



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

APPELLANT: Boreas, LLC
DOCKET NO.: 21-07108.001-R-1
PARCEL NO.: 07-32-105-013

The parties of record before the Property Tax Appeal Board are Boreas, LLC, the appellant, by attorney Patrick J. McNerney, of Mayer Brown LLP in Chicago; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$20,400
IMPR.: \$51,050
TOTAL: \$71,450

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2021 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 one-story dwelling of frame exterior construction with 1,329 square feet of living area. The dwelling was constructed in 1981. Features of the home include a concrete slab foundation, central air conditioning, two fireplaces, and a 1-car garage.¹ The property has an 8,525 square foot site and is located in Aurora, Naperville Township, DuPage County.

The appellant contends overvaluation and a contention of law as the bases of the appeal. In support of the overvaluation argument the appellant submitted information on three comparable sales located within 0.40 of a mile and in the same assessment neighborhood code as the subject property. The comparables have sites that range in size from 6,299 to 9,459 square feet of land

¹ Additional details regarding the subject not reported by the appellant are found in the subject's property record card and were not refuted by the appellant in written rebuttal.

area and are improved with one-story dwellings of frame or frame and brick exterior construction ranging in size from 1,075 to 1,756 square feet of living area. The dwellings were built from 1982 to 1985. One comparable has an unfinished basement. Each dwelling has a 1-car or a 2-car garage, two comparables have central air conditioning and one comparable has two fireplaces.² The properties sold from February 2018 to January 2020 for prices ranging from \$170,000 to \$235,000 or from \$133.83 to \$158.14 per square foot of living area, land included.

Regarding the appellant's contention of law, the appellant submitted a brief contending the subject is part of a scattered site low income housing program, presenting various restrictive agreements relating to the use of the subject property.³ The appellant presented a Regulatory and Land Use Restriction Agreement dated April 22, 2015, which sets forth certain agreements regarding the use of the subject property until the maturity date of the appellant's loan from the Illinois Housing Development Authority⁴ and describes the appellant as having three members, including a managing member. The appellant also presented an Operating Agreement dated November 12, 2013, which describes the appellant as having two members, including a managing member,⁵ and a Low Income Housing Tax Credit Extended Use Agreement dated April 20, 2015, which sets forth certain agreements regarding the use of the subject property for an approximately thirty year term.

Based on this evidence, the appellant requested the subject's total assessment be reduced to \$62,000 which reflects a market value of \$186,019 or \$139.97 per square foot of living area, land included, when applying the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$71,450. The subject's assessment reflects a market value of \$213,730 or \$160.82 per square foot of living area, land included, when using the 2021 three-year average median level of assessment for DuPage County of 33.43% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on four comparable sales, together with a grid analysis of the appellant's comparables, property record cards for both parties' comparables, and a map depicting the locations of the parties' comparables in relation to the subject. The board of review reported the appellant's comparable #2 sold again in March 2021 for a price of \$270,000 or \$153.76 per square foot of living area, including land.

² Additional property details for the appellant's comparables were found in their respective property record cards submitted by the board of review and not refuted by the appellant.

³ The Board recognizes that Section 10-245 of the Property Tax Code (35 ILCS 200/10-245) provides for the method of valuation for certain low income housing projects; however, the appellant has not cited this statute in its brief nor sought a valuation under the income valuation method described therein. Furthermore, neither party presented any evidence of the subject's income in order to value the subject property pursuant to this method. Thus, the Board shall instead consider the comparable sales data presented by the parties.

⁴ The maturity date referenced in the agreement is defined as the maturity date of the Note, which was not presented by the appellant.

⁵ The Board notes the Operating Agreement submitted by the appellant describes only two members whereas the Regulatory and Land Use Restriction Agreement describes three members, indicating the Operating Agreement presented by the appellant has been amended. No amended Operating Agreement was presented by the appellant.

The board of review comparables are located in the same assessment neighborhood code as the subject property. The comparables have sites that range in size from 6,581 to 10,268 square feet of land area and are improved with one-story dwellings of frame or frame and brick exterior construction with either 1,228 or 1,351 square feet of living area. The homes were built in 1985 or 1986. Each comparable has a 2-car garage, one dwelling has central air conditioning and two comparables each have one fireplace. The properties sold from May 2018 to December 2020 for prices ranging from \$218,000 to \$237,000 or from \$162.84 to \$193.00 per square foot of living area, land included. Based on this evidence, the board of review requested the subject's assessment be confirmed.

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 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.

As an initial matter the appellant submitted agreements relating to the use of the subject property as a part of a scattered site low income housing project. Section 10-245 of the Property Tax Code provides for the method of valuation of low-income housing projects as follows:

“Notwithstanding Section 1-55 and except in counties with a population of more than 200,000 that classify property for the purposes of taxation, to determine 33 and one-third percent of the fair cash value of any low-income housing project developed under the Section 515 program or that qualifies for the low-income housing tax credit under Section 42 of the Internal Revenue Code, **in assessing the project, local assessment officers must consider the actual or probable net operating income attributable to the property**, using a vacancy rate of not more than 5%, capitalized at normal market rates. The interest rate to be used in developing the normal market value capitalization rate shall be one that reflects the prevailing cost of cash for other types of commercial real estate in the geographic market in which the low-income housing project is located.” (35 ILCS 200/10-245)

The Board finds that neither party presented any evidence of the subject's income in order to value the subject property pursuant to the valuation method outlined in Section 10-245. Furthermore, the appellant did not demonstrate whether any of the comparables are subject to similar financing and government program related restrictions or how these restrictions and agreements affect the subject's market value. Moreover, the agreements presented by the appellant contain contradictory information regarding the appellant, suggesting these agreements may have amendments or modifications that were not presented by the appellant as part of the evidence.

Thus, the Board will consider the eight comparable sales, with one property having sold twice, submitted by the parties. The Board gives less weight to appellant comparables #2 and #3 as

well as board of review comparable #2 which sold in 2018, less proximate to the January 1, 2021 assessment date than other properties in the record. Furthermore, appellant comparable #2, which sold twice, features a basement foundation in contrast to the subject's slab foundation.

The Board finds the best evidence of market value to be appellant comparable #1 along with board of review comparables #1, #3 and #4 which sold proximate to the assessment date at issue and are more similar to the subject in location, age, design, dwelling size and some other features. These comparables sold from January to December 2020 for prices ranging from \$170,000 to \$237,000 or from \$158.14 to \$193.00 per square foot of living area, including land. The subject's assessment reflects a market value of \$213,730 or \$160.82 per square foot of living area, including land, which falls within the range established by the best comparable sales in this record. Therefore, after considering appropriate adjustments to the comparables for differences from the subject, the Board finds the subject's assessment is justified and 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: 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

Boreas, LLC, by attorney:
Patrick J. McNerney
Mayer Brown LLP
71 South Wacker Drive
Suite 4235
Chicago, IL 60606-4637

COUNTY

DuPage County Board of Review
DuPage Center
421 N. County Farm Road
Wheaton, IL 60187