FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: James Fox
DOCKET NO.: 09-35809.001-R-1
PARCEL NO.: 05-29-204-029-0000

The parties of record before the Property Tax Appeal Board are James Fox, the appellant(s), by attorney Thomas J. Thorson, of Raila & Associates, P.C. in Chicago; 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:	$ 50,133
IMPR.:	$ 177,194
TOTAL:	$ 227,327

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 38,564 square feet of land, which is improved with a 96 year old, two-story, frame, single-family dwelling. The subject's improvement size is 4,599 square feet of living area, and its total assessment is $227,327. The subject is located in New Trier Township, Cook County.

The subject property is an owner occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board (the "Board") in 2008 under docket number 08-23025.001-R-1. In that appeal, the Board rendered a decision lowering the subject's assessment to $227,749 based on a stipulated agreement entered into between the parties. The appellant asked that the subject’s market value from tax year 2008 be used in calculating the subject’s assessment for tax year 2009.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total assessment

of $227,327 was disclosed. The board of review did not provide any evidence in support of the subject's assessment.

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.

Section 16-185 of the Illinois Property Tax Code provides, in relevant part:

> If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, **shall** remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

35 ILCS 200/16-185 (emphasis added). The Board takes judicial notice that it rendered a decision lowering the subject's assessment in tax year 2008, and that 2008 and 2009 are in the same general assessment period for Lyons Township. The record indicates that the subject is an owner occupied dwelling. The record contains no evidence indicating that the subject sold in an arm's length transaction subsequent to the Board's 2008 decision, or that the Board's 2008 decision was reversed or modified upon review. For these reasons, the Board finds that the subject's assessment should be changed to reflect the Board's 2008 decision. However, the subject’s current assessment is already lower than the subject’s assessment for tax year 2008. Moreover, the Board cannot use the subject’s market value from tax year 2008, because to do so would be contrary to the plain language of Section 16-185. Section 16-185 uses the verb "shall" and, therefore, the Board is statutorily required to apply the previous year’s assessment, without modification. See Citizens Org. Project v. Dep't of Natural Res., 189 Ill. 2d 593, 598 (2000) (citing People v. Reed, 177 Ill. 2d 389, 393 (1997)) ("When used in a statute, the word 'shall' is generally interpreted to mean that something is mandatory."). Therefore, the Board finds that no 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.

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: January 24, 2014

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.