

ASSESSMENT APPEALS
BEFORE THE
CIRCUIT COURT
AND THE
ILLINOIS PROPERTY
TAX APPEAL BOARD

Illinois Government Lawyers Association

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Nora Devine
Attorney
Steven B. Pearlman & Associates
312-832-0123
nad@stevepearlman.com



ASSESSMENT APPEAL PROCESS

Assessor



County Board of Review



PTAB

OR



CIRCUIT COURT

COOK COUNTY ASSESSOR

- ◉ Formal Appeal Process for Valuation Issues
- ◉ Filing deadlines are grouped by townships
- ◉ No opportunity for intervention
- ◉ Incentives - some intervention activity
- ◉ Homeowners' Exemptions

VALUATION APPEALS

- Fair market value of a property
- Assessment of the subject property is not uniform with other, similar properties in the area
- Vacancy
- Classification

BOARD OF REVIEW

- ◉ Cook - File when township opens
- ◉ Outside of Cook - Whole county opens at once
- ◉ BOR filing is a jurisdictional requirement in order to proceed at either the PTAB or the Circuit Court
- ◉ Ability for Interveners to participate is under-utilized

CIRCUIT COURT OR PTAB?

PTAB

- ◉ File within 30 days of Board of Review certification
- ◉ No filing fee
- ◉ Taxing districts can intervene
- ◉ Taxing districts can be the appellant
- ◉ No presumption that assessment is correct
- ◉ Lower burden of proof for market value determination
- ◉ De novo
- ◉ Intervenors notified 100K+

CIRCUIT COURT

- ◉ File 165 days from date taxes due
- ◉ Filing fee
- ◉ Taxing districts can intervene
- ◉ Assessment presumed correct
- ◉ High burden of proof
- ◉ De novo
- ◉ Intervenors not notified
- ◉ State's Attorney represents the Treasurer
- ◉ State's Attorney retains control over settling the case even if there are intervenors

WHAT IS A SPECIFIC OBJECTION?

35 ILCS 200/23-15(b)(1)

- ◉ Statutory action brought by the taxpayer before the circuit court in which the court “shall hear and determine all objections specified to the taxes, assessments, or levies in question.”
- ◉ “This Section shall be construed to provide a complete remedy for any claims with respect to those taxes, assessments, or levies, excepting only matters for which an exclusive remedy is provided elsewhere in [the Property Tax Code].” (emphasis added)

DETERMINATION

35 ILCS 200/23-15

- ◉ "The taxes, assessments, and levies that are the subject of the objection shall be presumed correct and legal, but the presumption is rebuttable. The plaintiff has the burden of proving any contested matter of fact by clear and convincing evidence." (emphasis added)
- ◉ Objections are heard de novo. In cases of incorrect valuation the court considers the objection without regard to the practices, procedures, methods, intent, or motivations of the assessing officials.

REQUIREMENTS

35 ILCS 23-5, 23-10

- ◉ An appeal must have been filed before the Cook County Board of Review
- ◉ Taxpayer must pay the real estate taxes in full, within 60 days of the first penalty date for the final installment of the taxes at issue
- ◉ Taxpayer must file the Specific Objection complaint within 165 days from the first penalty date for the final installment of taxes at issue. (75 Days outside of Cook)

THE COMPLAINT

35 ILCS 200/23-15

- ⦿ Taxpayer = Plaintiff
- ⦿ The County Collector (a/k/a Treasurer) is the defacto defendant. (The Collector does not have to file any responsive pleading).
- ⦿ Joinder of plaintiffs is allowed, but no case may proceed as a class action
- ⦿ No jury trials allowed

INTERVENTION

- ◎ Pursuant to the Illinois Supreme Court's ruling in *Madison Two Assocs. v. Pappas*, 227 Ill.2d 474, 884 N.E.2d 142 (2008), interested taxing districts are allowed to intervene in Specific Objection cases
- ◎ The right of taxing districts to intervene is not set forth in the Property Tax Code, it is allowed under the Code of Civil Procedure, 735 ILCS 5/2-404
- ◎ Ultimate authority to settle a case still resides with the State's Attorney

THE ILLINOIS PROPERTY TAX APPEAL BOARD 35 ILCS 200/16-160

- Taxpayer has 30 days from the later of the date of the Board of Review's decision, or the date the Board or Review certifies the township in which the property is located
- Filing an action before the PTAB precludes the filing of a specific objection case in the Circuit Court
- An interested taxing district can also file an appeal before the PTAB, usually seeking an increase in the assessment

BOARD OF REVIEW RESPONSE

IL. ADMIN CODE TITLE 86

§1910.40

- The Board of Review files its Notes on Appeal, which includes the final assessment and the property record card, with any evidence supporting the assessment
- The Board of Review has 90 days to file its Notes on Appeal and evidence, although a 30 day extension can be requested

INTERVENTION

IL. ADMIN. CODE TITLE 86

§1910.60

- ◉ An interested taxing district may file a Request to Intervene within 60 days of being notified of the appeal
- ◉ If a taxing district is the appellant, the taxpayer may file a Request to Intervene within 30 days of being notified of the appeal
- ◉ The intervening party's evidence shall be submitted with the Request to Intervene, although a 30 day extension can be requested
- ◉ Intervening taxing districts can request that the assessment be increased

DETERMINATION

IL. ADMIN. CODE TITLE 86

§1910.63

- ◉ Proceedings before the PTAB are de novo
- ◉ The actions of the assessing officials are not presumed correct
- ◉ Burdens:
 - Fair market value = preponderance of the evidence
 - Assessment uniformity = clear and convincing evidence
- ◉ Vacancy Relief = No go
- ◉ Income Argument (no appraisal) = No go

APPEALS AND ADMINISTRATIVE REVIEW

- ◎ SPO = appeal to Appellate Court
- ◎ PTAB = Administrative review action.
 - \$300,000 or less = Circuit Court.
 - \$300,000 and up = Appellate Court

*** Government almost never loses these ***

Standard of review:

- de novo for legal questions
- clear error for factual questions
- Mixed questions = room for argument