

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Joseph McGowan
DOCKET NO.: 05-01905.001-R-1
PARCEL NO.: 43-18-007-251-00

The parties of record before the Property Tax Appeal Board are Joseph McGowan, the appellant, by attorney David D. Albee, Galena, Illinois; and the Jo Daviess County Board of Review.

The subject property consists of a one-story frame dwelling with a loft. The home contains 2,230 square feet of living area that was constructed in 1995. Features include four bathrooms, two decks, central air-conditioning, one fireplace, a finished basement and an integral basement garage containing 510 square feet. The subject dwelling is situated on a lake front lot in Thompson Township, Jo Daviess County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming the subject property was illegally assessed for the 2005 assessment year. In support of the contention of law, the appellant submitted a short brief outlining the legal basis of the appeal. The brief indicates the subject property was reassessed for the 2005, a non-general assessment year. Counsel argued the notice of the subject's assessment increase was not timely mailed to the taxpayer nor was the notice of the subject's increased assessment timely published. Counsel submitted the notice of revised assessment for the subject property dated January 18, 2006 wherein its 2005 assessment was increased to \$165,092 from the 2004 assessment amount of \$141,427. The reason for change listed on the notice of revised assessment that was mailed to the taxpayer was "Correction, Equalization, Plumbing Addition." The appellant also submitted copies of pages printed from the Jo Daviess County's internet website labeled "2005 Real Estate Assessment Information." This information indicates the official publication of real estate assessments for 2005 were published in various publications throughout Jo Daviess County. Properties in Thompson Township, where the subject is located, had their assessments published in the Village Voices on January

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Jo Daviess County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	57,321
IMPR.:	\$	107,771
TOTAL:	\$	165,092

Subject only to the State multiplier as applicable.

18, 2006. The publication also provides the deadline for filing assessment complaints with the Jo Daviess County Board of Review by February 17, 2006.

Counsel argued the subject property was not reassessed on or before June 1, 2005, which is contrary to and in violation of Section 9-160 of the Property Tax Code. (35 ILCS 200/9-160). Additionally, counsel argued publication of the assessments was not made on or before December 31, 2005, which is in violation of Section 12-10 of the Property Tax Code. (35 ILCS 200/12-10). Finally, counsel argued the subject's notice of assessment change was not mailed to the taxpayer in a timely manner, which is in violation of Section 12-30 of the Property Tax Code. (35 ILCS 200/12-30). Counsel argued the statutory provisions for publication and notice are designed for the benefit and protection of taxpayers. The statutes are mandatory and require strict and timely compliance. Counsel argued the failure of the Jo Daviess County assessment officials to give timely publication and notification vitiates the tax resulting from the increase in assessment. As authority for this legal claim, counsel cited Andrews v. Foxworthy, 71 Ill.2d 13, 15 Ill.Dec. 648 (1978). Based on this evidence, the appellant requested the subject's assessment be reduced to the amount in the previous general assessment or \$141,427.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$165,092 was disclosed.

In response to the appellant's appeal, the board of review submitted four exhibits and a letter addressing the issues raised by the appellant. Exhibit A is the subject's property record card, which shows the subject's assessment was \$141,427 in 2004, with an improvement assessment of \$91,760. In 2005, the subject's improvement assessment was corrected for the number of plumbing fixtures contained in its four bathrooms; the subject was previously assessed as having only two and one-half bathrooms. After the revision and correction, the subject's improvement assessment increased by \$1,621 to an improvement assessment of \$93,381, resulting in a total assessment of \$143,048. Next, all non-farm properties located in Thompson Township received an equalization factor of 1.1541 (15.41%), resulting in a final equalized assessment for the subject property of \$165,092. ($\$143,048 \times 1.1541 = \$165,092$).

Exhibit B is a copy of the public notice published in Village Voices newspaper dated the week of January 18-January 24, 2006. The notice states real estate assessments in Apple River and Thompson Townships have been changed. Pursuant to section 9-210 of the Property Tax Code [35 ILCS 200/9-210], an equalization

factor of 1.1541 was applied to property in Apple River and Thompson Townships. This factor brings the level of assessments into compliance to with Section 9-145 of the Property Tax Code. (35 ILCS 200/9-145). The notice also states taxpayers may appeal assessments to the Jo Daviess County Board of Review by February 17, 2006. This exhibit also contained a copy of the notice of revised assessment that was mailed to the taxpayer disclosing a final equalized assessment for the subject property of \$165,092 that was dated January 18, 2006. Again this notice provides that a taxpayer may appeal assessments to the Jo Daviess County Board of Review by February 17, 2006.

