
Property Tax Law in Illinois

Volume II



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Property Tax Law in Illinois

Volume II

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Property Tax Law in Illinois

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Faculty

MARK R. DAVIS is a partner in the Chicago law firm of O'Keefe, Ashenden, Lyons & Ward where his main area of practice is property tax. Mr. Davis received his B.A. degree with distinction from the University of New Mexico and his J.D. degree from DePaul University College of Law. He has written and spoken frequently at seminars on real estate taxation, and he is the author of "Burdens of Proof and Presumptions in Property Tax Litigation," *12 Journal of Property Tax Management* 1 (Spring 2001) and "Taxable and Exempt Property," *REAL ESTATE TAXATION (IICLE 1997 & Supp. 2000)*. He also co-wrote the *Report of the Civic Federation Task Force on Cook County Classification and Equalization*, Civic Federation, Chicago, 1999. Mr. Davis is a member of the Chicago (member, committees on Real Estate Taxation and Legislation) and Illinois State bar associations, the International Association of Assessing Officers, the Institute of Professionals in Taxation and the City of Chicago's newly formed Property Tax Advisory Council. He has been designated as a certified Illinois assessing officer by the Illinois Property Assessment Institute. He also serves on the Civic Federation's Advisory Board and standing Property Tax Committee, and the Illinois Taxpayer's Federation's Property Tax Advisory Committee. Mr. Davis is admitted to the bar of the Illinois Supreme Court, the U.S. District Court for the Northern District of Illinois (General and Trial Bar), the U.S. Courts of Appeal for the Seventh Circuit and Federal Court, and the U.S. Supreme Court.

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<p>This manual was prepared to accompany the faculty's presentation.</p>

PROPERTY TAX LAW IN ILLINOIS

VOLUME II

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**Practice Before the State of Illinois
Property Tax Appeal Board (“PTAB”)**

Frederick R. Dempsey

PRACTICE BEFORE THE
STATE OF ILLINOIS
PROPERTY TAX APPEAL BOARD ("PTAB")

By Frederick R. Dempsey

If you do not already possess a current copy of the State of Illinois' publication Official Rules: Property Tax Appeal Board, order it today, along with the brochure, Appeal Information for Illinois Taxpayers (and, if relevant, Farm Appeal Information). Copies of the brochures are attached, but the Rules constitute a 65 page, spiral bound booklet. The Official Rules is a compact and indispensable reference guide to the agency's policies and practice rules. Statutory references are largely to 35 ILCS 200/16-160-195 and 86 Ill.Adm.Code 1910. A brief summary of the rules is provided as follows:

Jurisdiction. You have 30 days after the postmark date or personal service date of the written notice of decision of the board of review (BOR) to postmark your petition for appeal; those filing for property in Cook County have as an alternative date being within 30 days after the date that the BOR transmits to the assessor its final action on the township (cf. 35 ILCS 200/16-125) Section 1910.30(a). Petitioners from all counties can file within 30 days after the postmark date or personal service date of the written notice of the application of final adopted township equalization factors of the board of review. Section 1910.30(b). Faxed petitions and evidence will not be accepted.

Filing Requirements. (Sections 1910.30(a-m))

1) One petition, on the prescribed form, per PIN - unless a written request for the filing a single petition for multiple parcels is made within 30 days after the postmark date or personal service date of the written notice of decision of the board of review.

2) Petitions to be filed in triplicate, each petition shall be signed by contesting party or attorney.

3) Include a copy of the board of review decision.

4) Evidence to be filed in duplicate if less than \$100,000 change in assessed valuation is requested; otherwise in triplicate.

5) Contentions of law require a brief at filing; failure to do so results in dismissal unless an extension has been requested.

6) Incomplete information will result in the return of the petition or a letter requesting compliance within a 30-day period.

7) Upon written request for an extension to submit evidence "for good cause shown," the Board shall grant a 30-day extension. Examples of good causes include:

A) Inability to submit evidence beyond one's control;

B) Pendency of court action; and,

C) Death/illness of valuation witness.

8) Petitions filed by taxing districts must include the name and address of the owner of the property.

