



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

APPELLANT: Aleksandar Todosijevic
DOCKET NO.: 18-37657.001-R-1
PARCEL NO.: 13-01-218-016-0000

The parties of record before the Property Tax Appeal Board are Aleksandar Todosijevic, 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: \$ 7,425
IMPR.: \$ 3,922
TOTAL: \$ 11,347

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 2018 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 dwelling of masonry construction with 4,995 square feet of living area. The dwelling is 91 years old. Features of the home include a full unfinished basement and a two-car garage. The property has a 4,125 square foot site, and is located in Jefferson Township, Cook County. The subject is classified as a class 2-11 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant makes a contention of law as the basis of the appeal. The appellant argues that the subject's improvement was uninhabitable and vacant from January 28, 2018 through the end of tax year 2018. In support of this argument, the appellant submitted a permit issued on January 28, 2018 by the City of Chicago, Department of Buildings. The permit describes the work to be done as interior alterations to all three levels, removing an illegal basement dwelling unit, and replacing the rear porch/staircase. The appellant also submitted a proposed contract from a general contractor, detailing the work to be done to the subject. The appellant asserts that, after

purchasing the subject in December 2017 for \$475,000, many issues were discovered with the subject, and the appellant decided to completely renovate the subject to rectify these issues. The appellant's pleadings state that photographs will be submitted of the subject; however, the record does not contain any photographs. Much of the appellant's remaining evidence consists of follow up inspections from the Department of Buildings, and copies of the evidence submitted by the appellant to the board of review. The latter type of evidence included an affidavit naming the appellant as the affiant, wherein the appellant/affiant stated that one unit in the subject was occupied from January 2017 until August 2017. According to the appellant/affiant, this unit was vacant for the remainder of 2017, while the other two units within the subject were vacant the entirety of 2017. The appellant also stated that the subject was vacant for the entirety of 2018, and, therefore, it is not owner-occupied. Based on this evidence, the appellant requested that the subject's assessment be reduced to \$11,437.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$42,740. The subject property has an improvement assessment of \$35,315, or \$7.07 per square foot of living area. The subject's assessment reflects a market value of \$427,400, or \$85.57 per square foot of living area, 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 a supplemental brief arguing that, under section 9-180 of the Property Tax Code, a reduction is not warranted because the subject was not rendered uninhabitable due to accidental means. The board of review also appears to imply, through both the supplemental brief and its statements made in documentation submitted by the appellant, that the subject's allegedly dilapidated condition was considered in the purchase price of the subject in December 2017.

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 this burden of proof, and a reduction in the subject's assessment is warranted.

Initially, the Board finds that the board of review's reading of section 9-180 of the Property Tax Code is too narrow. The board of review's argument presents a question of statutory interpretation. "The fundamental rule of statutory interpretation is to ascertain and effectuate the legislature's intent. The plain language of a statute remains the best indication of this intent. Where the language of a statute is clear, [the Board] may not read into it exceptions that the legislature did not express, and [the Board] will give it effect as written. [The Board] also will give undefined statutory terms their ordinary meanings." Elementary School Dist. 159 v. Schiller, 221 Ill.2d 130, 144 (2006) (citations omitted).

The operative portion of section 9-180 that is relevant to this discussion reads as follows: "destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means." This portion of the statute includes three conjunctions, which the dictionary defines as "an uninflected linguistic form that joins together sentences, clauses, phrases, or words." *Conjunction*, Merriam-Webster.com Dictionary (2020), <https://www.merriam-webster.com/dictionary/conjunction> (last visited Dec 8, 2020). Thus, the three conjunctions must join together a sentence, clause, phrase, or word with another sentence, clause, phrase, or word.

Looking to the plain language of section 9-180, the first conjunction, "and," joins together the word "destroyed" with the phrase "rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means." Thus, the subject must be "destroyed" and also must meet one of the criteria presented in the subsequent phrase. There is no dispute between the parties regarding whether the subject was destroyed, as both parties admit as such. Therefore, the Board finds that the first condition of the "and" conjunction has been met.

The dispute between the parties arises in the reading of the phrase after the word "and." The board of review argues that the prepositional phrase "by accidental means" modifies the entire phrase after the word "and." The Board does not agree. The second conjunction, "or otherwise," joins together the phrase "rendered uninhabitable" with the phrase "unfit for occupancy or for customary use by accidental means." Finally, the third conjunction, "or," joins together the phrase "unfit for occupancy" with the phrase "for customary use by accidental means." This structure posits three alternative and independent criteria that may be proven to receive a diminution in a property's assessment. Schiller, 221 Ill.2d at 245 ("The word 'or' is disjunctive. As used in its ordinary sense, the word 'or' marks an alternative indicating the various parts of the sentence which it connects are to be taken separately."). The first is that the improvement is destroyed and rendered uninhabitable. The second is that the improvement is destroyed and unfit for occupancy. The third is that the improvement is destroyed and unfit for customary use by accidental means. It is only the third criterion that requires "accidental means." As such, the Board finds that the board of review's proposed interpretation in the supplemental brief is too narrow.

Finding as such, the Board finds that the subject was destroyed and rendered uninhabitable on January 29, 2018, which is the date the building permit was issued. The board of review argues that the subject's December 2017 purchase price contemplated the subject's allegedly dilapidated condition, and, as such, the subject should not receive any further relief. The Board finds this cannot be the case. According to the appellant's affidavit, the subject was still inhabitable four months prior to the December 2017 purchase, as a tenant still occupied one of the units in August

2017. There is no argument or evidence from either party suggesting that the subject was rendered uninhabitable between the time that the tenant moved out and when the appellant purchased the subject. As such, it appears the subject remained inhabitable from August 2017 until the appellant began construction on the subject in January 2018, including the time period when the subject was purchased in December 2017. Therefore, the Board rejects the board of review's argument on this point. Based on this record, the Board finds that the appellant has proven, by a preponderance of the evidence, that the subject was destroyed and rendered uninhabitable, and that a reduction in the subject's assessment is 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:

January 19, 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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