

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Bernard Hammer
DOCKET NO.: 06-29691.001-R-1
PARCEL NO.: 05-18-225-014-0000

The parties of record before the Property Tax Appeal Board are Bernard Hammer, the appellant, and the Cook County Board of Review.

The subject property consists of a 9,320 square foot parcel improved with an 80-year-old, two-story style single-family dwelling of stucco exterior construction containing 2,349 square feet of living area that is located in New Trier Township, Cook County. Amenities include three full baths, three bedrooms, a full unfinished basement, a fireplace and a one and one-half car garage.

The appellant, an attorney representing himself, submitted evidence before the Property Tax Appeal Board claiming unequal treatment in the assessment process as the basis of the appeal. In support of this argument, the appellant submitted a spreadsheet detailing six suggested comparable properties located in the same general area as the subject. A copy of the subject's 2006 board of review final decision was also included. According to the appellant's documentation, these properties consist of single-family dwellings of stucco or masonry exterior construction. The comparable dwellings range in size from 2,100 to 5,975 square feet of living area and have improvement assessments ranging from \$10.81 to \$16.89 per square foot of living area. The appellant argued that the subject's improvement assessment should be reduced to no more than \$12.91 per square foot of living area as this is the average of the comparables.

The appellant also argued that it is a matter of judicial notice that stucco exterior construction should be assessed less than masonry exterior construction. The appellant requested that the Property Tax Appeal Board take judicial notice that stucco dwellings are less valuable than masonry dwellings.

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

LAND:	\$	12,824
IMPR.:	\$	46,785
TOTAL:	\$	59,609

Subject only to the State multiplier as applicable.

The appellant argued that the uniformity in taxation requirement is set forth in the Illinois Constitution of 1970, Art. 9, §4(a), which provides:

(a) Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law.

The appellant argued that the constitution requires equality in burden of taxation and such equality in burden cannot exist without uniformity in basis of assessment. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769 (1960), Giebelhausen v. Daley, 407 Ill. 25, 95 N.E.2d 84 (1950). The appellant emphasized during his argument that taxing officials cannot list some property below its fair cash market value and other property at its fair cash market value, but must treat all property alike. People ex rel. Wangelin v. Wiggins Ferry Co. 357 Ill. 173, 191 N.E. 296 (1934). The appellant also asserted that a violation of the constitutional rule of uniformity of property taxation is a denial of equal protection and constitutes a taking of property without due process. People ex rel. Hawthorne v. Bartlow, 67 Ill.Dec.243, 111 Ill.App.3d 513, 444 N.E.2d 282 (1983). Based on the foregoing evidence and arguments, the appellant requested a reduction in the subject's improvement assessment to \$30,326 or \$12.91 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final improvement assessment of \$46,785, or \$19.92 per square foot of living area, was disclosed. In support of the subject's assessment, the board of review submitted a spreadsheet detailing four suggested comparable properties and copies of the property characteristic printouts for the subject and the comparables. The board of review also presented the testimony of analyst Lena Henderson. The comparables consist of two-story style single-family dwellings of stucco exterior construction ranging from 78 to 81 years old and ranging in size from 2,336 to 2,678 square feet of living area. The comparables contain two or three full baths with two having additional half baths; three have full unfinished basements and one has a partial unfinished basement; two have a single fireplace and two have two fireplaces; and one has a 1-car garage, one has a 1.5 car garage and two have 2-car garages. These properties have improvement assessments ranging from \$20.73 to \$25.29 per square foot of living area. The board of review's analyst testified that the properties were all similar to the subject in size, location, style, and construction type. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

In rebuttal, the appellant argued that the board of review failed to offer any legal or other argument to oppose the appellant's inequity argument. Citing the Property Tax Appeal Board Official Rules Section 1910.66, the appellant argued the board of review

failed to offer any factual critique based on applicable facts and law to his legal brief.

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 Property Tax Appeal Board finds appellant's arguments that the subject is inequitably assessed are not supported by the evidence in the record. The Board finds that the evidence in the record demonstrates the subject is equitably assessed when compared to similar properties with purportedly similar values.

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.

Initially, the Property Tax Appeal Board denies the appellant's request that the Property Tax Appeal Board take judicial notice that stucco dwellings are less valuable than masonry dwellings. To be subject to judicial notice, an adjudicative fact must be either a matter of common knowledge or a matter capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. People v. Henderson, 171 Ill.2d 124, 134 (1996); Murdy v. Edgar, 103 Ill.2d 394 (1984). A finding that stucco dwellings are less valuable than masonry dwellings is not the type of fact that is of common knowledge or a matter of accurate and ready determination by resort to reliable sources. The Board finds that the appellant would have to demonstrate with empirical market data or expert testimony that stucco dwellings command less in the open market than do dwellings of masonry construction in the subject's market area. The actions of buyers and sellers in the open market would demonstrate the degree to which exterior construction may or may not impact the market value of single family dwellings in a particular location. Therefore, the Board denies the appellant's request to take judicial notice that dwellings with stucco exterior construction are worth less than dwellings with brick exterior construction.

The Property Tax Appeal Board finds that the parties submitted ten properties as comparable to the subject. The Board finds the appellant provided information with respect to size, location, construction type, improvement assessment and improvement assessment per square foot for his comparables. Of the six properties submitted for analysis by the appellant, the Board finds that three exceed the subject's size by over 1,000 square feet of living area, which demonstrates these properties are not similar to the subject in size. The Board finds that the appellant's testimony and evidence indicated that two of his

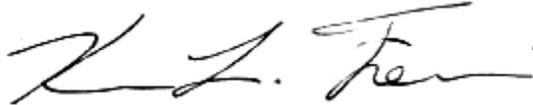
comparables were of different construction type than the subject which detracts from their similarity to the subject. The Board further finds that the appellant did not provide sufficient detail with regard to features of his comparables such as room count, the presence of central air conditioning, number of fireplaces, size of garage, number of bedrooms and number of baths, for the Board to be able to adequately analyze the properties and be able to draw a reliable conclusion of comparability. Therefore, the Board places no weight on the appellant's comparables.

By contrast, the board of review submitted four comparables with descriptive data as well as the property characteristic printouts for the comparables and subject. The Property Tax Appeal Board finds that the board of review's comparables are the same construction type as the subject; are similar in size to the subject; are within two years of the subject's age; are similar in number of baths to the subject; and finally have amenities similar to the subject. The Board finds that the board of review's comparables are similar to the subject in most respects and are to be given the most weight. The properties found the most similar are assessed in a range from \$20.73 to \$25.29 per square foot of living area. The subject's per square foot assessment of \$19.92 is below the range established by the most similar properties in the record, which demonstrates the subject is being equitably assessed.

As a result of this analysis, the Property Tax Appeal Board finds the appellant failed to adequately demonstrate that the subject dwelling was inequitably assessed by clear and convincing evidence 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.

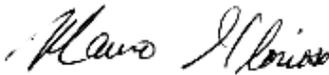
Chairman



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: April 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.