FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Robert F. Messerly
DOCKET NO.: 10-21975.001-R-1
PARCEL NO.: 14-21-307-035-0000

The parties of record before the Property Tax Appeal Board are Robert F. Messerly, the appellant, by attorney Patrick J. Cullerton, of Thompson Coburn LLP 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:

LAND:	$24,623
IMPR.:	$69,247
TOTAL:	$93,870

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2010 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property is a 97 year-old, two-story dwelling of masonry construction containing 3,100 square feet of living area. Features of the home include a partial finished basement, air conditioning, two fireplaces and a two-car garage. The property has a 4,397 square foot site and is located in Lake View Township, Cook County. The property is a class 2-06 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating the subject property had a market value of $1,050,000 as of January 1, 2010.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $168,153. The subject's assessment reflects a market value of $1,880,906, or $606.74 per square foot of living area including land, when applying the 2010 three-year median level of assessments for class 2 property of 8.94% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted information on four suggested equity. These sales occurred from 1990 through 2007 and for prices ranging from $207,900 to $2,928,069. No further information was submitted for these sale comparables.

The appellant filed a rebuttal brief with the Board on June 18, 2012. Therein, the appellant argued that the board of review failed to submit sufficient evidence of the market value of the subject. The appellant reaffirmed the request for an assessment reduction. The appellant also argued that the Board should reduce the 2010 assessment because the board of review reduced the subject's 2011 assessment. The appellant cited the decisions in Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84, 322 N.E.2d 833 (1974) and The 400 Condominium Association, et al., v. Tully, 79 Ill.App.3d 686, 398 N.E.2d 951 (1st Dist. 1979), for the proposition that if an assessment is reduced in one year, the assessment for the prior year, if greater, should also be reduced. The appellant attached the board of review's January 25, 2012, letter for the 2011 assessment reduction to the rebuttal brief.

Conclusion of Law

The appellant's rebuttal argument for a reduction of the 2010 assessment based upon the application of Hoyne and 400 Condominium was not presented in the initial pleading and is, therefore, in violation of the Official Rules of the Property Tax Appeal Board. The Board notes that the board of review's letter notifying the appellant of the 2011 assessment reduction was dated prior to the filing of the appellant's initial pleading. "Rebuttal evidence shall not consist of new evidence... A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence. 86 Ill.Admin.Code 1910.66(c). Therefore, the information submitted in rebuttal shall not be considered by the Board.

Assuming, *arguendo*, that the appellant submitted proper rebuttal, the Board finds that there is no merit to the appellant's argument that Hoyne and 400 Condominium stand for the proposition that an assessment reduction in a subsequent year requires an

assessment reduction in the tax year at issue absent a glaring error in calculation. The Supreme Court in Hoyne observed that the facts in that case presented unusual circumstances coupled with a grossly excessive assessment increase from $9,510 in 1970 to $246,810 in 1971. Consequently, it remanded the case for the lower court to ascertain the correct assessed valuation. Hoyne, 60 Ill.2d at 89-90, 322 N.E.2d at 836-37.

The appellant inverts the holdings in those cases. The Supreme Court in Hoyne never found the 1970 assessment to be in error; it found the 1971 assessment to be grossly excessive. In this case, the appellant argued the 2010 assessment was too high merely because the 2011 assessment was reduced. The appellant failed to present any facts that suggest the board of review reduced the 2011 assessment because it was already grossly excessive due to a glaring error in calculation. Even if the appellant were to present such facts, there is no basis to conclude that the 2010 assessment should, therefore, be reduced. The Appellate Court in Moroney v. Illinois Property Tax Appeal Board, 2013 Ill.App. (1st) 120493, distinguished Hoyne and 400 Condonimium as confined to their unique facts. The Court rejected that appellant's argument that those prior cases stood for the proposition that "subsequent actions by assessing officials are fertile grounds to demonstrate a mistake in prior year's assessments." Moroney, 2013 Ill.App. 120493 at ¶46. There was no evidence in Moroney that there was any error in the calculation of the taxpayer's 2005 assessment. Moreover, as the Appellate Court observed, "just because factors warranting a reduction existed in 2006, does not mean they existed in 2005, or any other year for that matter (which is why property taxes are assessed every year)." Id.

As to the appellant's overvaluation argument, he contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant. The Board finds the subject property had a market value of $1,050,000 as of the assessment date at issue. Since market value has been established the 2010 three-year median level of assessment for class 2 property of 8.94% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(2)).

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

Acting 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: August 21, 2015

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.