

The Cook County Board of Review v. The Illinois property tax Appeals Board and Fulton House Condominium Assoc., Ill. App. Ct., First Dist. (Sept 30, 2009)

By Bill Seitz

This case involved the 2003 triennial for the 113-unit Fulton House Condominium. Fulton House is at 345 N Canal St. along the Chicago River (you can see it from the Metra train). It is the 16-story North American Cold Storage Warehouse building, converted to mixed use condos in the early 1980s (83 percent residential, 16 percent commercial, 1 percent industrial).

The condominium association submitted an appraisal using all three approaches to value. The PTAB accepted this report and ruled for the taxpayer.

This case is Rule 23 without precedential authority, but there were a couple of interesting points, since the PTAB did, in fact, accept the report:

Sales taking place after date of value

The date of value was January 1, 2003, yet the appraisal report includes 5 sales after that date to see how well the model used in the report predicts, a back door way of presenting those sales.

Proving over-assessment with sales of other condos

The appraisal report opinion of over-assessment was based upon comparisons with similar property in the area and their rates of taxation per square foot. Typically, in valuing the condominium property as a whole, only sales at the condo itself are considered relevant, i.e., it creates its own market.

Discrepancy over sale prices

The appraisal report had 30 sales at the condominium itself. What is interesting is that 1/3rd of the sales, or 10, had discrepancies from the public record.

Given that this is a 2003 case, this is unusual. My experience at that time was that the sales data via public records filed with the Recorder were very close to the sales records maintained by second party verification (MLS or property management). For most condominiums in the City of Chicago, the As-

essor decided to propose 2003 assessments that tracked the sales activity, i.e., the final assessment typically close to his proposed assessment (reason he badly needed the 7 percent cap enacted into law).

Fulton House may have been an atypical situation, given the mixed use.

Findings of the court

The appellate court upheld the PTAB. The key part of the decision is the standard of review.

Cook County argued that the appeal was a question of law because of issues with the appraisal not relying on recent sales at the condo itself. If a question of law, the review is *de novo*—i.e., independent and not deferential.

PTAB and Fulton House argued for the appeal being a question of fact. If reviewed as a question of fact, the court will not reverse the factual findings of the PTAB unless they are against the manifest weight of the evidence—i.e., that the opposite conclusion is clearly evident.

The Court found that the case here was a question of fact. Therefore, the court does not substitute its judgment for PTAB and the PTAB's findings and conclusions on questions of facts are *prima facie* true and correct.

Reviewed on this basis, the Court affirmed the PTAB decision. ■



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