



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

APPELLANT: Simon Firmin
DOCKET NO.: 09-29237.001-R-1 through 09-29237.003-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Simon Firmin, 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
09-29237.001-R-1	05-07-420-007-0000	6,552	20,655	\$ 27,207
09-29237.002-R-1	05-07-420-008-0000	6,552	20,655	\$ 27,207
09-29237.003-R-1	05-07-420-009-0000	6,552	21,360	\$ 27,912

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 4,368 square feet of land, which is improved with a 52 year old, two-story, masonry, single-family dwelling. The subject's improvement size is 3,662 square feet of living area, and its total assessment is \$137,374. This assessment yields a fair market value of \$1,543,528, or \$421.50 per square foot of living area (including land), after applying the 2009 Illinois Department of Revenue three year median level of assessment for Class 2 properties of 8.90%. The subject's assessment was reduced in the previous tax year by the Property Tax Appeal Board (the "Board") in docket number 08-22532. The appellant, via counsel, argued that the fair market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal.

In support of the market value argument, the appellant submitted evidence showing that the subject sold in June 2009 for \$925,000. This evidence included a settlement statement, a printout from the Multiple Listing Service, and a Residential Real Estate Contract. Furthermore, the appellant's pleadings state that the sale was not between related parties, that the subject was advertised for sale on the open market, that the parties used a real estate broker, and that the sale was not pursuant to a

foreclosure or a short sale. 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 total assessment of \$137,374 was disclosed. In support of the subject's assessment, the board of review submitted descriptive and assessment information for four properties suggested as comparable to the subject. The comparables are described as two-story, frame or masonry, single-family dwellings. Additionally, the comparables range: in age from 1 to 13 years; in size from 2,971 to 3,709 square feet of living area; and in improvement assessments from \$32.03 to \$40.96 per square foot of living area. The comparables also have several amenities. The board of review's grid sheet also states that Comparable #1 sold in March 2008 for \$1,450,000, or \$488.05 per square foot of living area, including land; Comparable #2 sold in March 2007 for \$1,479,000, or \$473.73 per square foot of living area, including land; and that Comparable #4 sold in January 2007 for \$1,580,000, or \$445.45 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant asked that the board of review's evidence be given no weight because it did not address the appellant's market value argument. The appellant also submitted the subject's 2010 improvement assessment as determined by the board of review, which was \$76,749.

After reviewing the record and considering the evidence, the Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The Board 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 previous 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 decision from the previous tax year 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 sale of the subject in June 2009 for \$925,000. The sale is within six months of the 2009 lien date, and the appellant's pleadings support the arm's-length nature of the transaction because the buyer and seller are not related, the subject was advertised for sale on the open market, real estate brokers were used, and the sale was not pursuant to a foreclosure or a short sale. The Board gives little weight to the board of review's evidence as it was raw sales data that did not make any adjustments for age, exterior construction, improvement size, improvement type, location, or market conditions.

Therefore, the Board finds the subject had a market value of \$925,000 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 \$82,325, while the subject's

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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

Frank J. Huff

Member

Mark Morris

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: May 24, 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.