



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

APPELLANT: Anthony Kies
DOCKET NO.: 09-25863.001-R-1
PARCEL NO.: 03-32-424-006-0000

The parties of record before the Property Tax Appeal Board are Anthony Kies, the appellant, 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: \$13,775
IMPR.: \$84,125
TOTAL: \$97,900

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel is improved with a two-story masonry exterior constructed single-family dwelling that is approximately 5 years old. The dwelling contains 5,156 square feet of living area with a full unfinished basement, central air conditioning, two fireplaces, and a three-car garage. The subject property is located in Arlington Heights, Wheeling Township, Cook County. The property is classified as a class 2-09 two-story residence, 5,000 square feet and over, under the Cook County Real Property Assessment Classification Ordinance.

The subject property is an owner occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board the prior year under docket number 08-26093.001-R-1. In the appeals, the appellant submitted an appraisal prepared by real estate appraiser Jennifer Kissane of JMK Appraisal Services, LLC, estimating the subject property had a market value of \$1,100,000 as of January 19, 2009. The Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$98,995 based on the evidence submitted by the parties. For purposes of this appeal, the appellant submitted a copy of the

same appraisal report presented in the 2008 assessment appeal to demonstrate that the subject was being overvalued.¹

Based on this evidence, the appellant requested the subject's assessment be reduced to \$88,775.

The board of review submitted its "Board of Review Notes on Appeal" wherein the final assessment of the subject property totaling \$108,325 was disclosed. The final assessment of the subject property reflects a market value of approximately \$1,217,135 including land, using the 2009 three-year median level of assessments for Class 2 property in Cook County of 8.90% as determined by the Illinois Department of Revenue.

The board of review submitted a one-page "Building Record Residential" form that references the subject parcel identification number and appears to indicate the property is now a class 2-08 residence under the Ordinance with a dwelling size of 4,985 square feet.

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 finds that it has jurisdiction over the parties and the subject matter of this appeal.

The record in this appeal disclosed the subject property had a final total assessment for the 2009 tax year of \$108,325. The final assessment of the subject property reflects a market value of approximately \$1,217,135 including land, which is greater than the estimated market value as reflected in the appraisal presented by the appellant. The Board also takes notice of its prior year's decision in docket number 08-26093.001-R-1 wherein the subject's assessment was reduced to \$98,995 based on the evidence submitted by the parties.

The Property Tax Appeal Board also recognizes that section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides that the prior year's decision lowering the assessment should be carried forward to the 2009 tax year, subject only to equalization, where the property is an owner occupied residence and the tax years are within the same general assessment period. The Property Tax Appeal Board also takes notice that 2008 and 2009 are in the same general assessment period for Wheeling Township. (86 Ill.Admin.Code §1910.90(i)) However, the Board finds that in this case 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).

¹ The appellant also present a spreadsheet with two properties which sold in November 1999 and January 2003. Given the lack of proximity in time of these sales to the valuation date at issue of January 1, 2009, this market data will not be further examined in this decision.

The Property Tax Appeal Board also takes notice that the Cook County Board of Commissioners through the passage of Ordinance No. 08-O-51 (the "Ordinance") amended Chapter 74 Taxation, Article II, Division 2 Section 74-64, effective for the 2009 tax year. (See 86 Ill.Admin.Code §1910.90(i).) The 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 2008 tax year to the 2009 tax year without recognizing the fact that assessment levels were reduced in Cook County for the 2009 tax year is inequitable since the prior year's decision was founded on a substantially higher level of assessment. The Uniformity Clause of the Illinois Constitution provides 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 at a certain proportion of its market value while the same kind of property in the same taxing district is taxed at a substantially higher or lower proportion of its market value. Kankakee County Board of Review, 131 Ill.2d 1, 20 (1989); Apex Motor Fuel, 20 Ill.2d at 401; Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 234 (1998). The Board finds that carrying forward the decision from the 2008 tax year to the 2009 tax year would violate this directive.

The issue before the Property Tax Appeal Board is the subject's fair market value. When overvaluation is the basis of the appeal the value of the property must be proved 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). 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 reviewed the record and considered the evidence, the Board concludes that the appellant has satisfied this burden.

The appellant submitted an appraisal of the subject property with a final value conclusion of \$1,100,000, while the board of review submitted no substantive market value data to support its estimated market value of the subject property. The Property Tax Appeal Board finds that the appraisal submitted by the appellant estimating the subject's market value of \$1,100,000 is the best evidence of the subject's market value in the record.

Based upon the market value as stated above, the Property Tax Appeal Board finds that a reduction is warranted. Since market value has been determined the 2009 three-year median level of assessment for Class 2 property in Cook County as determined by

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the Illinois Department of Revenue of 8.90% shall apply. (86
Ill.Admin.Code §1910.50(c)(2)(a)).

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.