



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

APPELLANT: John Wettersten  
DOCKET NO.: 09-27417.001-R-1  
PARCEL NO.: 05-30-401-019-0000

The parties of record before the Property Tax Appeal Board are John Wettersten, the appellant, by attorney Mitchell L. Klein, of Schiller Klein P.C., 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:** \$43,942  
**IMPR:** \$71,758  
**TOTAL:** \$115,700

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject 34,465 square foot site is improved with a two-story masonry single-family dwelling that contains 4,099 square feet of living area. The dwelling is approximately 43 years old and features a partial finished basement, central air conditioning, three fireplaces, and an attached 2.5-car garage. The property also features an inground swimming pool and is located in Winnetka, New Trier Township, Cook County. The property is classified as a class 2-08 two-story residence, up to 62 years of age, 3,801 to 4,999 square feet, under the Cook County Real Property Assessment Classification Ordinance.

The subject property is an owner occupied residence that was the subject matter of appeals before the Property Tax Appeal Board the prior years under docket numbers 07-21250.001-R-1 and 08-21866.001-R-1. In those appeals, the Property Tax Appeal Board rendered decisions lowering the assessment of the subject property to \$148,090 based on the evidence submitted by the parties. For the 2007 and 2008 appeals, the appellant submitted an appraisal prepared by real estate appraiser Todd R. Swanson of Preferred Appraisal, Inc. estimating the subject property had a

market value of \$1,475,000 as of January 1, 2007. The appraiser concluded an estimated value of \$1,475,000 for the subject. Thus, the appellant requested a reduction in the subject's total assessment to \$148,090 which would reflect the appraised value when applying the 2007 median level of assessments for Class 2 property in Cook County of 10.04%.

For purposes of this appeal, the appellant submitted an appraisal prepared by Scott Waxman of Preferred Appraisal, Inc. with an estimated market value for the subject of \$1,300,000 as of January 1, 2009. The appraiser used both the cost and sales comparison approaches to value to arrive at his opinion. Analysis of the sales data reveals that the comparables had varying degrees of similarity and dissimilarity to the subject property and the appraiser made adjustments to the comparables for various differences to opine a value under the sales comparison approach of \$1,300,000. Likewise, under the cost approach the appraiser estimated a value for the subject property of \$1,344,700. In reconciling to the two value conclusions, the appraiser placed most emphasis on the sales comparison approach and estimated the market value of the subject property as \$1,300,000 as of January 1, 2009.

Based on this evidence the appellant requested the subject's assessment be reduced to reflect the appraised value for an assessment of approximately \$117,780 under the tentative three-year median level of assessments for Class 2 property of 9.06% in Cook County for 2009.

The board of review submitted its "Board of Review Notes on Appeal" wherein the final assessment of the subject property totaling \$163,551 was disclosed. The final assessment of the subject property reflects a market value of approximately \$1,837,652 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.

In support of the subject's assessment, the board of review submitted descriptions and assessment information on four comparables to demonstrate the subject was being assessed uniformly. The board of review did not substantively respond to the appellant's overvaluation argument.

In rebuttal, the appellant contended that the board of review failed to address the appellant's overvaluation argument and argued that the subject's assessment should be modified so as to reflect its market value at the "proper level of 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 \$163,551. The final assessment of the subject property reflects a market value

of approximately \$1,837,652 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 years decisions in docket numbers 07-21250.001-R-1 and 08-21866.001-R-1 wherein the subject's assessment was reduced to \$148,090 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. 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).

The Property Tax Appeal Board 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(3<sup>rd</sup> 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 \$1,300,000, 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 \$1,300,000 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 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: February 24, 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.