Board of Review's Response. (Sections 1910.40(a-f))

- 1) The Clerk of the PTAB notifies the BOR of the appeal.
- 2) The BOR has 30 days from notice of appeal to object to jurisdiction; or, file BOR Notes on Appeal and documentary evidence – in duplicate if change in assessed valuation sought of less than \$100,000; otherwise, in triplicate.
- 3) Objection to jurisdiction –written response due within 30 days after postmark of the notice of filing motion to dismiss.
- 4) Objection to Jurisdiction Denied – The BOR has 30 days from the PTAB decision to file the BOR Notes on Appeal and documentary evidence. Upon written request for an extension to submit evidence "for good cause shown," the Board shall grant the BOR a 30-day extension. Examples of good causes include:
 - A) Inability to submit evidence beyond one's control;
 - B) Pendency of court action; and,
 - C) Death/illness of valuation witness.
- 5) The Clerk of the PTAB shall send a copy of the BOR's documents to the contesting party.
- 6) The BOR shall notify all taxing districts within 30 days after receipt of the notice of filing of an appeal with the PTAB, if a change in assessed valuation sought is \$100,000 or more; the BOR to file certificate of service on the PTAB within 30 days affirming notice on taxing districts.

Determination of Appeal (Section 1910.50 (a-k))

1) Proceedings before the PTAB are *de novo*; decisions are based on equity and weight of the evidence; and, decisions can be rendered without hearing, although a hearing will be granted if requested in writing by any party.

2) The PTAB will consider Department of Revenue sales ratio studies.

3) Taxpayer elects remedy between filing at the PTAB or in Circuit Court pursuant to 35 ILCS 200/21-175 and 23-5.

4) If decision rendered after the BOR closes for complaints on subsequent year, appeal directly to the PTAB within 30 days.

5) Decisions shall remain in effect for remainder of the triennial/quadrennial period unless there is a subsequent arm's length sale establishing FMV.

6) Stipulations will be considered but must be supported by evidence.

Intervention (Section 1910.60 (a-g))

1) Any interested party can intervene and become a party to an appeal within 30 days after the postmark date of the written notice to taxpayer of the BOR decision, including:

- A) Taxing body that has revenue interest in BOR decision;
- B) Owner; and,
- C) Taxpayer of subject property.

2) Taxing bodies filing a Request to Intervene file in triplicate with all copies signed; documentary evidence must be submitted in triplicate; must be filed within 60 days after postmark date of notice of the BOR to the State's Attorney of the filing of an appeal; extensions to submit additional evidence must be written and shall be granted for 30 days.

Burdens of Proof/Evidence/Rebuttal Evidence (Sections 1910.63-66)

- 1) Assessment not presumed to be correct.
- 2) Burden of going forward is on the contesting party, but shifts to the BOR once evidence or sufficient evidence is submitted.
- 3) Burden of proof for market value basis: preponderance of the evidence.
- 4) Burden of proof for unequal treatment basis: clear and convincing.
- 5) Evidence of market value can include appraisal; evidence of recent sale; cost of construction; and not less than 3 recent sales of comparable properties.
- 6) Rebuttal evidence to be filed within 30 days of the BOR's notice; can counteract or disprove; and, shall not consist in new evidence.

Hearings (Section 1910.67)

- 1) Hearings are open to the public and appellant needs to engage a court reporter if \$100,000 or more of assessed value is contested between the BOR and applellant.

- 2) Hearing Officers have authority to admit/exclude evidence; administer oaths/affirmations; call witnesses; and, require submission of written briefs.
- 3) Appraisal testimony must be supported by documentation.
- 4) Continuances shall be granted for good cause shown in writing.

Miscellaneous Provisions (Sections 1910.68-90)

- 1) Subpoenas can be issued by the PTAB for good cause shown.
- 2) A sanction of default judgment shall result for failure to abide by the rules in sub-sections .30, .40, .60, .65, .67, and 68 of Section 1910; and, for failure to appear at the hearing, to furnish a court reporter, or for bad behavior.
- 3) Only an attorney licensed to practice in Illinois can represent a party at hearing.
- 4) A pre-hearing settlement conference can be requested by motion.
- 5) Decisions of the PTAB are subject to administrative review in Court [735 ILCS 5/Art. III and 35 ILCS 200/16-195] as follows:
 - A) Under \$300,000 in assessed valuation sought - Circuit Court,
 - B) \$300,000+ in assessed valuation sought – Appellate Court.
- 6) FOIA requests to be submitted in writing on FOIA forms provided by the PTAB.

