



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

APPELLANT: Robert Britz
DOCKET NO.: 09-35868.001-R-2
PARCEL NO.: 05-21-412-017-0000

The parties of record before the Property Tax Appeal Board are Robert Britz, the appellant(s), by attorney Edward P. Larkin, of Edward P. Larkin, Attorney at Law in Des Plaines; 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: \$ 78,849
IMPR.: \$ 232,788
TOTAL: \$ 311,637

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Property Tax Appeal Board (the "Board") pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) challenging the assessment for the 2008 tax year. The Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a one-story dwelling of masonry construction with 3,371 square feet of living area. The dwelling is 51 years old. Features of the home include four and one-half baths, a full basement with a formal recreation room, central air conditioning, two fireplaces, and a two-car garage. The property has a 38,463 square foot site, and is located in New Trier Township, Cook County. The subject is classified as a

class 2-04 property under the Cook County Real Property Assessment Classification Ordinance.

The subject property is an owner occupied residence that was the subject matter of appeals before the Board in 2007 and 2008 under docket numbers 07-26484.001-R-2 and 08-22706.001-R-1, respectively. In both of those appeals, the Board rendered a decision lowering the subject's assessment to \$311,637. 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 board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$345,077. The subject's assessment reflects a market value of \$3,877,270, or \$1,150.18 per square foot of living area, including land, when applying the 2009 three year average median level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 8.90% as determined by the Illinois Department of Revenue. In support of the subject's assessment, the board of review submitted a memorandum objecting to the appellant's request to use the subject's market value from tax year 2008 in determining the subject's assessment for tax year 2009.

Conclusion of Law

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. The Board takes judicial notice that it rendered decisions lowering the subject's assessment in tax years 2007 and 2008, and that 2007, 2008, and 2009 are in the

same general assessment period for New Trier 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 2007 or 2008 decisions, or that the Board's 2007 or 2008 decisions were reversed or modified upon review. However, 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."). For these reasons, the Board finds that a reduction is warranted, and that the subject's assessment shall be reduced to reflect the Board's 2008 decision, plus the application of an equalization factor, if any.

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. F...

Member

Richard A. ...

Member

Mark ...

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.