



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

APPELLANT: David Nowacki
DOCKET NO.: 18-48705.001-R-1
PARCEL NO.: 17-18-101-091-0000

The parties of record before the Property Tax Appeal Board are David Nowacki, the appellant, by attorney Noah J. Schmidt, of Schmidt Salzman & Moran, Ltd. 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: \$4,743
IMPR.: \$30,090
TOTAL: \$34,833

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 finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of a three-story, townhome dwelling of masonry construction with 1,916 square feet of living area. The building is 13 years old. Features of the home include a slab, central air conditioning and a two-car garage. The property has a 1,395 square foot site and is located in Chicago, West Chicago Township, Cook County. The subject is classified as a class 2-95 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant indicated that their cause of action was based on a contention of law. In support of this argument, the appellant submitted a sales analysis indicating the subject was inequitable assessed based on recent sales of other properties. The appellant submitted information on 3 comparable sales plus information on the subject unit. The comparable properties sold between March of 2016 and September of 2017. The comparable properties ranged: in sale price between \$375,000 to \$399,000; each had 1,916 square feet in living area; and in sale price per square foot

between \$195.72 to \$208.25, including land. In addition, the appellant included a chart listing an allocated sale price for each comparable based on the average price per square foot of all recent sales in the subject's townhome development. A 5% personal property deduction was applied to the unit's allocated sales price to arrive at an adjusted sale price. The appellant then applied a 7.85% level of assessment to the adjusted sale price. In support of this level of assessment, the appellant submitted a chart from the Illinois Department of Revenue providing assessment ratios for tax year 2017. Based on this evidence, the appellant requested that the subject's assessment be reduced to \$27,966.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$34,833. The subject's assessment reflects a market value of \$348,330 or \$181.80 per square foot of living area, including land, when applying the level of assessment for class 2 property of 10% 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 sale comparables. All of which were in a different subarea of the subject property. The comparable properties sold between August 2015 and September 2016. The comparable properties ranged: in sale price between \$485,000 and \$732,000; in living square footage between 1,879 and 1,998; and in sale price per square foot between \$258.12 and \$372.33. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The appellant asserts the property was improperly assessed based on contention of law. Additionally, the appellant asserts the property has been inequitably assessed based on sales data of other units with similar square footage in living area and located on the same block. The appellant is making an equity argument based on market value. This presents a conflict as to using evidence of one to advance the other, thereby conflating the proper burden of proof. The appellant must prove a contention of law and overvaluation by a preponderance of the evidence. Whereas the appellant must prove inequitable treatment in the assessment process by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Even if the Board were to apply the less onerous burden of proof of a preponderance of the evidence, the appellant would not prevail.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved 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.

The Board gives little weight to the appellant's deduction of 5% for personal property, as 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. Additionally, the Board finds that it is not authorized to apply an assessment level to the subject property other than the 10% assessment level found in the Cook County Real Property Assessment Classification Ordinance.

Furthermore, the Board accords no weight to the appellant's argument and analysis utilizing the "allocated sales price." The appellant provided no statute or caselaw which would allow the Board to determine that such an analysis should be utilized.

The Board finds the best evidence of market value to be all of the appellant's comparable sales. These comparables sold for prices ranging from \$195.72 to \$208.25 per square foot of living area. The subject's assessment reflects a market value of \$181.80 per square foot of living area which is below the range established by the best comparable sales in this record. Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

The taxpayer also asserts assessment inequity as a basis of the appeal. The Illinois Constitution requires that real estate taxes, "be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill. Const. art. IX, §4 (1970); *Walsh v. Property Tax Appeal Board*, 181 Ill. 2d 228, 234 (1998). This uniformity provision of the Illinois Constitution does not require absolute equality in taxation, however, and it is sufficient if the taxing authority achieves a reasonable degree of uniformity. *Peacock v. Property Tax Appeal Board*, 339 Ill. App. 3d 1060, 1070 (4th Dist. 2003).

When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e); *Walsh*, 181 Ill. 2d at 234 (1998). Clear and convincing evidence means more than a preponderance of the evidence, but it does not need to approach the degree of proof needed for a conviction of a crime. *Bazyldo v. Volant*, 164 Ill. 2d 207, 213 (1995). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). 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 argued the Board of Review's application of the Cook County Real Estate Classification Ordinance level of assessment for Class 2 properties levied at 10% is inequitable. The appellant based that argument on the Department of Revenue's sales-ratio study for 2017 which shows the median level of assessment for residential property in West Chicago Township was actually 7.85%. In Cook County appeals involving residential property with six or fewer units a Board regulation allows the submission of the Department of Revenue's sales ratio studies of Class 2 residential property as evidence, but only if studies for the three years preceding the applicable tax year are submitted. *See* 86 Ill. Admin. Code §1910.50(c)(2)(A). The Board finds the appellant did not meet the requirements of this provision because only the 2017 sales-ratio study was submitted. Furthermore, this appeal involves 2018 property taxes, not 2017 taxes. Accordingly, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

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 17, 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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