FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: James J. Morici
DOCKET NO.: 09-21763.001-R-1
PARCEL NO.: 09-25-121-085-0000

The parties of record before the Property Tax Appeal Board are James J. Morici, the appellant(s), by attorney Joseph G. Kusper, of Storino Ramello & Durkin in Rosemont; 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:	$ 13,589
IMPR.:	$ 58,480
TOTAL:	$ 72,069

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property has 15,988 square feet of land, which is improved with a two year old, one and one-half-story, single-family dwelling. The subject includes four and one-half baths, air conditioning, and three fireplaces. The parties' evidence differs regarding the subject's improvement size. The subject is located in Maine Township, Cook County. The appellant's appeal is based on unequal treatment in the assessment process.

In support of the equity argument, the appellant, via counsel, submitted descriptive and assessment information on four properties suggested as comparable to the subject. These properties are described as two-story, masonry or frame and masonry, single-family dwellings that are from two to nine years old, and contain from 2,850 to 3,692 square feet of living area. Additionally, the suggested comparables have from two and one-half to three and one-half baths, all of the properties have a fireplace, air conditioning, a garage, ranging from a two-car to a two and one-half-car garage, and either a full unfinished basement, or a partial unfinished basement. These suggested comparables have improvement assessments ranging from $18.32 to $21.65 per square foot of living area.

In support of the square footage argument, the appellant submitted architectural drawings showing that the subject contains 2,720 square feet of living area. The architectural plans are dated August 31, 2000, and are affixed with a stamp from a State of Illinois registered architect. 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 final assessment of $113,269 was disclosed. The board of review did not submit any evidence to support the subject's assessment, or to support its assertion that the subject's improvement size is 4,303 square feet of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

The Property Tax Appeal Board (the "Board") takes judicial notice of its 2007 and 2008 decisions in docket numbers 07-20814.001-R-1 and 08-21987.001-R-1, respectively, wherein the subject's assessment was reduced to $113,269 in both cases based on a stipulated agreement entered into by the parties.

After reviewing the record and considering the evidence, 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-O-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 2007 and 2008 tax years 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 decisions from tax year 2007 and 2008 to tax year 2009 would violate this directive.

The appellant contends unequal treatment in the subject's improvement assessment as the basis of this 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. Walsh v. Prop. Tax Appeal Bd., 181 Ill. 2d 228, 234 (1998) (citing Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1 (1989)); 86 Ill. Admin. Code § 1910.63(e). To succeed in an appeal based on lack of uniformity, the appellant must submit documentation "showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d 139, 145 (1st Dist. 2010); 86 Ill Admin. Code § 1910.65(b). "[T]he critical consideration is not the number of allegedly similar properties, but whether they are in fact 'comparable' to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d at 145 (citing DuPage Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 284 Ill. App. 3d 649, 645-55 (2d Dist. 1996)). After an analysis of the assessment data, the Board finds that the appellant has met this burden.

Initially, the Board finds that the subject contains 2,720 square feet of living area. The appellant submitted architectural drawings of the subject, while the board of review submitted no evidence to substantiate its claim that the subject contains 4,303 square feet of living area. Thus, the Board finds that the subject contains 2,720 square feet of living area, and that it has an improvement assessment of $36.65 per square foot of living area.

The Board finds that Comparables #1, #3, and #4 submitted by the appellant were most similar to the subject in location, size, style, exterior construction, features, and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from $18.67 to $21.65 per square foot of living area. The subject's improvement assessment of $36.65 per square foot of living area is above the range established by the most similar comparables. Therefore, after considering adjustments and differences in both parties' comparables when compared to the subject, the Board finds that the subject's improvement assessment is not equitable, and a reduction in the subject's assessment 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: January 31, 2013

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.