Exhibit C is a copy of the results of a sales ratio study from the Illinois Department of Revenue showing the three-year median level of assessments for Apple River/Thompson Townships through 2004 was 28.88%. The postmark on the envelope indicated this document was not mailed to the Chief County Assessment Official until November 7, 2005. The board of review explained that since the county did not receive the sales ratio study until November 2005, it was not possible to finish the 2005 assessments and publish by December 31, 2005.

Exhibit D is an assessment analysis of seven suggested comparables to demonstrate the subject's assessed valuation is uniform with other similar properties. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

After reviewing the record and considering the evidence, the Board finds it has jurisdiction over the parties and the subject matter of this appeal. The only issues before the Property Tax Appeal Board are the legal arguments raised by the taxpayer regarding the publication and notification of real estate assessment in Jo Daviess County for the 2005 non-quadrennial assessment year. The taxpayer made no arguments with respect whether the subject's assessment reflected its fair cash value or that the subject property was not uniformly assessed. After reviewing the evidence in this record, the Property Tax Appeal Board further finds the appellant's legal arguments to be without merit.

The appellant claimed the subject property was not reassessed on or before June 1, 2005, which is in violation of Section 9-160 of the Property Tax Code. (35 ILCS 200/9-160). Section 9-160 of the Property Tax Code provides in part:

Valuation in years other than general assessment years.
On or before June 1 in each year other than the general
assessment year, in all counties with less than
3,000,000 inhabitants, . . . , 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. (35 ILCS 200/9-160).

The appellant further argued assessments in Jo Daviess County were not published until January 18, 2006, eighteen days after the last day to publish assessments of December 31, according to and in violation of Section 12-10 of the Property Tax Code. (35 ILCS 200/12-10). Section 12-10 of the Property Tax Code provides in part that:

Publication of assessments; counties of less than 3,000,000. . . . In years other than years of a general assessment, the chief county assessment officer shall publish a list of property for which assessments have been added or changed since the preceding assessment, together with the amounts of the assessments, except that publication of individual assessment changes shall not be required if the changes result from equalization by the supervisor of assessments under Section 9-210, or Section 10-200, in which case the list shall include a general statement indicating that assessments have been changed because of the application of an equalization factor and shall set forth the percentage of increase or decrease represented by the factor. The publication shall be made on or before December 31 of that year, and shall be printed in some public newspaper or newspapers published in the county. (35 ILCS 200/12-10).

Furthermore, appellant's counsel argued the notice of assessment change was not mailed to the taxpayer in a timely manner, which is in violation of Section 12-30 of the Property Tax Code. (35 ILCS 200/12-30). Section 12-30 of the Property Tax Code provides in part that:

Mailed notice of changed assessment; counties of less than 3,000,000. In every county with less than 3,000,000 inhabitants, in addition to the publication of the list of assessments in each year of a general assessment and of the list of property for which assessments have been added or changed, as provided

above, a notice shall be mailed by the chief county assessment officer to each taxpayer whose assessment has been changed since the last preceding assessment, . . . (35 ILCS 200/12-30).

Counsel argued the statutory provisions for publication and notice are designed for the benefit and protection of taxpayers. The statutes are mandatory and require strict and timely compliance. Counsel argued the failure of timely publication and notification vitiates the tax resulting from the increase in assessment. As authority for these legal claims, the appellant placed reliance on Andrews v. Foxworthy, 71 Ill.2d 13, 15 Ill.Dec. 648 (1978). This case involved a tax objection claiming the taxes were void because no timely publication of increase in assessments had been given. The Board finds the facts in Andrews are somewhat analogous to the facts in this instant appeal. Andrews involved the failure of the supervisor of assessments to timely publish assessment changes in a non-quadrennial year in accordance with Section 103 of the Revenue Act of 1939. (Ill.Rev.Stat., ch. 120, ¶527). Like Andrews, the 2005 assessment year for Thompson Township was a non-quadrennial year in the general assessment period. However, the Property Tax Appeal Board finds counsel misplaced reliance on Andrews v. Foxworthy, which held that a 1972 publication of assessments was not done in a timely manner, in that the decision was limited to that particular case. The Board finds there are other statutory provisions and long standing case law that negate counsel's arguments. People v. Holmstrom, 8 Ill.2d 401 (1956); North Pier Terminal Co. v. Tully, 62 Ill.2d 540 (1976); People ex rel. Costello v. Lerner, 53 Ill.App3d. 245 (5th Dist. 1977); Schlenz v. Castle, 84 Ill.2d 196 (1981). For example, Section 26-5 of the Property Tax Code states:

