



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

APPELLANT: Loyola Properties Limited LLC
DOCKET NO.: 19-21380.001-R-1
PARCEL NO.: 05-21-322-036-0000

The parties of record before the Property Tax Appeal Board are Loyola Properties Limited LLC, the appellant(s), by attorney Martin J. Murphy, 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 **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: \$ 24,958
IMPR.: \$ 69,973
TOTAL: \$ 94,931

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 2019. 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 two-story single-family dwelling of frame and masonry construction with 4,128 square feet of living area. The dwelling is four years old. Features of the home include a full basement with a formal recreation room, central air conditioning, four fireplaces, and a two-car garage. The property's site is 12,479 square feet, and it is located in New Trier Township, Cook County. The subject is classified as a class 2-08 property under the Cook County Real Property Assessment Classification Ordinance. The subject is owned by a business entity, and, therefore, it is not owner-occupied.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant argued that the subject was purchased on July 7, 2015 for \$550,000, and a new improvement constructed thereon, which was completed on June 10, 2019. The appellant asserts that the cost to construct the new improvement was \$699,731. In support of this argument, the

appellant submitted the certificate of occupancy issued by the Village of Winnetka dated June 10, 2019, and a Sworn Statement for Contractor and Subcontractor to Owner, which itemizes the various costs to construct the new improvement and is dated December 9, 2016. The total cost to construct the new improvement as listed on this document is \$699,731.25, which includes \$43,428.56 to obtain a building permit from the Village of Winnetka. The appellant is listed as the subcontractor for electrical fixtures at a cost of \$7,500, and for the fence at a cost of \$8,600. This document is signed by an agent of RedRock Builders, Inc. (the signature is not legible), and is notarized by the appellant's attorney in the instant appeal, Martin J. Murphy. The document further states that there is no balance due to RedRock Builders, Inc. The appellant also submitted evidence disclosing the subject property was purchased on August 10, 2019 for a price of \$1,000,000. In support of this argument, the appellant submitted the real estate sale contract, the deed, and the PTAX-203 Illinois Real Estate Transfer Declaration. The deed conveys the subject from 117 Church Road LP to the appellant, and was signed by Mr. Murphy and Patrick McGuire on behalf of the seller. The deed lists Mr. Murphy as a general partner and Mr. McGuire as a limited partner of 117 Church Road LP. The real estate sale contract lists Mr. Murphy as the buyer's broker, in his capacity as part of the brokerage firm Village Realty & Investments, and Ivan Cico, Jr. of Infinity Realty Group as the seller's broker. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$56,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing that the total assessment for the subject is \$137,656. The subject's assessment reflects a market value of \$1,376,560 when applying the 2019 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, and four sale comparables. These sale comparables sold from July 2017 to August 2019 for \$1,325,000 to \$4,000,000, or \$308.43 to \$915.75 per square foot of living area, including land. The board of review's evidence also states that the subject was purchased in September 2019 for \$1,000,000.

At hearing, Mr. Murphy argued that the subject was uninhabitable until the Village of Winnetka issued the occupancy permit on June 10, 2019 due to the construction of the new improvement. Mr. Murphy also argued that it was difficult to sell the subject due to heavy traffic going to and from various schools in the area, the Village of Winnetka's prohibition against cutting down a large tree on the property, and a downward slope from the street to the improvement. Despite these various issues, Mr. Murphy stated that the subject was purchased in August 2019 for \$1,000,000.

Mr. Murphy also argued that the cost to construct the improvement was approximately \$700,000, but that approximately \$43,000 of this total was for the permit, and thus the construction cost was actually closer to \$650,000.

Mr. Murphy also argued that the board of review's comparables were not similar to the subject for various reasons, and that comparable #3 supports the appellant's argument that the subject's assessment is incorrect.

Upon questioning from the Board's administrative law judge ("ALJ"), Mr. Murphy stated that the appellant is seeking a reduction based on section 9-180 of the Property Tax Code. 35 ILCS 200/9-180.

The board of review requested that the Board take judicial notice of certain records regarding the sale of the subject in August 2019, and Mr. Murphy objected pursuant to 86 Ill.Admin.Code §1910.67(k)(1). Prior to the Board ruling on the objection, the board of review moved forward with its case-in-chief, and argued that the sale of the subject in August 2019 was not an arm's-length transaction. Mr. Murphy responded that there is no evidence in the record to substantiate the board of review's argument, and that, even if there was, the construction costs are more indicative of the subject's market value than the sale because the sale occurred after the relevant lien date of January 1, 2019. Upon questioning from the ALJ, the board of review added that Mr. Murphy was a partner of 117 Church Road LP, the seller, and was a member of the appellant (an LLC), the buyer. According to the board of review, it was Mr. Murphy's relationship with both the buyer and the seller that makes the sale of the subject in August 2019 a non-arm's-length transaction.

At this point, the ALJ requested that Mr. Murphy testify under oath as he appeared to have personal knowledge of the details of the sale of the subject in August 2019, and Mr. Murphy was sworn in as a witness. Mr. Murphy then testified that 117 Church Road LP was owned by Mr. McGuire, and that Mr. Murphy was a general partner whose role was to secure the financing and oversee the construction of the new improvement. Mr. Murphy further testified that he had no funds invested in the partnership, and that all the investment funds came from Mr. McGuire. Additionally, Mr. Murphy testified that Mr. McGuire was unable to sell the subject, and that Mr. Murphy offered to purchase it for \$1,000,000, which Mr. Murphy testified was its fair market value. Upon questioning from the ALJ, Mr. Murphy testified that Mr. Cico was Mr. McGuire's broker in the transaction, that Mr. Cico presented a comparative market analysis for the subject to Mr. McGuire, and that Mr. Cico was paid a commission. Also upon questioning from the ALJ, Mr. Murphy testified that the subject was advertised for sale on the open market for 17 months, but that no offers were made to purchase the subject during that time. During cross-examination conducted by the board of review, Mr. Murphy testified that there was no appraisal of the subject prior to the sale, and that he did not have access to the comparative market analysis that Mr. Cico provided to Mr. McGuire. Mr. Murphy again testified that the sale was an arm's-length transaction, and that he did not receive any proceeds from the sale.