In addition to the foregoing practice rules, the following issues should be considered before filing a complaint at the PTAB:

Real v. Personal Property – Classification Issues

- 1) Definition of real property (cf. 35 ILCS 200/1-130)
- 2) "Ad valorem personal property taxes shall not be levied on any personal property having tax situs in this State....No property lawfully assessed and taxed as personal property prior to January 1, 1979, or property of like kind acquired or placed in use after January 1, 1979, shall be classified as real property subject to assessment and taxation. No property lawfully assessed and taxed as real property prior to January 1, 1979, or property of like kind acquired or placed in use after January 1, 1979, shall be classified as personal property. 35 ILCS 200/24-5.
- 3) "Like kind" or substantially similar property:
 - A) Performs same function,
 - B) Produces same product,
 - C) Similar manner of attachment; or
 - D) Replacement of existing equipment.
- 4) Pre-1979 classification controls status, and purpose was to continue assessment practices of assessors. *Oregon Community Unit School Dist. v. PTAB*, 220 Ill.Dec. 858, 674 N.E.2d 129 (2nd Dist. 1996).
- 5) Test to differentiate real and personal property:

A) Intention Test. *Beeler v. Boylan*, 106 Ill.App.3d 667, 435 N.E.2d 1357 (4th Dist. 1982).

B) Integrated Industrial Plant Doctrine. *Ayshire Coal Co. v. PTAB*, 19 Ill.App.3d 41, 310 N.E.2d 667 (3rd Dist. 1974).

Authority to Increase Assessments

In deciding to elect as a remedy an appeal to the PTAB, attorneys should inform clients that an Illinois appellate court has held that the function of the PTAB is to determine a parcel's correct assessment and therefore it has the authority to increase assessments. *LaSalle Partners, Inc. v. Illinois Property Tax Appeal Board*, 269 Ill.App.3d 621, 646 N.E.2d 935 (2nd Dist. 1995).

####

Checklist for PTAB Petitions:

- Has the prescribed form been used?
- Is there one petition for each parcel being appealed?
- Is the property identified by PIN?
- Are the petition forms filed in triplicate (3 copies)?
- Is the evidence filed in duplicate (2 copies)?
- Is the original signature of contesting party or attorney on each petition?
- Has the petition been filed with the PTAB within 30 days of the postmark date or personal service of the board of review or board of appeals' decision?
- Is a copy of the board of review or board of appeals' decision attached?
- Is a photograph of the property being appealed attached?
- Is the factual basis of the objection(s) to the board of review or board of appeals' decision stated and if a contention of law is raised, is a legal brief attached?
- Are the return address and telephone number of the taxpayer or attorney listed?
- Has all of the assessment information for the property been disclosed on the appeal form?
 - Assessor's Land, Improvements, and Total Assessment
 - Board of Review or Board of Appeals: Land, Improvements, and Total Assessment
 - Your request: Land, Improvements, and Total Assessment



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State of Illinois Property Tax Appeal Board

Appeal Information for Illinois Taxpayers

1996 edition

Board Members

Michael J. Brown	Homer Henke
Charles Cain	Sharon U. Thompson
<hr/>	
James W. Chipman	
<i>Executive Director</i>	
Thomas M. Battista	
<i>Deputy Director, Des Plaines</i>	

Welcome Cook County property taxpayers!

The Property Tax Appeal Board (PTAB) extends a warm welcome to the property taxpayers of Cook County who for the first time have the opportunity to appeal property tax assessments to this agency. The Board and its staff will make every effort to treat each taxpayer with fairness and courtesy while giving your appeal careful consideration.

To all Illinois property taxpayers:

The Property Tax Appeal Board is an independent State agency that hears appeals from boards of review and the Cook County Board of Appeals regarding the valuation of assessed property. The PTAB has five members appointed by the Governor with the advice and consent of the Senate.

Please read this brochure carefully for it outlines the appeal process. If you have any questions, feel free to contact our staff who will make every effort to assist you.

