



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

APPELLANT: 9 W Walton Condo Assoc by Beezbelle LLC
DOCKET NO.: 19-51881.001-R-3
PARCEL NO.: 17-04-435-038-1073

The parties of record before the Property Tax Appeal Board are 9 W Walton Condo Assoc by Beezbelle LLC, the appellant(s), by attorney David R. Bass, of Field and Goldberg, LLC 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: \$8,981
IMPR.: \$112,176
TOTAL: \$121,157

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 2019 tax year. The Property Tax Appeal Board (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 condominium unit within a mixed-use condominium building. The property is located in Chicago, North Township, Cook County. The omitted property is classified as a 2-99 property under the Cook County Real Property Assessment Classification Ordinance.

Based upon a contention of law, the appellant asserts that the subject property was uninhabitable for the lien year in question. The appellant argues that in accordance with the limitations set forth in Section 9-160 and 9-180 of the Property Tax Code (Code) (35 ILCS 200/9-160, 35 ILCS 200/9-180), the subject was under construction/renovation in 2019 and a portion of the improvement cannot be occupied whatsoever. In support of this argument, the appellant submitted: a building permit dated 6/14/19; an affidavit from the subject's agent; black and white photographs for the subject dated April 24, 2020 and February 14, 2019; documents from the

Cook County Assessor's Office referring to the 2020 assessment year; a second building permit dated February 7, 2018; vacancy affidavits; additional black and white photographs dated July 28, 2020; a third and fourth building permit dated June 27, 2018 and May 12, 2016.

The affidavit attests that the subject unit was two units being converted into one large unit and that the unit has been under construction since its purchase and has never been occupied. The affiant, Dorothy Schultz, attests the subject remains under construction as of April 24, 2020. The photographs depict the subject with open walls, exposed electrical, plumbing and duct work. The documents from the Cook County Assessor's Office disclose that the assessor granted a partial occupancy to the subject property with an occupancy factor of 10%.

The board of review submitted "Board of Review-Notes on Appeal" which disclosed the total assessment for the subject of \$1,130,736. The subject's assessment reflects a market value of \$11,307,360 when using 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 the sale of eight units within the subject's building.

In rebuttal, the appellant submitted a letter asserting that the board of review did not address the appellant's argument of habitability and requested this evidence be given no weight.

Conclusion of Law

The appellant has disputed the assessment of the subject property in part based upon a contention of law. Section 10-15 of the Illinois Administrative Procedure Act (5- ILCS 100/10-15) provides:

Standard of proof. 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.

The rules of the Property Tax Appeal Board are silent with respect to the burden of proof associated with an argument founded on a contention of law. See 86 Ill.Admin.Code §1910.63.

The appellant's argument is based on Sections 9-160 and 9-180 of the Property Tax Code. Section 9-160 of the Property Tax Code addresses the valuation process and provides:

On or before June 1 in each year other than the general assessment year * * * the assessor shall list and assess all property which becomes taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements. The assessment shall also include or exclude, on a proportionate basis in accordance with the provisions of Section 9-180, all new or added buildings, structures or

other improvements, the value of which was not included in the valuation of the property for that year, and all improvements which were destroyed or removed.
35 ILCS 200/9-160.

While the subject is currently assessed according to this statute, the appellant further argues that Section 9-180 also applies to the instant appeal and which the appellant has argued provides as follows in Section 9-180 of the Code (35 ILCS 200/9-180):

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. The owner of the improved property shall notify the assessor, within 30 days of the issuance of an occupancy permit or within 30 days of completion of the improvements, on a form prescribed by that official, and request that the property be reassessed. The notice shall be sent by certified mail, return receipt requested and shall include the legal description of the property. 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. The owner of property entitled to a diminution of assessed valuation shall, on a form prescribed by the assessor, within 90 days after the destruction of any improvements or, in counties with less than 3,000,000 inhabitants within 90 days after the township or multi-township assessor has mailed the application form as required by Section 9-190, file with the assessor for the decrease of assessed valuation. Upon failure so to do within the 90 day period, no diminution of assessed valuation shall be attributable to the property. Computations under this Section shall be on the basis of a year of 365 days. (Source: P.A. 91-486, eff. 1-1-00.)

The appellant has submitted sufficient evidence to show that the subject is not habitable based on the construction/renovation of the property. The affidavit attests that this construction began prior to 2019 and continued through 2020 and the assessor acknowledged this in 2020 by applying a 10% occupancy factor. The board of review failed to address the subject property at all and only submitted sales of other units. The board of review's evidence did not include any descriptive evidence of the habitability of these units or how the subject's construction/renovation effects its assessed value.

The Board finds that the appellant has submitted sufficient evidence to show the subject is inhabitable. However, the courts have found that a token assessment to the extent that the improvement adds value can be applied when the improvement is substantially completed. Long Grove Manor v. Property Tax Appeal Bd., 301 Ill.App.3d 654, 704 N.E.2d 872 (2d Dist. 1998).

Therefore, the Board finds a reduction in the assessment to that requested by the appellant is 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:

April 18, 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

AGENCY

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