FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Bob Athey
DOCKET NO.: 06-24258.001-R-1 through 06-24258.004-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Bob Athey, the appellant, by attorney Arnold G. Siegel of Siegel & Callahan, P.C., 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
06-24258.001-R-1	14-29-409-052-1001	6,921	27,385	$34,306
06-24258.002-R-1	14-29-409-052-1002	3,363	13,308	$16,671
06-24258.003-R-1	14-29-409-052-1003	7,537	29,823	$37,360
06-24258.004-R-1	14-29-409-052-1004	5,545	21,941	$27,486

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consisting of four parcel numbers is classified as a Class 2-99 residential condominium under the Cook County Real Property Assessment Classification Ordinance (hereinafter "Ordinance"). The subject 9-year-old, three-story building contains 4 rental units and a total building area of 5,626 square feet. The subject site of 4,687 square feet is located in Chicago, Lake View Township, Cook County.

The appellant's appeal filed through legal counsel is based on unequal treatment in the assessment process. No dispute was raised concerning the land assessment. In addition, counsel for the appellant filed a brief contending that the total 2006 proposed assessed valuation of $115,823 "is excessive." With the filing of an affidavit from the appellant, counsel contends that the property, although built on a parcel with assigned condominium parcel numbers, is actually a Class 2-11 "apartment . . . residential building two to six units, . . . over 62 years of age" under the Ordinance [emphasis added].

The affiant/appellant stated the building was constructed in May 1998 as a 4-unit apartment building with a total square footage

of 5,755 square feet. The affiant further avers that the building has always been used as a rental property and, although a condo declaration was filed, the affiant "did not realize that the condo declaration would increase my taxes by 40%." Finally, the affiant/appellant avers that he does not intend to sell the individual parcels as condominium units, but intends to continue using the building as rental property. Based on the foregoing, appellant contends the subject is "comparable with Class 2-11 properties" and as such the subject's assessment lacks uniformity with similar Class 2-11 buildings located in the same neighborhood as the subject.

In support of the inequity argument, the appellant submitted information on six suggested comparable Class 2-11 properties in a grid analysis. In the brief, counsel converted the subject's assessment and the assessments of the six comparables to "assessor's imp FMV [fair market value]" along with a "value/sq ft." The comparables are located within 2.6 blocks of the subject property and are described as two-story or three-story frame, masonry, or frame and masonry buildings that contain from 2 to 4 apartment units. The buildings range in age from 114 to 124 years old. The comparable buildings range in size from 3,855 to 4,215 square feet of living area. Four comparables have full basements, three of which are finished as apartments and one of which is finished as a recreation room. Four comparables have full attics, two of which are finished with living area, one of which is unfinished and one of which is finished as an apartment. Three of the comparables have central air conditioning and one has two fireplaces. Two of the comparables have two-car garages. The comparables have improvement assessments ranging from $43,574 to $67,026 or from $10.53 to $15.99 per square foot of living area. The subject's improvement assessment is $92,457 or $16.43 per square foot of living area. In the brief, counsel reported the comparables have "improvement fair market values" ranging from $272,338 to $418,913 or from $65.78 to $99.96 "value/sq ft" of living area whereas the subject has an "improvement fair market value" of $577,856 or $102.71 "value/sq ft" of living area according to the appellant. Based on this evidence, the appellant requested a reduction in the subject's total improvement assessment to $81,942 or at the 16% level of assessment to reflect a building value of $512,135.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final total assessment of $115,823 was disclosed. The final total assessment of the subject property reflects a market value of approximately $1,144,496 including land, using the 2006 three-year median level of assessments for Class 2 property in Cook County of 10.12% as determined by the Illinois Department of Revenue.

The board of review presented a memorandum acknowledging the appellant's classification argument and asserting that area sales of Class 2-11 residential apartment buildings range from $850,000 to $1,650,000. Based on the "sales of the like and similar properties in the area of the subject, the current TAV [total

assessed value] for the subject is fair." Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant noted that the board of review presented sales data and did not address the appellant's lack of uniformity argument.

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 not 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). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not met this burden.

As to the classification issue, the subject building is 9 years old. As such, the subject building does not qualify as a Class 2-11 property due to it being under 62 years of age. Thus, the Board finds no merit to the appellant's classification argument.

Furthermore, the Board finds the six comparables submitted by the appellant were all dissimilar to the subject in both size and age.

As stated by the Supreme Court of Illinois in Walsh v. Property Tax Appeal Board, 181 Ill. 2d 228, 692 N.E.2d 260, 229 Ill. Dec. 487 (1998):

> The Illinois property tax scheme is grounded in article IX, section 4, of the Illinois Constitution of 1970, which provides in pertinent part that real estate taxes "shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." (*Citation omitted*.) Uniformity requires equality in the burden of taxation. (*Citation omitted*.) This, in turn, requires equality of taxation in proportion to the value of the property taxed. (*Citation omitted*.) Thus, taxing officials may not value the same kinds of properties within the same taxing boundary at different proportions of their true value. (*Citation omitted*.)

Walsh, 181 Ill.2d at 234.

In this appeal the Property Tax Appeal Board finds the appellant did not submit comparables that were similar to the subject. The largest of appellant's suggested comparable buildings was at

least 1,411 square feet smaller than the subject. The subject building was 9 years old whereas the closest comparable in age was 113 years old. Thus, the Board finds these properties were not shown to be similar to the subject or to have similar fair cash values to demonstrate that the subject was being disproportionally assessed.

When an appeal is based on assessment inequity, the appellant has the burden to show the subject property is inequitably assessed by clear and convincing evidence. Proof of an assessment inequity should consist of more than a simple showing of assessed values of the subject and comparables. There should also be a showing of physical, locational, and jurisdictional similarities, as well as of market value considerations. The Board notes that only similarities in physical characteristics of the comparables were analyzed and compared to the subject. Other areas of comparison such as potential gross incomes, expense ratios and market value considerations were not employed. Without market value information regarding these purportedly commercial properties, it is difficult to do an assessment analysis of the buildings. The income potential, the age and the overall market value of large commercial properties can vary significantly.

The Supreme Court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) The court in Apex Motor Fuel further stated:

> . . . the rule of uniformity ... prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation purposes is valued at either a grossly less value or a grossly higher value. [citation.]
>
> Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A practical uniformity, rather than an absolute one, is the test.[citation.] Apex Motor Fuel, 20 Ill.2d at 401.

In the context of income producing property, the Supreme Court further stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the court, uniformity is achieved only when all property with the same income earning capacity and fair cash

value is assessed at a consistent level. Kankakee County Board of Review, 131 Ill.2d at 21.

The Board further finds the board of review submitted information on comparable sales for prices ranging from $850,000 to $1,650,000. The subject's total assessment reflects a value of $1,144,496, which is within the range established by the sales data provided by the board of review. The Board finds this evidence demonstrates the subject's assessment is not excessive in relation to its fair cash value as reflected in the assessment and supports the current assessment of the subject property.

In conclusion, based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject property was being inequitably assessed.

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: April 20, 2012

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.