FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: William Barry
DOCKET NO.: 09-29578.001-R-1
PARCEL NO.: 14-33-413-042-0000

The parties of record before the Property Tax Appeal Board are William Barry, the appellant(s); 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:	$ 39,150
IMPR.:	$ 78,073
TOTAL:	$117,223

Subject only to the State multiplier as applicable.

ANALYSIS

The appellant's pleadings and the board of review's pleadings differ regarding the subject's land size, the subject's improvement size, and whether the improvements to the property consist of one building or two buildings. The appellant asserted, in the pleadings, that the subject is improved with a single 131 year old, two-story, frame building, containing five dwelling units within 3,540 square feet of living area. The appellant further asserted that the building has five baths, and a garage. The appellant also claims that the subject's land size is 5,200 square feet of land.

The appellant's appeal is based on unequal treatment in the assessment process. In support of the equity argument, the appellant submitted information on three comparable properties described as two-story, frame buildings that range in age from 119 to 126 years old, in size from 1,600 to 5,658 square feet of living area, and which contain from two to four dwelling units. The comparables have from two to four baths. The buildings have improvement assessments ranging from $13.37 to $19.10 per square foot of living area. The subject's improvement assessment is $22.05 per square foot of living area using the appellant's assertion that the subject contains only one improvement. The comparables' land assessments are all $7.50 per square foot of land.

In support of the subject's improvement size and land size, the appellant submitted a survey of the subject. The survey was done by John D. McTigue of McTigue & Spiewak, Inc. The survey states that McTigue is a State of Illinois certified professional land surveyor, and that the survey was done on October 29, 2004. The survey contains McTigue's professional seal and signature. The survey shows that the subject's land size is 5,220 square feet of land, and the subject's improvement size is 3,868 square feet of living area.

The appellant also submitted architectural plans of the subject with handwritten calculations of the subject's improvement size. The architectural plans were completed by William Foellmer, who is a State of Illinois licensed architect, and Foellmer's seal is affixed to the architectural plans. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $118,115 was disclosed. The board of review asserted that the subject's land size is 5,339 square feet of land, and that the subject contains two improvements. The board of review described Improvement #1 as a 131 year old, two-story, frame dwelling containing 2,121 square feet of living area, with a crawl, four baths, and air conditioning. In support of Improvement #1's assessment, the board of review presented descriptions and assessment information on four comparable properties consisting of two-story, masonry buildings that range in age from 111 to 131 years old, in dwelling units from two to four, and in size from 2,531 to 3,146 square feet of living area. One of the comparables has air conditioning, and all of the comparables have a full basement area, and a two-car garage. These comparables have improvement assessments ranging from $37.61 to $38.35 per square foot of living area.

The board of review described Improvement #2 as a 131 year old, two-story, frame dwelling containing 1,708 square feet of living area, with a crawl, and one bath. In support of Improvement #2's assessment, the board of review presented descriptions and assessment information on four comparable properties consisting of two-story, frame or masonry single-family dwellings that range in age from 116 to 131 years old, and in size from 1,800 to 2,160 square feet of living area. Three of the comparables have air conditioning, one has a fireplace, and all of the comparables have a full basement area, and a two-car garage. These comparables have improvement assessments ranging from $13.15 to $29.75 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted a letter that argued several points. First, the appellant asserted that the board of review's comparables are too distant from the subject to be considered as

comparable. In support of this argument, the appellant submitted a map showing the subject, the board of review's comparables, and the appellant's comparables. The appellant also argued that the board of review's comparables have a better condition than the subject, are classified differently under the Cook County Property Classification Ordinance than the subject, and have a different type of basement than the subject.

The appellant also submitted evidence to show that the improvement upon the subject is one improvement, and not two improvements as asserted by the board of review. This evidence included a permit application that was filed with the City of Chicago Department of Buildings on September 8, 1967 (the "Permit"). The Permit states that the subject has two improvements, and that the Permit was issued to "convert from 6 apts. to 5 apt. total number of apts. in both buildings. Both buildings are two story frame." The appellant also submitted a court order entered on June 15, 2009 by The Honorable Judge Sheldon C. Garber, Cook County Circuit Court Judge, in *Barry v. McManus*, case number 08-M1-712093 (the "Court Order"). The Court Order stated that the defendant's motion to stay eviction was denied, no further stays would be allowed, and that no further motions would be allowed. The appellant also submitted photographs of the subject, and re-affirmed the evidence previously submitted.

At hearing, the appellant testified that the Permit was issued to a previous owner to take two adjacent buildings on the subject's land, and join them together to form one improvement with five dwelling units. The appellant also testified as to the events that led to the Court Order being issued. The appellant, the plaintiff in the case the Court Order was entered in, sued a former tenant of his. The tenant lived in the west wing of the improvement and the appellant lived in the east wing. The tenant asserted that the Chicago Residential Landlord-Tenant Ordinance (the "Ordinance") was applicable because the east wing was a separate improvement from the west wing. The Ordinance is not applicable to owner-occupied dwellings that contain six units or less. Therefore, the Court had to make a finding of fact as to whether the improvement was one owner-occupied building, or two buildings. The appellant testified that the Court found that the improvement was one owner-occupied dwelling, and therefore, the Ordinance did not apply. The Court then entered the Court Order.

At hearing, the board of review representative, Gabrielle Nicalou, stated that Improvement #1 had a 10% occupancy factor in 2009. Improvement #1 is classified as a 2-11 property by the Cook County Assessor's Office under the Cook County Property Classification Ordinance.

After reviewing the record, hearing the testimony, 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 appellant contends unequal treatment in the subject's improvement assessment as the basis of the appeal.

Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data, the Board finds the appellant has met this burden.

Initially, the Board finds that the best evidence of whether the subject contains one improvement or two improvements is the survey, the architectural plans, the photographs of the subject, the Court Order, and the Permit, which were all submitted by the appellant. These documents showed that the subject consists of a single improvement. Therefore, the Board finds that the subject contains one improvement.

Second, the Board finds that the best evidence of the land size and improvement size of the subject is the survey submitted by the appellant. The survey showed that the subject has a land size of 5,220 square feet of land, and an improvement size of 3,868 square feet of living area. Therefore, the Board finds that these are the correct values for the subject's land and improvement size. All of the comparables submitted by both parties have a land assessment of $7.50 per square foot of land area. In comparison, the subject's land assessment of $7.67 per square foot of land is above this range, and a reduction is warranted.

Third, the Board finds that a portion of the subject had a 10% occupancy factor for tax year 2009. Had this portion been assessed at 100% occupancy, the subject's improvement assessment would be $148,336, which equates to $38.35 per square foot of living area using the improvement size of 3,868 square feet established above. Since there is no indication that any of the comparables submitted by the parties have an occupancy factor other than 100%, it is this value that must be used to properly analyze whether the subject's assessment is equitable.

The Board finds Comparable #1 submitted by the appellant, and Comparables #1 and #3 for Improvement #1 submitted by the board of review were most similar to the subject in location, size, style, exterior construction, features, and age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from $18.97 to $28.64 per square foot of living area. The subject's improvement assessment of $38.35 per square foot of living area is above the range established by the most similar comparables. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's improvement assessment is not equitable and a reduction in the subject's assessment is warranted to $28.00 per square foot of living area, or $108,304. However, this value is still above the improvement assessment established by the board of review. The Board finds that neither party was able to show, with any evidence, that an occupancy factor should be applied to the

property. Therefore, the Board will not apply the occupancy factor to the subject, and, thus, the Board finds that there shall be no change to the subject's improvement assessment for tax year 2009.

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.

Chairman

Member

Member

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 18, 2012

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.