



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

APPELLANT: Don Nadick
DOCKET NO.: 09-29230.001-R-1
PARCEL NO.: 05-06-405-013-0000

The parties of record before the Property Tax Appeal Board are Don Nadick, the appellant(s), by attorney Mitchell L. Klein, of Schiller Klein 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: \$13,936
IMPR: \$116,584
TOTAL: \$130,520

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story, single-family dwelling of stucco construction that contains 3,532 square feet of living area. The dwelling is approximately ten years old with features that include a finished partial basement, central air conditioning, two fireplaces and a two-car garage. The appellant argued unequal treatment in the assessment process as the basis of this appeal.

In support of the equity argument, the appellant submitted descriptions and assessment information on a total of three properties suggested as comparable and located within the subject's neighborhood code. The properties are described as two-story, stucco, single-family dwellings. The comparables contain partial or full finished basements, one or two fireplaces, air conditioning, and two-car garages. The properties range: in age from one to 15 years; in size from 3,047 to 3,684 square feet of living area; and in improvement assessments from \$87,956 to \$123,130 or from \$28.86 to \$33.42 per square foot of living area.

The appellant's information lists comparable #4 as one year old without further documentation.

In rebuttal, the appellant also submitted copies of decisions issued by the Property Tax Appeal Board disclosing the subject property was the subject matter of appeals before the Property Tax Appeal Board the prior two years under Docket Numbers 07-21193.001-R-1 and 08-22636.001-R-1. In those appeals the Property Tax Appeal Board issued decisions lowering the assessment of the subject property to \$130,520 based on an appraisal. Based on this evidence the appellant, in rebuttal, requested the subject's assessment for the 2009 tax year be reduced to \$130,520.

The board of review submitted its "Board of Review Notes on Appeal" wherein the final assessment of the subject property totaling \$147,346 was disclosed. The subject has a land assessment of \$13,936 and an improvement assessment of \$133,410 or \$37.77 per square foot of living area.

The board of review also included descriptions and assessment information on four comparables to demonstrate the subject was being assessed uniformly. The comparables were described as being located in the subject's neighborhood code with two located within one mile of the subject. Each comparable was improved with a two-story, single-family dwelling of stucco or frame and masonry construction. The properties range in age from seven to 12 years and in size from 3,047 to 3,774 square feet of living area. The comparables had a partial or full basement with three finished, one or two fireplaces, air conditioning, and a two car garage. Their improvement assessments ranged from \$87,956 to \$125,753 or from \$28.87 to \$37.11 per square foot of living area. The board's comparable #4, which is the same comparable as the appellant's #1, lists the age as 12 years old; the board also included the property characteristic printout from the county which also lists the age as 12 years.

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 Board further finds the evidence in the record does not demonstrate a change in the assessment is warranted.

The record in this appeal disclosed the subject property had a final total assessment for the 2009 tax year of \$147,346. The parties presented a total of seven properties suggested as comparable to the subject. The PTAB finds the appellant's comparables and the board of review's comparables #2, #3 and #4 most similar to the subject in size, design, construction and age. The properties are described as two-story, stucco, single-family dwellings. The properties range: in age from seven to 15 years; in size from 3,047 to 3,774 square feet of living area; and in improvement assessments from \$28.86 to \$33.32 per square foot of living area. In comparison, the subject's improvement assessment of \$37.77 per square foot of living area is above the

range of these comparables. Therefore, after considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is not supported and a reduction in the improvement assessment is warranted.

The Property Tax Appeal Board 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 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 2007 and 2008 tax years 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 market value and 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 decisions from the 2007 and 2008 tax year to the 2009 tax year would violate this directive.

Based on the foregoing analysis, the Board finds a reduction in the subject's assessment is warranted for the 2009 assessment.

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: March 23, 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.