



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

APPELLANT: Desmond Varady
DOCKET NO.: 09-20574.001-R-1
PARCEL NO.: 15-36-105-008-0000

The parties of record before the Property Tax Appeal Board are Desmond Varady, the appellant(s), by attorney Patrick J. Cullerton, of Thompson Coburn LLP in Chicago; 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: \$ 15,295
IMPR.: \$ 138,230
TOTAL: \$ 153,525

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 20,394 square feet of land, which is improved with a ten year old, two-story, frame and masonry, single-family dwelling. The subject's improvement size is 6,555 square feet of living area, which equates to an improvement assessment of \$34.72 per square foot of living area. Its total assessment is \$242,881, which yields a fair market value of \$2,729,000, or \$416.32 per square foot of living area (including land), after applying the 2009 Illinois Department of Revenue three year median level of assessment for Class 2 properties of 8.90%. The appellant, via counsel, argued that there was unequal treatment in the assessment process of the subject's improvement, and also that the fair market value of the subject property was not accurately reflected in its assessed value as the bases of this appeal.

In support of the equity argument, the appellant submitted descriptive and assessment information for five properties suggested as comparable to the subject. The comparables are described as two-story, frame or masonry, single-family dwellings. Additionally, the comparables range: in age from 12 to 123 years; in size from 5,092 to 7,002 square feet of living area; and in improvement assessments from \$16.08 to \$16.70 per

square foot of living area. The comparables also have various amenities.

In support of the market value argument, the appellant submitted a residential appraisal report for the subject property with an effective date of January 1, 2008. The appraiser estimated a fair market value for the subject of \$1,725,000 based on the cost and sales comparison approaches to value. The appraiser also conducted an inspection of the subject.

The appellant also argued that the subject's assessment should be reduced because the board of review reduced its 2010 assessment to \$172,200 based on the same appraisal submitted in this appeal. The appellant cites Hoyne Sav. & Loan v. Hare, 60 Ill. 2d 84 (1974) and 400 Condominium Assoc. v. Tully, 79 Ill. App. 3d 686 (1979) in support of this argument. 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 \$242,881 was disclosed. The board of review did not provide any evidence in support of the subject's assessment. Based on this submission, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant asked that the board of review's evidence be given no weight because it did not address the appellant's market value or uniformity arguments.

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 Board recognizes that Section 16-185 of the Property Tax Code states that a prior year's decision lowering the assessment should be carried forward to the 2009 tax year, subject only to equalization, when the property is an owner occupied residence and the tax years are within the same general assessment period. 35 ILCS 200/16-185. However, in this case, the Board finds that doing so would result in an inequitable assessment in contravention of the Board's authority to base each decision upon equity and the weight of the evidence. 35 ILCS 200/16 185.

The Board takes notice that the Cook County Board of Commissioners passed Ordinance No. 08-0-51 (the "10/25 Ordinance"), which amended Chapter 74, Article II, Division 2, Section 74-64 of the Cook County Code of Ordinances, and is effective for tax year 2009. See 86 Ill. Admin. Code § 1910.90(i). The 10/25 Ordinance changed the statutory assessment classification level of assessments for class 2 property throughout Cook County from 16% to 10%. The Board finds that carrying forward the assessment from the previous tax year to the 2009 tax year without recognizing the fact that assessment levels were reduced in Cook County for tax year 2009 is

inequitable since the previous year's decision was founded on a substantially higher level of assessment. The Uniformity Clause of the Illinois Constitution states that, "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." Ill. Const. 1970, art. IX, § 4(a). Taxation must be uniform in the basis of assessment as well as the rate of taxation. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 401 (1960). Taxation must be in proportion to the value of the property being taxed. It is unconstitutional for one kind of property within a taxing district to be taxed as a certain proportion of its market value while the same kind of property in the same taxing district is taxed as a substantially higher or lower proportion of its market value. Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1, 20 (1989); Apex Motor Fuel, 20 Ill. 2d at 401; Walsh v. Prop. Tax Appeal Bd., 181 Ill. 2d 228, 234 (1998). The Board finds that carrying forward the decision from the previous tax year to tax year 2009 would violate this directive.

When overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(c). Having considered the evidence presented, the Board finds that the evidence indicates a reduction is warranted.

In determining the fair market value of the subject property, the Board finds the best evidence to be the appellant's appraisal. The appellant's appraiser utilized the cost and sales comparison approaches to value in determining the subject's market value. The Board finds this appraisal persuasive because the appraiser has experience in appraising, personally inspected the subject property, reviewed the property's history, and used similar properties in the sales comparison approach while providing adjustments that were necessary. The Board gives little weight to the board of review's evidence as it did not address the appellant's market value argument.

Therefore, the Board finds the subject had a market value of \$1,725,000 for the 2009 assessment year. Since the market value of this parcel has been established, the 2009 Illinois Department of Revenue three year median level of assessment for Class 2 property of 8.90% will apply. 86 Ill. Admin. Code § 1910.50(c)(2)(A). In applying this level of assessment to the subject, the total assessed value is \$153,525, while the

subject's current total assessed value is above this amount. Therefore, the Board finds that a reduction is warranted. Since the subject's market value has been determined, the Board finds that the subject is now fairly and equitably assessed. Moreover, the Board finds that since the subject's 2010 assessment and the now revised 2009 assessment were both based on the appraisal submitted by the appellant, the argument based on Hoyne and 400 Condominium Assoc. has been adequately addressed by the Board in its finding that the appraisal is the best evidence of the subject's fair market value as of the assessment date.

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

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: June 21, 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.