



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

APPELLANT: Tam Huynh
DOCKET NO.: 08-24503.001-C-1
PARCEL NO.: 13-33-228-036-0000

The parties of record before the Property Tax Appeal Board are Tam Huynh, the appellant(s), by attorney James E. Doherty, of Thomas M. Tully & Associates 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: \$ 23,441
IMPR.: \$ 1,485
TOTAL: \$ 24,926

Subject only to the State multiplier as applicable.

ANALYSIS

The subject consists of 5,875 square feet of land, with a fence surrounding the perimeter of the land. The subject is classified as a class 5-90 property, which has a level of assessment of 38% of the subject's fair market value. The appellant, via counsel, argued that the subject is vacant land, and should properly be classified as a class 1-00 property, which would lower the subject's level of assessment to 22% of the subject's fair market value.

In support of the classification change, the appellant submitted an affidavit, naming the appellant as the affiant, wherein the appellant stated that the subject is "a vacant lot and has been a vacant, fenced in, lot for many years." The appellant further stated in the affidavit that "no commercial usage occurs at the site but rather the site stands vacant and unused." The appellant also submitted a photograph of the subject, which depicts a vacant lot with a fence surrounding the perimeter of the lot. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total assessment of \$24,926 was disclosed. In support of the subject's

assessment, the board of review submitted 12 sales comparables to show that the subject was not overvalued. The comparables are all vacant land that range in size from 2,500 to 12,204 square feet of land area. These comparables sold from February 2003 to May 2005 for between \$63,000 and \$1,230,000, or from \$24.47 to \$107.69 per square foot of land. The board of review also submitted a printout from the Cook County Recorder of Deeds' website, which shows that the subject sold in January 2007 for \$400,000. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellant argued that the subject's classification was inaccurate. "Subject to such limitations as the General Assembly may hereafter prescribe by law, counties with a population of more than 200,000 may classify or continue to classify real property for purposes of taxation. Any such classification shall be reasonable and assessments shall be uniform within each class." Ill. Const. of 1970 art. IX, § 4(b). "Classification refers to the categorizing of real property according to its use, for the purpose of determining at which percentage of fair market value the property should be assessed." People ex rel. Costello v. Lerner, 53 Ill. App. 3d 245, 250 (5th Dist. 1977) (citing People ex rel. Jones v. Adams, 40 Ill. App. 3d 189, 195 (5th Dist. 1976)). Based on the evidence submitted by the parties, the Board finds that the appellant has shown that the subject's classification should be changed.

In accordance with Section 4(b) of Article IX of the Illinois Constitution, Cook County classifies property within it, and applies different assessment levels to different classes of properties. The Illinois Constitution states that the classifications "shall be uniform within each class." The Illinois Appellate Court interpreted this state constitutional provision to mean that real property could be classified according to use. Costello, 53 Ill. App. 3d at 250. As detailed above, the subject was classified as a commercial property with a minor improvement for tax year 2008 (class 5-90). The appellant asserts that the subject is vacant land with a minor improvement (class 1-90). Thus, the Board's decision rests on whether the subject is used for commercial purposes, or whether it is vacant land.

According to the Cook County Code of Ordinances "[r]eal estate used for commercial purposes means any real estate used primarily for buying and selling of goods and services, or for otherwise providing goods and services, including any real estate used for hotel and motel purposes." Using this definition, the Board finds that the subject is not used for commercial purposes, and is instead, vacant land. While the subject does have a fence surrounding its perimeter, the fence was not constructed for and

does not assist in "buying and selling" goods or services. Therefore, the Board finds that the subject shall be considered a class 1-90 property for this 2008 appeal only, and shall have an assessment level of 22% of the subject's fair market value.

However, the Board also finds that the subject's fair market value is \$400,000 based on the printout from the Cook County Recorder of Deeds' website that was submitted by the board of review. This printout showed that the subject sold in January 2007 for \$400,000, which is less than a year prior to the 2008 lien date of January 1, 2008. Therefore, after applying the 22% assessment level to this market value, the Board finds that the subject's total assessment should be \$88,000. The subject's current assessment is lower than this amount. Therefore, the Board finds that a reduction 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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: October 18, 2013

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.