Failure to complete assessment in time. An assessment completed beyond the time limits required by this Code shall be as legal and valid as if completed in the time required by law. (35 ILCS 200/26-5)

Section 26-10 of the Property Tax Code states:

Informality in assessments or lists. An assessment of property or charge for taxes thereon, shall not be considered illegal on account of any informality in making the assessment, or in the tax lists, or on account of the assessments not being made or completed within the time required by law. (35 ILCS 200/26-10)

Section 26-15 of the Property Tax Code states:

Failure to deliver collector's books on time. Any failure to deliver the collector's books within the time required by this Code shall in no way affect the validity of the assessment and levy of taxes. In all cases of failure, the assessment and levy of taxes shall be held to be as valid and binding as if the books had been delivered at or within the time required by law. (35 ILCS 200/26-15)

The Property Tax Appeal Board finds all three of the above provisions are controlling in curing any error in the late publication of the 2005 assessments. Furthermore, in Golf Trust of America v. Soat, 355 Ill.App.3d 333 (2nd Dist. 2005), the court upheld assessment of taxes despite a multitude of alleged irregularities in the assessment procedure and practice and in particular alleged failures in the publication of assessment lists, citing with approval the savings provision of 35 ILCS 200/21-185. Section 21-185 of the Property Tax Code provides:

Cure of error or informality in assessment rolls or tax list or in the assessment, levy or collection of the taxes. No assessment of property or charge for any of the taxes shall be considered illegal on account of any irregularity in the tax lists or assessment rolls, or on account of the assessment rolls, or on account of the assessment rolls or tax lists not having been made, completed or returned within the time required by law, or an account of the property having been charged or listed in the assessment or tax list without name, or in any other name than that of the rightful owner. Any irregularity or informality in the assessment rolls or tax list, or in any of the proceedings connected with the assessment or levy of the taxes, or any omission or defective act of any other officer or officers connected with the assessment or levying of the taxes, may be, in the discretion of the court, corrected, supplied and made to conform to law by the court, or by the person (in the presence of the court) from whose neglect or default it was occasioned. Where separate advertisement and application for judgment and order of sale is made on account of delinquent special taxes or special assessments in all cities, villages and incorporated towns in counties with 3,000,000 or more inhabitants, and in cities, villages and incorporated towns in other counties in which the county board by resolution has extended the time which the return, required in Section 20-100 may be made, the procedure shall, in all respects, be the same as in this section prescribed, except that there shall be 2 separate judgments and orders for sale, one on account of

delinquent special taxes and special assessments and the other on account of delinquent general taxes. (35 ILCS 200/21-185)

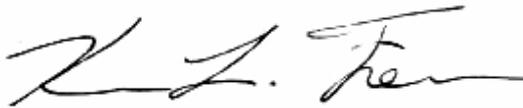
The Property Tax Appeal Board finds the board of review submitted a copy of the newspaper and a copy of the notice of the revised assessment that was mailed to the taxpayer, marked as Exhibit B. After reviewing the publication and notification evidence, controlling statutes, and case law, the Property Tax Appeal Board finds all publications and notifications of the subject's changed assessment were proper. Furthermore, the Board finds the rights to be heard to challenge the subject's assessment or to even object to the taxes were available and have been afforded to this taxpayer. The Property Tax Appeal Board finds the appellant in the instant appeal was in no way injured, nor was his right of due process violated. Thus, the Property Tax Appeal Board finds the documentation in this record satisfies the notification and publication requirements as enumerated in sections 12-10, 12-30, 26-5, 26-10 and 26-15 of the Property Tax Code. (35 ILCS 200/12-10 and 12-30 and 35 ILCS 200/26-5, 26-10 and 26-15). The Property Tax Appeal Board further finds Jo Daviess County Assessment Officials properly revised and corrected the subject's 2005 assessment, a non-quadrennial assessment year, as appeared to be just pursuant to Section 9-75 of the Property Tax Code. (35 ILCS 200/9-75). See Albee v. Soat 315 Ill.App3d. 888 (2nd Dist. 2000).

In conclusion, the Board finds the appellant's legal arguments to be without merit. Furthermore, the Board finds the taxpayer made no challenges with respect whether the subject's assessment reflected its fair cash value or that the subject property was not uniformly assessed. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is 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.



Chairman



Member



Member

Member

Member

DISSENTING: _____

C E R T I F I C A T I O N

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: May 30, 2008



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 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 the subsequent year 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.

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.