

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Janice Hansen
DOCKET NO.: 06-00055.001-R-1
PARCEL NO.: 13-11-200-257

The parties of record before the Property Tax Appeal Board are Janice Hansen, the appellant, and the Lake County Board of Review.

The subject property is a 17-year old frame constructed condominium unit in a two-story building. The unit contains 1,630 square feet of living area and features central air conditioning, a fireplace, and a 210 square foot garage. The property is located in Lake Barrington, Cuba Township, Lake County.

The appellant's appeal is based on unequal treatment in the assessment process. No dispute was raised concerning the land assessment. With the appeal, the appellant submitted a letter noting that in 2006 the subject's assessment increased 24% from the previous year. Appellant noted that while the subject property was known as an Innisbrook model, it was unlike other Innisbrook models in that the subject is built on a concrete slab foundation and has only a one-car garage.

In further support of the appeal, the appellant submitted information on three comparable condominium units described as 16 to 19 year old frame constructed units that have either 1,616 or 1,630 square feet of living area. Features include central air conditioning, one or two fireplaces, and a garage of either 282 or 441 square feet of building area. Two of the comparables also have 886 square foot basements, of which 517 square feet is finished area. In the letter, appellant explained that comparables #2 and #3 have two-car garages and golf course locations. The three comparables have improvement assessments ranging from \$73,297 to \$89,252 or from \$45.36 to \$54.76 per square foot of living area. The subject's improvement assessment is \$87,893 or \$53.92 per square foot of living area.

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Lake County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	13,411
IMPR.:	\$	74,165
TOTAL:	\$	87,576

Subject only to the State multiplier as applicable.

In the letter appellant further contended the "extra charge" for a lake view was 'excessive' without explaining what the charge was. Appellant questioned whether she was entitled to a tax refund for an erroneous assessment over the previous 16 years for a two-car garage when the subject has only a one-car garage; appellant also argued the correction for the garage stall size that was made in 2006 was not adequate. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$73,297 or \$44.97 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$101,304 was disclosed. In support of the subject's assessment, the board of review presented a three-page letter from the Cuba Township Assessor and two grid analyses, one purporting to reiterate the appellant's comparables and one with two comparables presented by the board of review, along with a listing of 27 comparable properties. In another listing, the board of review presented sales of comparable properties.

In the letter, the township assessor noted the subject is located in a complex with over 1,300 condominiums of frame construction with about 70 different models. Basement types vary (slab, upper or lower units, English, or walkout) and three different views are considered: standard view, golf course or lake view. The listing of 27 comparable properties provides the model name, various features, the assigned view, total assessment, basement area, and fireplace amenities.

Two comparables were presented by the board of review in a grid analysis with both land and improvement assessment data; these two comparables were described as 19 and 20 year old, frame constructed condominium units containing 1,630 square feet of living area, each. Features include central air conditioning, one or two fireplaces, and 441 square foot garages. One comparable has an 886 square foot basement of which 517 square feet has been finished. The comparables have improvement assessments of \$75,065 and \$108,374, respectively, or \$46.05 and \$66.49 per square foot of living area, respectively.

The board of review purported to reiterate three comparables presented by the appellant, but an examination of the data reveals that only two of the comparables were presented by the appellant before the Property Tax Appeal Board. Moreover, an analysis of the data presented by the board of review regarding these two properties does not reveal any discrepancies in the data reported by the appellant.

Based on the foregoing evidence, the board of review requested confirmation of the subject's assessment which falls between the two comparables outlined previously by the board of review.

In rebuttal, appellant appears to have mistaken the forwarding of the Lake County Board of Review's evidence in this matter by the

Property Tax Appeal Board as the "decision" or "determination" made by the Property Tax Appeal Board.

After reviewing the record 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 Board further finds a reduction in the subject's assessment is warranted.

The appellant contends unequal treatment in the subject's 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 appellant has met this burden.

In her letter, the appellant argued that the subject's assessment was inequitable because of the percentage increase in its assessment from 2005 to 2006 of 24%. The Board finds this type of analysis is not an accurate measurement or a persuasive indicator to demonstrate assessment inequity by clear and convincing evidence. The Property Tax Appeal Board finds rising or falling assessments from year to year on a percentage basis do not indicate whether a particular property is inequitably assessed. The assessment methodology and actual assessments together with their salient characteristics of properties must be compared and analyzed to determine whether uniformity of assessments exists. The Board finds assessors and boards of review are required by the Property Tax Code to revise and correct real property assessments, annually if necessary, that reflect fair market value, maintain uniformity of assessments, and are fair and just. This may result in many properties having increased or decreased assessments from year to year of varying amounts and percentage rates depending on prevailing market conditions and prior year's assessments.

As this matter concerns an alleged lack of assessment uniformity, the board of review's market value evidence presented in the form of sales data is not responsive to this appeal and has not been examined by the Property Tax Appeal Board for purposes of its decision.

The Property Tax Appeal Board also has given no consideration to the board of review's listing of 27 comparable properties because there is no breakdown of land and improvement assessment from which an analysis of the improvement assessment per square foot of living area could be considered. The summary data with total assessments of the 27 comparables is not a valid method of comparison in this proceeding. Thus, from the documentation, the parties presented five comparables for the Board's consideration. Due to similarities in basement foundation (i.e., concrete slab), air conditioning and fireplace, appellant's comparable #1 and board of review comparable #1 have been given the greatest weight in the Board's analysis. These two properties were most similar

to the subject in size, design, exterior construction, location and/or age. These comparables had improvement assessments of \$45.36 and \$46.05 per square foot of living area. The subject's improvement assessment of \$53.92 per square foot of living area is above these most similar properties on the record.

Board of review comparable #1 has a two-car garage, whereas appellant's comparable #1 has a one-car garage like the subject, therefore justifying an improvement assessment for the subject closer to the improvement assessment of appellant's comparable #1. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is not equitable and a reduction in the subject's assessment is warranted.

The appellant's contention with regard to a "rebate" for excessive property taxes paid shall also be addressed. The Property Tax Appeal Board has no jurisdiction with regard to any "multi-year" rebate as suggested by the appellant. Corrections with regard to property records are provided for in the Property Tax Code (35 ILCS 200/14-20). The rule in Illinois is that taxes voluntarily, though erroneously, paid cannot be recovered unless recovery is authorized by statute. Jansen Real Estate Corp. v. P.J. Cullerton, 49 Ill. App. 3d 231, 236 (1st Dist. 1977); Aldens, Inc. v. Rosewell, 71 Ill. App. 3d 754, 757; Inland Real Estate Corp. v. Oak Park Trust and Savings Bank, 127 Ill. App. 3d 535, 549 (1st Dist. 1984); Bass v. South Cook County Mosquito Abatement Dist., 236 Ill. App. 3d 466, 467 (1st Dist. 1992). Since there is no statute providing for a recovery of taxes that may have been wrongly but voluntarily paid without protest, there is no method by which appellant can obtain a refund for any years prior to the year in which an assessment complaint has been filed.

Lastly, appellant contended the assessment for the lake view was excessive, but no data was presented establishing this assertion.

In conclusion, the appellant has established inequity in the improvement assessment of the subject property based on the comparable data presented and a reduction in the subject's improvement assessment is warranted on this basis only.

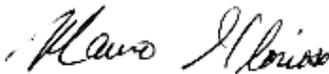
This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member



Member

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: August 24, 2009



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.