



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

APPELLANT: Charles White
DOCKET NO.: 09-21902.001-R-1
PARCEL NO.: 25-33-408-012-0000

The parties of record before the Property Tax Appeal Board are Charles White, the appellant(s); 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: \$ 1,337
IMPR.: \$15,932
TOTAL: \$17,269

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 1,152 square feet of land improved with a 43 year old, two-story, masonry, building. The building contains three dwellings, a full finished basement, three baths, and a two-car garage.

The appellant submitted a letter arguing that the 2009 Cook County Property Tax Equalization Factor certified by the Illinois Department of Revenue was excessively high, and violates 35 ILCS 200/17-5. Furthermore, the appellant asserted in the letter that the equalization factor has been excessively high since 2000, and requests a refund of \$11,000 for the excessive property taxes he paid from 2000 to 2009.

The appellant also argued that the fair market value of the subject was not accurately reflected in its assessed value. In support of the market value argument, the appellant submitted four comparables with the properties' 2007 estimated market value as determined by the Cook County Assessor. These properties are described as two-story, masonry buildings, that range in age from 30 to 44 years old. The buildings have either three or four dwelling units and three or four baths. No further information was provided regarding the size and amenities of these buildings, which had a 2007 estimated market value that ranged from \$56,250 to \$124,163.

Also in furtherance of the subject's market value, the appellant submitted an appraisal undertaken by Troy E. Victor. The report states that Troy E. Victor is a State of Illinois certified real estate trainee appraiser, and that Dennis M. Victor was the supervisory appraiser. According to the report, Dennis M. Victor is a certified residential real estate appraiser. The appraisal states that the subject had an estimated market value of \$54,000 as of March 29, 2011. The appraisal report utilized two of the three traditional approaches to value to estimate the market value for the subject property. The appraisal finds the subject's highest and best use is its present use.

In describing the subject property, the appraisal lists the subject as containing 3,312 square feet of building area. The appraisal includes a drawing of the subject with the dimensions included.

Under the income approach to value, the appraiser analyzed the subject's rents to estimate a potential monthly gross income of \$2,950. A loaded capitalization rate of \$18.31 was utilized to estimate a value under the income approach of \$54,014. Expenses, vacancy, and collection were not taken into consideration.

Under the sales comparison approach, the appraiser analyzed the sales of three three-story or four-story, frame or masonry, buildings. The properties range in age from 41 to 106 years and in size from 2,713 to 3,334 square feet of building area. The comparables sold from July 2010 to March 2011 for prices ranging from \$31,000 to \$54,500, or from \$11.43 to \$16.35 per square foot of building area, land included. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of \$54,000, or \$16.30 per square foot of living space, land included.

The appraisal does not include an analysis under the cost approach to value.

In reconciling the income and the sales approaches to value, the appraisal arrived at a final estimate of value for the subject as of March 29, 2011 of \$54,000. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$17,269 was disclosed. The board of review presented descriptions and assessment information on four comparable properties consisting of two-story, masonry dwellings that are all 43 years old and have 3,360 square feet of living area. All of the buildings contain three dwelling units, three baths, and a full finished basement with an apartment. These properties all have an improvement assessment of \$5.58 per square foot of living area.

Additionally, Comparable #1 sold for \$190,000 in October 2006, and Comparable #2 sold for \$175,000 in February 2006. No further information was provided regarding these sales. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant stated that the comparables submitted by the board of review have either been recently rehabilitated, or are vacant, and, therefore, not comparable to the subject. The appellant also provided the recent sales of three properties. Only the township, municipality, PIN, and recent sale price were provided. The date of the sale, the characteristics and amenities of the property, and proof of the sale at the stated price were not provided. The appellant also included a similar list, but that states the monthly rent collected, in lieu of the properties' sale price.

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 that relates to overvaluation.