If your property is located in Cook County, we encourage you to file your appeal and all related documentation with our office in Des Plaines. It is located at:

Property Tax Appeal Board
Suburban North Office Facility
9511 West Harrison Street, Suite 171
Des Plaines, IL 60016

Telephone (847) 294-4360
TDD (847) 294-4371

Office Hours: Monday through Friday 8:30 AM to 5:00 PM
If your property is located outside of Cook County, we encourage you to file your appeal and all related documentation with the Springfield office:

Property Tax Appeal Board
William G. Straton Office Building, Room 402
401 South Spring
Springfield, IL 62706

Telephone (217) 782-6076
TDD (217) 785-4477

Office Hours: Monday through Friday 8:30 AM to 5:00 PM
Both offices are open to the public during business hours. Our enthusiastic and knowledgeable staff is available to assist you during those times.

Questions frequently asked by property taxpayers

Why are my taxes so high?

Your tax bill depends on two factors: (1) the assessment of your property and (2) the amount of money your local taxing districts need to operate during the upcoming year. The assessment of your property is set by county assessing officials. If you live in Cook County, it is the County Assessor. If you live in any other county, it is a township assessor or the supervisor of assessments. Note: The PTAB can only revise your assessment. It has no jurisdiction over the tax rate, the amount of a tax bill, or the exemption of property from taxation.

What can I do if I think my assessment is unfair?

In Cook County, you can file a complaint with the County Assessor or the County Board of Appeals. You should check with these offices for the dates for filing assessment complaints each year. If you file an appeal with the board of appeals, be sure to appear at your scheduled hearing.

Taxpayers who live in counties other than Cook County can appeal to their county board of review. Check with the board of review for filing deadlines each year.

An appeal can be taken to the PTAB only if the taxpayer filed a complaint with the board of review or board of appeals. Petitions for appeal before the PTAB must be filed within 30 days of the postmark date of written notice of the board of review or board of appeals' decision, or the postmark date of the written notice of the application of final, adopted township multipliers by the board of review or board of appeals.

Who can appeal?

Only an owner of property or taxpayer dissatisfied with the decision of the board of review or board of appeals or a taxing body which has a tax revenue interest in the decision may file an appeal with the Property Tax Appeal Board.

How do I file my appeal forms with the PTAB?

You may file your forms:

- by mail with the PTAB's offices in Springfield or Des Plaines (they will be considered as filed on the date postmarked)
- or
- by personal delivery during business hours.

Petitions or any other type of information or evidence sent by a fax machine will NOT be accepted.

Is payment of my property taxes delayed by an appeal to the PTAB?

No. If you choose to appeal your board of review or board of appeals' decision, the taxes still come due. It is likely the matter will not be decided by the PTAB until after the taxes are to be paid. By statute, if the PTAB renders a decision in your favor, the taxes overpaid must be refunded.

How are decisions issued?

There are two ways the PTAB renders a decision in your appeal:

- On the record — A decision is based upon the written evidence submitted by you and the board of review or board of appeals. No hearing is required. A decision is issued after review of all the evidence and may be issued within a shorter period of time than a hearing of an appeal.
- Informal hearing — A decision is based upon the written evidence submitted by you and the board of review or board of appeals as well as testimony presented at an informal hearing. The decision is issued after review of the evidence and testimony at the proceeding. This type of appeal may require a longer period of time before a decision can be rendered.

Who can appear at a PTAB hearing?

The parties who may appear at a hearing before the PTAB are:

- the owner of property or the taxpayer of the property and/or their attorney.

- witnesses accompanying the owner or taxpayer who will testify in the case, and
 - local assessing officials representing the board of review or board of appeals and any witnesses.
 - taxing bodies and its witnesses.
- Hearings are open to the public.

Grounds for Appeal

There are several grounds for appeal. You may argue one or more of the following:

- Recent Sale or Comparable Sales — You must show that you are a recent purchaser and you paid less than the fair cash value indicated for the property as established by local assessing officials. You must supply copies of the RESPA (or settlement statement, a recent appraisal, or the real estate transfer declaration. Comparable sales data shown on property record cards or property characteristic printouts can also be included. Examples of the required data follow in the next category of this brochure.
- Equity/Uniformity — You must show that comparable or similar properties in your neighborhood have lower assessments than your property. Submit at least three comparable properties from your immediate neighborhood with all relevant data including copies of property record cards or property characteristic printouts.
- Recent Construction — You must show the actual costs included in the construction. Supply proper evidence of the price paid for the land as well as the recent construction costs of the building(s) including all labor and contractor costs.
- Contention of Law — A legal brief must be submitted detailing the contention of law you are raising.

What is a comparable property?

