed against and levied upon each unit and the owner's corresponding percentage of ownership in the common elements as a tract, and not upon the property as a whole." 765 ILCS 605/10(a).

The Board finds the best evidence of market value to be all of the sale comparables submitted by the parties. In taking the aggregate sales price of the most similar sales (\$288,500) and dividing by the total percentage of ownership in the common elements of the units sold (6.4182%), the Board finds that the subject's building has a market value of \$4,495,030. Multiplying this market value by the subject's percentage of ownership in the common elements of 1.812% results in a market value for the subject of \$81,450. The subject's current assessment reflects a market value below the market value established by the best comparables in this record. The Board further finds that there was no evidence submitted to show that personal property was included in any of the sale transactions, and that no deduction is warranted for this factor. Based on this record, the Board finds the appellant has not proven, by a preponderance of the evidence, that the subject is overvalued, and 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: February 21, 2023



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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