Initially, the Board finds that it does not have jurisdiction to change the Cook County Equalization Factor as set by the Illinois Department of Revenue for 2009 of 3.3701. Nor does the Board have jurisdiction to change the Cook County Equalization Factor for any years prior to 2009. 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, Sec. 4, Par. (a). However, the Illinois Constitution allows counties with more than 200,000 residents to classify property for property taxation purposes. Ill. Const. 1970, Art. IX, Sec. 4, Par. (b). To do so, the county must pass an ordinance establishing the property classifications. See 35 ILCS 200/9-150. Cook County has chosen to classify property within its jurisdiction, and has passed such an ordinance. See Cook County Code, Ch. 74, Art. II, Div. 2, Sec. 74-64 (the "10/25 Ordinance"). The 10/25 Ordinance became effective for tax year 2009. Id. The subject is a class 2-11 property, which the Cook County Assessor defines as an "[a]partment building with 2 to 6 units, any age." Under the 10/25 Ordinance, class two property is assessed at 10-percent of its market value. Id. However, while Cook County can assess property within its jurisdiction in a different manner than most other counties in the State, it is still subject to statewide equalization. Ill. Const. 1970, Art. IX, Sec. 4, Par. (a). The Illinois Department of Revenue must equalize all property in the state, including property in Cook County, so that the assessed value of nearly every property is within 1-percentage point of 33 1/3-percent of the property's market value. 35 ILCS 200/17-5, 35 ILCS 200/17-25. Therefore, while the subject was assessed at 10-percent of its 2009 market value, the Cook County Equalization Factor was used to equalize the subject's assessed value with all other property in the State at 33 1/3-percent of its market value.

The Illinois Constitution requires the Illinois General Assembly to provide, by law, the process for ascertaining a uniform valuation process. Ill. Const. 1970, Art. IX, Sec. 4, Par. (a). The process described above is what the Illinois General Assembly has prescribed. Absent from the above described process is the ability of this Board to modify the Cook County Equalization Factor. In fact, the Illinois General Assembly has inherently restricted this Board's ability to modify the equalization factor in any Illinois county. 35 ILCS 200/16-160 states as follows:

In counties with 3,000,000 or more inhabitants, beginning with assessments made for the 1996 assessment year for residential property of 6 units or less . . . any taxpayer dissatisfied with the decision of a board of review . . . **as such decision pertains to the assessment of his or her property for taxation purposes**, . . . may, . . . within 30 days after the date of the board of review notice or within 30 days after the date that the board of review transmits to the county assessor pursuant to Section 16-125 its final action on the township in which the property is located, whichever is later, appeal the decision to the Property Tax Appeal Board for review.

Id. (emphasis added). According to the above statute, the Board's jurisdiction is limited to hearing appeals regarding the correct assessed valuation of any property in Illinois. Id. The Joint Commission on Administrative Rules has limited the Board's jurisdiction even further, by clearly stating:

The Property Tax Appeal Board shall determine the correct assessment prior to state equalization of any parcel of real property which is the subject of an appeal, based upon facts, evidence, exhibits and briefs submitted to or elicited by the Board. The state equalization factor is set by the Department of Revenue pursuant to Section 17-5 of the Property Tax Code.

86 Ill.Admin.Code 1910.10(b). Any decision rendered by the Board is still subject to any applicable equalization factor. Id. As such, the Board has no jurisdiction to change the Cook County Equalization Factor, and the appellant's claim on this matter will not be decided on the merits.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2d Dist. 2000). 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. 86

Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the Board concludes that the evidence indicates a reduction is not warranted.

First, the evidence submitted in the appellant's rebuttal regarding the recent sales and rents of comparable properties cannot be considered by the Board. 86 Ill.Admin.Code 1910.66(c). This evidence is new evidence, and cannot be submitted for the first time in rebuttal.

The Board gives little weight to the estimated market values of the comparables submitted by the appellant. These values are estimates, and not recent sales of comparable properties. Additionally, the Board gives little weight to the appraisal submitted by the appellant. The lien date for tax year 2009 was January 1, 2009. See 35 ILCS 200/9-155. The effective date of the appraisal submitted by the appellant was March 29, 2011, which is over two years after the lien date. The effective date of the appraisal is too far removed from the lien date to accurately reflect the market value of the subject on January 1, 2009. Moreover, the appraiser did not make an adjustment in the appraisal for the passage of time from January 1, 2009 to March 29, 2011. Therefore, the appellant has not proven, by a preponderance of the evidence, that the subject was overvalued as of January 1, 2009, and 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: April 20, 2012

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.