The board of review also argued that the Cook County Assessor applied a partial assessment to the subject for tax year 2019 due to the subject's vacancy for a portion of that tax year. During cross-examination conducted by the board of review, Mr. Murphy testified that the Assessor reduced the subject's assessment, but that he did not know if the reduction was based on vacancy. In any case, Mr. Murphy testified, the Assessor overvalued the subject prior to any reduction based on vacancy, rendering any such reductions based on an erroneous valuation. Instead, Mr. Murphy continued, the appellant is seeking to establish the subject's fair market value for tax year 2019 based on the construction costs, and then reducing that market value for the portion of the year prior to June 10, 2019 when the subject was uninhabitable in accordance with section 9-180 of the Property Tax Code. 35 ILCS 200/9-180.

The board of review also argued that the subject was not vacant for any portion of tax year 2019. Mr. Murphy responded that this statement was inaccurate, and referenced the certificate of occupancy that was issued by the Village of Winnetka on June 10, 2019.

Conclusion of Law

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

While it is true that a recent sale of property is typically the best evidence of that property's fair market value, the parties to the transaction must be dealing at arm's-length. Walsh v. Property Tax Appeal Bd., 181 Ill.2d 228, 230 (1998). The Board finds that is not the case in the instant appeal regarding the sale of the subject in August 2019. Mr. Murphy testified that he was a general partner of 117 Church Road LP, the seller, and was also the sole member of the appellant LLC, the buyer. In support of his assertion that the sale was at arm's-length, Mr. Murphy testified that he did not receive any proceeds from the sale as a partner of 117 Church Road LP. However, this argument cuts both ways, as Mr. Murphy had everything to gain as a member of the appellant LLC. Mr. Murphy was in the unique position to influence, or even dictate, the sale price as a partner of 117 Church Road LP, as his signature was required on the deed to convey the property to the appellant. In essence, Mr. Murphy could have withheld his signature until the sale price was lowered, as the lower price would not have affected his financial position in 117 Church Road LP (because, according to his testimony, he had no funds invested in the partnership and, thus, received no proceeds from the sale), but would significantly affect his financial position in the appellant, as a lower sale price would decrease the appellant's investment in the subject. As such, the Board finds that the sale of the subject in August 2019 for a price of \$1,000,000 was not an arm's-length transaction, and accords it no weight in this analysis.

Instead, the Board finds the best evidence of the subject improvement's market value to be the cost to construct the improvement of \$699,731. The construction costs were submitted as evidence by the appellant in the form of the Sworn Statement for Contractor and Subcontractor to Owner, which was dated December 9, 2016. The board of review did not refute this evidence either through its own documentary evidence or at hearing. The Board further finds that the cost of the permit is a necessary cost of construction, and must be included in the subject's market value. The Board finds that the subject improvement's market value as of January 1, 2019 was \$699,731. The appellant did not request a reduction in the subject's land assessment, and the Board finds that it shall be maintained. Therefore, based on this record, the Board finds the appellant has proven, by a preponderance of the evidence, that the subject's correct market value is \$949,311 (\$249,580 [land value] + \$699,731 [improvement value] = \$949,311). Since market value has been established, the 2019 statutory level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 10.00% shall apply, which equates to a land assessment of \$24,958, an improvement assessment of \$69,973, and a total assessment of \$94,931.

The appellant also made a contention of law as a basis for the appeal. A contention of law must be proven by a preponderance of the evidence. 5 ILCS 100/10-15. The appellant argues that the subject's assessment should be reduced pursuant to section 9-180 of the Property Tax Code. The Board finds that the appellant did not meet this burden of proof, and that a further reduction in the subject's assessment is not warranted.

Section 9-180 of the Property Tax Code states, in pertinent part:

Pro-rata valuations; improvements or removal of improvements. The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year.

35 ILCS 200/9-180. The appellant submitted the occupancy permit issued by the Village of Winnetka, which was dated June 10, 2019. However, based on the Sworn Statement for Contractor and Subcontractor to Owner, the subject's improvement was substantially completed (i.e., under roof) by December 6, 2016. Once an improvement is substantially completed, the Board may assess it at its full assessment. *Id.*; see Brazas v. Prop. Tax Appeal Bd., 339 Ill.App.3d 978 (2d Dist. 2003) (“[S]ection 9-180 addresses when the assessor is allowed to fully assess the improvement, *i.e.*, when it is ‘substantially completed or initially occupied or initially used.’”). Therefore, the Board finds that the subject's improvement was substantially completed prior to January 1, 2019, the relevant lien date in the instant appeal, and should be assessed at its full market value as established by the construction costs (discussed *supra*). Therefore, the Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject's assessment should be reduced further based on section 9-180.

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 16, 2024



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

AGENCY

State of Illinois
Property Tax Appeal Board
William G. Stratton Building, Room 402
401 South Spring Street
Springfield, IL 62706-4001

APPELLANT

Loyola Properties Limited LLC, by attorney:
Martin J. Murphy
Attorney at Law
630 S. Lakeshore Drive
Fontana, WI 60604

COUNTY

Cook County Board of Review
County Building, Room 601
118 North Clark Street
Chicago, IL 60602