- A property submitted as a comparable should be of:
- Similar location, such as the same subdivision or neighborhood, and
- Similar size/age, such as 1800 square feet of living area; 10,000 square feet of land area; 4 years old; etc., and
- Similar construction type/quality, such as two-story, brick, frame, aluminum siding, etc., and
- Similar construction style, such as ranch, split-

level, two-story, etc.

Where do I find my property index number (PIN)?

Every parcel of land has a property/permanent index number (PIN). You must know this number. It can be found on your property tax bill or on a notice of proposed assessment or assessment change, if one has been received.

The Appeal Process Before the PTAB

- Appeals must be filed on the prescribed form within 30 days of the postmark date of the board of review or board of appeals' decision. Appeal forms sent to the PTAB by mail will be considered as filed on the date postmarked.
- A separate petition must be completed for each parcel of land appealed including the property's PIN and must be signed by the owner or taxpayer or their attorney.
- Appeal forms must be filed in triplicate (3) with original signatures. All written or documentary evidence must be submitted in duplicate (2) with the appeal petition. If the contesting party is unable to submit evidence with the appeal petition, a written request for an extension of time must be attached to the appeal petition.
- Appeal forms must include all relevant data including: the facts upon which the appeal is based, the assessments of the subject property made by local assessing officials and your requested assessment, the mailing address for the taxpayer or his/her attorney, and if a contention of law is raised, a legal brief. Each taxpayer has the burden of proving his/her case. Without this information, your appeal will be dismissed.
- Upon receipt of a completed appeal petition, the PTAB will assign a docket number to the appeal and notify you and the board of review or board of appeals.
- The board of review or board of appeals is then given 30 days to submit written evidence supporting the property's assessment or to request an extension of time to submit evidence.

Definitions

Real Property - the land itself with all things contained

therein and improvements thereon, including buildings and structures.

Fair Cash Value - the amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller.

Assessed Value - one-third of the fair cash value of a property, except in Cook County, which classifies property for assessment purposes and is discussed later in the brochure.

What if I lose before the PTAB?

Final decisions of the PTAB are reviewable in the courts under the Administrative Review Law (735 ILCS 5/3-101, *et seq.*) and 33 ILCS 200/16-195.

Other Information

By statute, PTAB decisions are based on equity and the weight of the evidence.

Appeals before the PTAB are *de novo*, meaning they are considered as if the board of review or board of appeals had never heard or decided your assessment appeal. The PTAB will consider only the evidence, exhibits, and briefs submitted by the parties to the appeal.

A taxpayer or taxing body is required to provide a court reporter at a hearing if a change of \$100,000 or more of assessed valuation is sought before the PTAB.

Property Classifications in Cook County

In Illinois, at the present time, only Cook County uses a classification system for assessing real estate. The percentages represent a portion of market value:

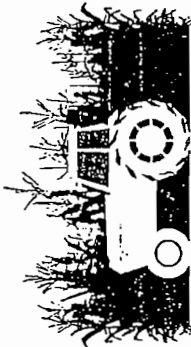
16%	Residential property of 6 units or less
22%	Vacant land
33%	Residential property of 7 units or more
36%	Industrial
38%	Commercial

- Is the evidence filed in duplicate (2 copies)?
- Is your signature or your attorney's signature on each petition?
- Are photographs attached of the farmland, farm residence and/or outbuildings which are the subject of the appeal?
- Is the factual basis of the objection(s) to the board of review's or board of appeals' decision stated and if a contention of law is raised, is a brief attached?
- Are the return address and telephone number of the taxpayer or attorney listed?
- Has all of the assessment information for the farm property been disclosed on the appeal form?
- Assessor's: Farmland, Home Site, Residence, Outbuildings, and Total Assessment
- Board of Review's/Board of Appeals': Farmland, Home Site, Residence, Outbuildings, and Total Assessment
- Your request: Farmland, Home Site, Residence, Outbuildings, and Total Assessment



State of Illinois Property Tax Appeal Board

Farm Appeal Information



Board Members

Max E. Coffey
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Homer Henke

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Sharon U. Thompson

Staff

James W. Chipman
Executive Director

Thomas M. Battista
Deputy Director, Des Plaines

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Farming is a major factor in our State's economic well-being. In 1993, Illinois ranked second in the nation for corn and soybean production and third in total exports of agricultural products. This brochure is intended to provide farm property owners or taxpayers with a basic understanding of the farm assessment and appeal process.

