



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

APPELLANT: Robert Dunlap and Ann Fink
DOCKET NO.: 05-23319.001-R-1
PARCEL NO.: 04-04-304-201-0000

The parties of record before the Property Tax Appeal Board are Robert Dunlap and Ann Fink, the appellants, by attorney David C. Dunkin, of Arnstein & Lehr in Chicago; and the Cook County Board of Review.

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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 7,261
IMPR.: \$ 44,739
TOTAL: \$ 52,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 3,782 square foot parcel of land improved with a six-year old, two-story, frame and masonry townhouse. This improvement contains 2,504 square feet of living area as well as two full and one half-baths, a partial basement, one fireplace, and a two-car garage.

The appellants' appeal is based on unequal treatment in the assessment process of the subject's improvement.

As to the improvement assessment, the appellants submitted assessment data and descriptions on four comparable properties for consideration, two of which are located on the same street, as is the subject. They are improved with a two-story, frame and masonry townhouse. They range: in baths from two full and one half to two full and two half-baths; in age from four to ten years; in size from 2,532 to 2,555 square feet of living area; and in improvement assessments from \$15.21 to \$16.52 per square foot of living area. The subject's improvement assessment is \$17.87 per square foot of living area.

In addition at hearing, the appellants' attorney raised a legal argument. He argued that the Board had rendered a decision reducing the subject's assessment in the 2006 tax year appeal for this subject property. He provided a copy of the 2006 year decision, at hearing, and asserted that this assessment should be applied retroactively to the 2005 tax appeal for the prior year's appeal is within the subject's triennial reassessment period. At hearing, the board of review's representative asserted that the Board had rendered a decision reducing the subject's assessment in tax year 2006 due to the fact that the board of review had been defaulted in that tax year; and therefore, had failed to timely submit evidence supporting the subject's assessment. He asserted that in the present appeal, the board of review has submitted three equity comparables supporting the subject's assessment. Based upon this evidence, the appellants requested a reduction in the subject's improvement assessment.

The Board accorded the parties 14 days from the hearing date within which to submit argument on this issue. The appellants' attorney submitted a legal brief arguing that Section 1910.50 of the Property Tax Code is applicable. Specifically, this section states that:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Section 9-215 through 9-225 of the Code, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. 35 ILCS 200/16-185.

The appellants' attorney argued that this section means that a reduction rendered in the last year of the triennial assessment period should apply retroactively to the prior tax year or second year of the triennial period. In this subject's case, the subject's triennial reassessment year was tax year 2004, while tax year 2005 is currently under appeal. The Board's decision reducing the subject's assessment was rendered in the subject's last year of the triennial period or tax year 2006; and therefore, he argued should be applied retroactively to the prior year's assessment.

The board of review requested additional time within which to file a response that the Board thereby granted. Nevertheless, the board of review failed to file any argument on this issue.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$52,000 was disclosed. The board of review submitted assessment data and

descriptions on three comparable properties for consideration. They are improved with a two-story, frame and masonry townhouse with two and one-half baths. They range: in age from nine to 13 years; in size from 2,039 to 2,474 square feet of living area; and in improvement assessments from \$19.44 to \$20.84 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellants contend unequal treatment in the subject's land and improvement assessment as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data, the Board finds the appellants have not met this burden as to the subject's improvement assessment.

As to the improvement assessment, the Board finds that comparables #1 through #4 submitted by the appellants as well as comparable #3 submitted by the board of review are most similar to the subject in style, exterior construction, size, age and amenities. Due to their similarities to the subject, these five comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$15.21 to \$19.44 per square foot of living area. The subject's improvement assessment of \$17.87 per square foot of living area is within this range.

Moreover, the Board found the appellants' argument regarding retroactive application of a subsequent year's decision unpersuasive. The Board finds that the plain meaning of the asserted section of the Property Tax Code makes clear reference to "the remainder of the general assessment period". This section is silent as to retroactive application of a subsequent year's reduction.

After considering adjustments and the differences in the equity comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is supported and that a reduction in the subject's improvement 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.

Ronald R. Guit

Chairman

Member

Mario M. Louie

Member

Member

William R. Loras

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: September 24, 2010

Allen Castrovillari

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.