FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: David Montagano
DOCKET NO.: 06-31084.001-R-1
PARCEL NO.: 14-32-224-056-0000

The parties of record before the Property Tax Appeal Board (PTAB) are David Montagano, the appellant(s), by attorney Scott E. Longstreet, of Park & Longstreet, P.C. in Rolling Meadows; and the Cook County Board of Review.

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

LAND:	$ 8,928
IMPR.:	$ 24,659
TOTAL:	$ 33,587

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of an 852 square foot parcel improved with a 23-year-old, two-story, row house dwelling of frame construction containing 1,222 square feet of living area and located in North Chicago Township, Cook County. Features of the residence include one full bathroom, a full-finished basement, central air-conditioning, a fireplace and a one-car detached garage. The parties jointly agreed to consolidate this appeal with eight other matters for hearing purposes. All the residential appeals raise the same issue with varying suggested comparables. The appellant's contention is unequal treatment in the assessment process. However, counsel raised a legal issue arguing that the PTAB as a matter of law cannot rely on the board of review's comparables, because they are: identical to the subject in most respects, contain nearly the same assessments, and have filed similar property tax appeals. Therefore, the appellant's attorney argues that the assessments are self validating in that they are uniform with each other but not with other properties in the jurisdiction. Counsel argued that the

Second District Appellant Court ruled that the PTAB erred as a matter of law in relying on such properties. *Pace Realty Group, Inc. v. Property Tax Appeal Board*, 306 Ill.App.3d 718, 728 N.E.2d 1249 (2nd Dist. 1999). Counsel argued that the present matter is identical to Pace Realty in that the Cook County Board of Review is relying upon row houses identical to the subject property to establish the high end of the range of assessments to suggest the subject property's assessment is uniform. Counsel further argued that the PTAB cannot consider these properties for the same reasons the Appellate Court cited in *Pace Realty*. First, the assessments of the other identical row houses merely self-validate the very same assessments under appeal. Second, the use of other identical row houses makes the assessment appeal process meaningless because it in essence unlawfully takes away the constitutional right of a row house owner to make a uniformity appeal if one or more of the other identical row houses could be used to establish the high end of the range. Counsel argued that this would lead to absurd results by denying a class of property owners (namely, row house owners) from making the uniformity challenge that is their right under the State Constitution (Ill. Const. 1979,art. IX, §4(a))

In support of the equity claim, the appellant submitted assessment data and descriptive information on eight properties suggested as comparable to the subject. Based on the appellant's documents, the eight suggested comparables consist of two-story or three-story, row house dwellings of frame, masonry or frame and masonry construction located within the subject's neighborhood. The improvements range in size from 1,222 to 1,397 square feet of living area and range in age from 17 to 35 years. The comparables contain from one to three full bathrooms and central air-conditioning. Seven comparables contain fireplaces, three comparables have a full-finished basement and seven comparables contain a one-car or two-car garage. The improvement assessments range from $20.18 to $30.67 per square foot of living area.

At hearing, the appellant's attorney argued that also pursuant to *Pace Realty,* the PTAB cannot rely upon similar situated comparables whose assessment is being currently contested and under appeal. Based on the evidence submitted, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of $48,249. The subject's improvement assessment is $39,321 or $32.18 per square foot of living area. In support of the assessment, the board submitted property characteristic printouts and descriptive data on three properties suggested as comparable to the subject. The suggested comparables consist of two-story, 23-year-old, 1,222 square foot row house dwellings of frame construction located on the same street and block as the subject. The comparables contain one full bathroom, a full-finished basement, central air-conditioning, a fireplace and a one-car garage. The

improvement assessments range from $34.43 to $35.69 per square foot of living area.

At hearing, the board's representative questioned why identical properties cannot be used for comparison purposes as well as the thresh hold for comparison and argued that uniformity begins with market value. Based on the evidence presented, 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 appellant's argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that 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 PTAB finds the appellant has overcome this burden.

Pursuant to Pace Realty Group, Inc., v. The Property Tax Appeals Board, 306 Ill. App. 3d 718, 728, 713 N.E.2d 1249, 239 Ill. Dec. 399 (1999), the Appellate Court found that in determining what properties are truly comparable, there is error as a matter of law when the selection of a comparable includes a property which has also received the same contested assessment. Further, the Court stated that conducting a uniformity analysis in such a manner will lead to absurd results and will render the assessment appeal process meaningless. Therefore, the Board shall accord no weight to suggested comparables which are: sited within the subject's complex, also under appeal, and reflect a similarly contested assessment. Thereby, the three comparables submitted by the board of review as well as the appellant's comparable eight will be accorded no weight in this case's analysis as a matter of law.

The appellant submitted seven properties as suggested comparables to the subject. The PTAB finds these seven properties similar to the subject in improvement size, amenities, age and location and have improvement assessments ranging from $20.18 to $27.62 per square foot of living area. The subject's per square foot improvement assessment of $32.18 falls above the range established by these properties. After considering adjustments and the differences in the appellant's suggested comparables when compared to the subject, the PTAB finds the subject's per square foot improvement assessment is not supported by similar properties contained in the record.

As a result of this analysis, the Property Tax Appeal Board finds the appellant has adequately demonstrated that the subject dwelling was inequitably assessed by clear and convincing evidence and a 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 21, 2010

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.