The Property Tax Appeal Board (PTAB) is an independent State agency that hears farm, residential, commercial, and industrial appeals from boards of review and the Cook County Board of Appeals.

If you have any questions, please contact our staff who will make every effort to assist you.

If your farm property is located outside of Cook County, we encourage you to file your appeal and all related documentation with our Springfield office:

Property Tax Appeal Board
William G. Stratton Office Building, Room 402
401 South Spring
Springfield, IL 62706
Telephone (217) 782-6076
TDD (217) 785-4427

Office Hours: Monday through Friday 8:30 AM to 5:00 PM

If your farm property is located in Cook County, we encourage you to file your appeal and all related documentation with our office in Des Plaines. It is located at:

Property Tax Appeal Board
Suburban North Office Facility
9511 West Harrison Street, Suite 171
Des Plaines, IL 60016
Telephone (847) 294-4360
TDD (847) 294-4371

Office Hours: Monday through Friday 8:30 AM to 5:00 PM

Both offices are open to the public during business hours. Our staff is available to assist you during those times if you have questions about your farm appeal.

THE ASSESSMENT OF RURAL AND FARM- LAND PROPERTY — A SEPARATE ASSES- MENT PROCESS

Illinois, like many other States, assesses farmland based on its agricultural use value rather than its market value. Section 10-115 of the Property Tax Code (35 ILCS 200/10-115) provides for an "agricultural economic value". This value is based upon land use under average level management, relative productivity of soils, and the present worth of the net income accruing to the land from farm production.

In order to qualify for a special farmland assessment,

Illinois law states the property in question must have been used as a farm for the previous two years (35 ILCS 200/10-110). The statute defines farm as "any property used solely for the growing and harvesting of crops; for the feeding, breeding, and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; ... the keeping, raising and feeding of livestock or poultry; ... fur farming, bees, fish and wildlife farming." (35 ILCS 200/1-60) A farmland assessment will not be given to property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use.

The assessment of real property, including farm property in Illinois, is the responsibility of your local county assessing officials. However, by law, certain responsibilities have been assigned to the State of Illinois, particularly the Department of Revenue. For example, the Department of Revenue is required to calculate soil productivity index use-value figures and certify them to county officials each year. These officials then apply these figures to the identified soil types on individual farms or parcels of farmland in order to establish an assessment. The process, however, is different in Cook County.

Note: For more information regarding the responsibilities of the Illinois Department of Revenue or its role in the assessment of farmland, contact the Department's Office of Local Government Services, Assessment Administration Division, in Springfield, Illinois, at (217) 782-3627.

THE ASSESSMENT OF RURAL AND FARM- LAND PROPERTY IN ALL COUNTIES EXCEPT COOK COUNTY

In setting the assessment of farm property, your local assessing officials must consider four separate parts of the farm. Each of these parts and their prescribed method of assessment are as follows:

Farm Home Site - is defined as land on a farm parcel used for residential purposes. The home site is assessed as all other residential land in the county at 33 1/3% of its market value.

The market value of the home site is whatever comparable, rural residential land is selling for in the area. This part of the farm assessment is subject to county board of review and Department of Revenue equalization factors.

Farm Residence - is assessed like all other residential improvements in the county at 33 1/3% of its market value. This part of the farm property is also subject to county board of review and Department of Revenue State equalization factors.

Farm Outbuildings - are improvements on the farm, such as housing for animals or machinery and storage for feed or grain. These structures are assessed at 33 1/3% of their contributory value to the productivity of the farm. Contributory value considers the current use of the improvements and what that use adds to the overall productivity of the farming operation. This part of the farm property assessment is subject only to county board of review factoring.

Farmland - is assessed according to its soil productivity considering farmland use and factors which may detract from the productivity of the soil. The State computes soil productivity index figures as a basis for the local assessment of individual parcels. The farmland portion of a farm property assessment is subject only to board of review factoring in order to achieve the assessments required by law.

Types of Farmland and Their Assessments

Farmland assessments can be classified into four separate categories.

1.) **Cropland** - is defined as all land from which crops were harvested or hay was cut; all land in orchards, citrus groves, vineyards, and nursery and greenhouse crops; land in rotational pasture and grazing land that could have been used for crops without additional improvements; land used for cover crops, legumes, and soil improvement grasses, but not harvested and not pastured; land on which crops failed; land in cultivated summer fallow; and idle cropland. (If land falls into any one or more of these categories, it will be assessed as cropland.)

