



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

APPELLANT: Sue Hertzberg
DOCKET NO.: 09-28527.001-R-1
PARCEL NO.: 05-35-109-019-0000

The parties of record before the Property Tax Appeal Board are Sue Hertzberg, the appellant, by attorney Edward P. Larkin, of Edward P. Larkin, Attorney at Law in Des Plaines; 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: \$ 19,596
IMPR.: \$ 75,905
TOTAL: \$ 95,501

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2009 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property is 86 years old, and consists of a one-story dwelling of masonry construction containing 2,475 square feet of living area. Features of the home include a full

basement, two fireplaces and a two-car garage. The subject property has a 11,040 square foot site, is located in New Trier Township, Cook County and is classified as a Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contended assessment inequity and a contention of law as the bases of the appeal. In support of this argument the appellant submitted information on three suggested equity comparables. The appellant also submitted a photograph of the subject property, a legal brief and a print-out from the Cook County Assessor website with 2010 assessment data. The appellant argued that the decisions in Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84, 322 N.E.2d 833 (1974) and The 400 Condominium Association, et al., v. Tully, 79 Ill.App.3d 686, 398 N.E.2d 951 (1st Dist. 1979), require that the assessment of \$95,501 for 2009 must be reduced to the assessment of \$71,270 set by the board of review for 2010.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$95,501. The subject property has an improvement assessment of \$75,905 or \$30.67 per square foot of living area. In support of its contention of the correct assessment the board of review submitted information on four suggested equity comparables. The board of review also submitted a legal brief, wherein it argued that the appellant's reliance on Hoyne and 400 Condominium is unfounded.

The appellant proffered a one-page brief as rebuttal evidence.

Conclusion of Law

The taxpayer contended assessment inequity as one of the bases of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the best evidence of assessment equity to be appellant's comparables #1 and #3, and board of review's comparables #1 and #3. These comparables had improvement assessments that ranged from \$23.00 to \$33.90 per square foot of living area. The subject's improvement assessment of \$30.67 per square foot of living area falls within the range established by the best comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and holds that a reduction in the subject's assessment is not justified.

Regarding the appellant's contention of law, the Board finds that there is no merit to the appellant's argument that Hoyne and 400 Condominium stand for the proposition that an assessment reduction in a subsequent year requires an assessment reduction in the tax year at issue absent a glaring error in calculation. The Supreme Court in Hoyne observed that that case presented unusual circumstances coupled with a grossly excessive assessment increase from \$9,510 in 1970 to \$246,810 in 1971. Consequently, it remanded the case for the lower court to ascertain the correct assessed valuation. Hoyne, 60 Ill.2d at 89-90, 322 N.E.2d at 836-37.

The Appellate Court in the recent case of Moroney v. Illinois Property Tax Appeal Board, 2013 Ill.App. (1st) 120493, 2 N.E. 3d 552, distinguished Hoyne and 400 Condominium as confined to their unique facts. The Court rejected that appellant's argument that those prior cases stood for the proposition that "subsequent actions by assessing officials are fertile grounds to demonstrate a mistake in prior year's assessments." Moroney, 2013 Ill.App. 120493 at ¶46, 2 N.E.3d at 530. There was no evidence in Moroney that there was any error in the calculation of the taxpayer's 2005 assessment. Moreover, as the Appellate Court observed, "just because factors warranting a reduction existed in 2006, does not mean they existed in 2005, or any other year for that matter (which is why property taxes are assessed every year)." Id.

Based on this record the Board finds that the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed. The Board further finds that the subject's assessment is supported by the board of review's comparables. Therefore, the Board holds that a reduction in the subject's assessment is not justified.

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.

Ronald R. Cuit

Chairman

Frank A. Huff

Member

Mario M. Louis

Member

J.R.

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 23, 2015

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.