



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

APPELLANT: John Harris
DOCKET NO.: 09-27507.001-R-1
PARCEL NO.: 05-27-421-019-0000

The parties of record before the Property Tax Appeal Board are John Harris, the appellant(s), by attorney Dennis W. Hetler, of Dennis W. Hetler & Associates PC 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: \$ 12,025
IMPR.: \$ 56,683
TOTAL: \$ 68,708

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property has 6,500 square feet of land, which is improved with a 68 year old, two-story, masonry, single-family dwelling containing 2,282 square feet of living area. The subject includes three and one-half baths, air conditioning, a one-car garage, and a full unfinished basement. The subject is located in New Trier Township, Cook County. The appellant argued that the market value of the subject property was not accurately reflected in its assessed value.

In support of the market value argument, the appellant, via counsel, submitted an appraisal undertaken by Garrat Van Wagenen of Vantage Appraisal Corp. The appraisal report states that Van Wagenen is licensed as a State of Illinois certified residential real estate appraiser. The appraiser stated that the subject had an estimated market value of \$772,000 as of November 17, 2007. The appraisal report utilized the sales comparison approach to value to estimate the market value for the subject property. The appraisal report states that Van Wagenen personally inspected the subject property, and that the subject's highest and best use as improved is its present use.

Under the sales comparison approach, the appraiser analyzed the sales of three suggested comparables, which are described as

two-story, single-family dwellings that are from 84 to 104 years old, and contain from 1,835 to 2,376 square feet of living area. Additionally, the suggested comparables have two and one-half baths, two of the properties have air conditioning, all of the properties have a garage, ranging from a one-car to a two-car garage, and either a full unfinished basement, or a full finished basement. These suggested comparables sold from April 2007 to August 2007 for between \$755,000 and \$785,000, or from \$321.97 to \$411.44 per square foot of living area, including land. 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 to value of \$772,000.

The cost approach to value and the income approach to value were not developed for the appraisal. The appraiser gave the most weight to the sales comparison approach to value. Thus, the appraiser concluded that the subject's appraised value was \$772,000 as of November 17, 2007. 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 \$77,200 was disclosed. The subject's final assessment yields a fair market value of \$867,416 when the 2009 Illinois Department of Revenue three-year median level of assessment for Class 2 properties of 8.90% is applied. In support of the subject's assessment, the board of review presented 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 66 to 82 years old, and contain from 2,281 to 2,623 square feet of living area. Additionally, the suggested comparables have two and one-half to three and one-half baths, all of the properties have from one to two fireplaces, three of the properties have air conditioning, all of the properties have a garage, ranging from a one-car to a two-car garage, and either a full unfinished basement, a full basement with a formal recreation room, or a partial unfinished basement. These suggested comparables have improvement assessments ranging from \$32.50 to \$36.64 per square foot of living area. The subject's improvement assessment is \$32.41 per square foot of living area.

The board of review also submitted a list of sales of properties located within the subject's neighborhood. This list included the property identification number, deed number, the date of the sale, and the sale price for 20 properties. No further information was provided regarding these properties. 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 decision in docket number 07-21473.001-R-1, wherein the subject's assessment was reduced to \$77,500 based on the evidence submitted by the parties. The Board also takes judicial

notice of its 2008 decision in docket number 08-22523.001-R-1, wherein the subject's assessment was reduced to \$77,500 under Section 16-185 of the Property Tax Code. 35 ILCS 200/16-185.

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 also 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 2007 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 decisions from tax year 2007 and 2008 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 sales comparison approach 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 the information provided was raw sales data.

Therefore, the Board finds the subject had a market value of \$772,000 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 \$68,708, while the subject's current total assessed value is above this amount. Therefore, the Board finds that a reduction 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.

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 22, 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.