Cropland is assessed according to the equalized assessed value of its soil productivity index (PI) as certified by the Department of Revenue and is debased to take into account factors including slope, drainage, ponding, flooding, and field size and shape.

Note: The soil productivity index number is used to determine the relative capacities of Illinois soils to produce principle grain crops grown in the State under a consistent level of management.

2.) **Permanent pasture** - is assessed at 1/3 of the debased productivity index equalized assessed value as cropland. It includes any pasture land except woodland pasture, which is not normally tilled except for renovation.

3.) **Other farmland** - includes woodland pasture, woodland including wood lots, timber tracts, cutover, and deforested land, and farm building lots other than home sites. This land is assessed at 1/6 of its debased productivity index equalized assessed value of cropland.

4.) **Wetland** - includes that portion of a farm tract

which could not be in cropland, permanent pasture or other farmland. It is assessed based on its contributory value to the farm property.

If you feel any part of your farmland is not properly classified in one of these categories, you should consult your local assessing officials.

Grounds for Appealing the Farm Home Site, Farm Residence, and Farm Outbuildings

There are several grounds for appealing these three farm assessments. You may argue one or more of the following:

Recent Sales or Comparable Sales - You must show that you are a recent purchaser and you paid less than the fair cash value indicated for the property as established by your local assessing officials. You must supply copies of the sales contract, RESPA (or settlement statement), a recent appraisal, or the real estate transfer declaration. Comparable sales data shown on property record cards or property characteristic printouts can also be used to establish market value.

Note: A comparable property is one which is similar to your property in: (1) location (neighborhood or area); (2) style (ranch, two story, etc.); (3) type of construction (frame, brick, etc.); (4) size (square feet of living area and land area) and (5) age (years or months).

Equalization - You must show that comparable or similar properties in your rural area have lower assessments than your property. Submit at least three comparable properties from your area with all relevant data including copies of property record cards or property characteristic printouts.

Recent Construction - You must show the actual costs included in the construction of your residence or outbuilding. Supply proper evidence of the price paid for the land as well as the recent construction costs of the building(s) including all labor and contractor related costs.

Contention of Law - A legal brief must be submitted detailing the contention of law you are raising.

Grounds for Appealing the Farmland

There are several grounds for appealing a farmland assessment. You may argue one or more of the following:

Reclassification from one use to another use - The PTAB accepts appeals based on reclassification issues. This means that if your property was once classified as farm property, but was reclassified as residential, commercial, or industrial property by local assessing officials in a subsequent assessment year, you can request the PTAB to reinstate the farm assessment. Remember, in order to qualify for a farmland

assessment, you must show the property was used as a "farm" during the previous two years. You should submit a photograph(s) showing the property had been used for farm purposes and be prepared to discuss the farm uses to which the property has been put in the event a hearing is scheduled before the PTAB.

Productivity - If you are contesting the soil productivity figures assigned to your farm, you should submit: (1) a soil survey map of your farm, (2) the weighted productivity index numbers of your farm, and (3) the productivity index information for your soil types.

Farmland use classification - If you are contesting the farmland use classification, such as the number of acres utilized as cropland, permanent pasture, other farmland and/or wetland, you should submit an aerial photo and an acreage classification breakdown of the contested area.

Flooded area abatement - The PTAB considers flooding to be a historical sequence of temporary inundation of cropland by water which results in crop loss. In order to establish whether a flooding abatement is proper, you should submit: (1) an aerial photo of the area, (2) photograph(s) of the affected acreage, and (3) a ten year yield history demonstrating crop loss due to flooding.

THE ASSESSMENT OF RURAL AND FARM- LAND PROPERTY IN COOK COUNTY ONLY

Cook County assessment officials use a separate method of assessing farm property. Farmland assessments are not determined by productivity index figures. Rather, a flat MARKET VALUE rate of \$2,250 per acre is assigned to all farmland in each township in the county except Lemont Township, where farmland is valued at \$1,700 per acre. Farmland assessments are not subject to State equalization. A one acre farm home site is valued as residential property and assessed at 16% of that value. A home site assessment is subject to equalization. Farm outbuildings are valued based on cost manuals while the land beneath the structures is valued at either \$2,250 or \$1,700 per acre depending on the township where the property is located. An outbuilding assessment is not equalized.

