



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

APPELLANT: Yehuda Lebovits
DOCKET NO.: 09-35876.001-R-1
PARCEL NO.: 10-35-413-033-0000

The parties of record before the Property Tax Appeal Board are Yehuda Lebovits, the appellant(s), by attorney G. Terence Nader, of Schoenberg Finkel Newman & Rosenberg LLC 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: \$4,068
IMPR.: \$45,199
TOTAL: \$49,267

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 4,521 square foot parcel of land improved with a 58-year old, two-story, masonry, single-family dwelling containing two baths, a full, unfinished basement, and a two car garage. The appellant argued that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of the market value argument, the appellant's attorney submitted a color photograph of the subject as well as a copy of the Board's 2008 decision in docket #08-29412.001-R-1 wherein the total assessment was reduced to \$52,000. The appellant also submitted a brief asserting that the assessment

reflects a market value of \$325,000 and that this value should "carry over" to the 2009 tax year based on Section 1910.50 (h) and (I) fo the Property Tax Appeal Board Rules. Based on this evidence, the appellant requested an assessment reduction.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$49,267 was disclosed. The subject's assessment reflects a market value of \$553,562 using the 2009 three-year median level of assessment for Cook County Class 2 residential property as determined by the Illinois Department of Revenue of 8.9%.

The board of review submitted a brief citing 35 ILCS 200/16-185 and asserted that the statue in regards to "carrying over" an assessment is clear and that it is the assessment that carries forward to the remainder of the assessment cycle and not the market value. As a result of its analysis, the board of review requested an increase in the subject's assessment.

In rebuttal, the appellant asserted that the term "assessed value" within the statute must be read in a manner consistent with the power of Cook County to amend its ordinance establishing the level of assessment.

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

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 2008 tax year 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 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 decision from the 2008 tax year to the 2009 tax year would violate this directive.

The issue before the Board is the subject's fair market value. When overvaluation is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). 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. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the Board concludes that the appellant did not meet this burden and that a reduction based on market value is not warranted.

The Board finds that the appellant failed to submit either evidence to support the alleged market value or legal argument supporting its asserted statutory interpretation. Based on the foregoing analysis, the Board finds a reduction in the subject's assessment is not warranted for the 2009 tax year.

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. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Mario M. Lino

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: November 21, 2014

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.