Farmland in Cook County is NOT categorized into cropland, permanent pasture, other farmland or wetland. Market value or equity/uniformity arguments may be raised in a Cook County appeal involving a home site, a residence or an outbuilding.

For more information, you should consult the offices of the Cook County assessor.

THE APPEAL PROCESS BEFORE THE PTAB

Farm appeal forms can be obtained from the offices of your local board of review/board of appeals and super-

visor of assessments or at the offices of the PTAB. Your farm appeal must be filed on the prescribed form within 30 days of the postmark date of the board of review's or board of appeals' decision. Appeal forms sent to the PTAB by mail will be considered as filed on the date postmarked.

A separate petition must be completed for each parcel of land appealed including the property's parcel identification number (PIN) and each petition must be signed by the owner or taxpayer or their attorney.

Appeal forms must be filed in triplicate (3) with original signatures. All written or documentary evidence must be submitted in duplicate (2) with the appeal petition. If you are unable to submit evidence with the appeal petition, a written request for an extension of time must be attached to the appeal petition.

Make sure the appeal forms include all relevant data requested on the form, otherwise, your appeal could be dismissed.

Upon receipt of a completed appeal petition, the PTAB will assign a docket number to the appeal and notify you and the board of review or board of appeals.

OTHER INFORMATION

PTAB decisions are based on equity and the weight of the evidence.

Appeals before the PTAB are *de novo*, meaning they are considered as if the board of review or board of appeals had never heard or decided your assessment appeal. The PTAB will consider only the evidence, exhibits, and briefs submitted by the parties to the appeal. This can be the same evidence you submitted to the board of review/board of appeals and/or any other new documentation.

CHECKLIST FOR YOUR FARM APPEAL BEFORE THE PTAB:

- Has the prescribed form been used?
- Is there one appeal form for each parcel of land being appealed?

Note: In situations where there are numerous parcels involved in one appeal, the taxpayer or appellant may request, in writing, the PTAB to waive the requirement of a single petition for each parcel being appealed. If this requirement is waived by the PTAB, the appellant must still provide a list of all of the parcel numbers with the corresponding assessments and the appellant's requested assessment for each parcel.

- Is the property identified by its parcel identification number (PIN)?
- Are the petition forms filed in triplicate?

RESIDENTIAL APPEAL
State of Illinois — Property Tax Appeal Board

Room 402 Stratton Office Building
401 South Spring Street
Springfield, IL 62706-4001
(217) 782-6076
TDD (217) 785-4427

Suburban North Regional Office Facility
9511 West Harrison Street, Suite 171
Des Plaines, IL 60016-1563
(847) 294-4360
TDD (847) 294-4371

Failure to properly complete this form and provide the necessary documentation shall result in dismissal of your appeal.

For Assessment Year 20_____

Are you appealing off a recently issued township equalization factor? (Multiplier) ☐ yes ☐ no (Not applicable to Cook County.)
If an appeal was filed with the Property Tax Appeal Board on this Tax Parcel for the prior year, please indicate the Property Tax Appeal Board docket number assigned to the appeal: _____

Section I

This form must be completed and filed within 30 days of the postmark on the decision you received from the Board of Review. Any additional written evidence must be submitted with this PTAB form. If you are unable to submit the additional written information with this form, a letter requesting an extension of time for filing the additional evidence must be submitted with this form. Without a written request for an extension, no evidence will be accepted after the 30 days. The Property Tax Appeal Board will grant only reasonable requests up to 90 days. **Faxed copies of this form will not be accepted.**

WHERE TO FILE THIS APPEAL:

If your property is located **OUTSIDE** of Cook County, file your appeal and all related documentation with the **SPRINGFIELD** office. If your property is located **IN** Cook County, file your appeal and all related documentation with the **DES PLAINES** office. The addresses are listed above. Without prior Property Tax Appeal Board approval, a separate appeal must be filed on each Individual Property Identification Number (P.I.N.), or a breakdown may be submitted (see 2c below).

This form must be submitted in triplicate.

Evidence must be submitted in duplicate where a change in assessed valuation of less than \$100,000 is sought.
Evidence must be submitted in triplicate where a change in assessed valuation of \$100,000 or more is sought.

Section II

Appellant _____	T. Swain/F. Dempsey
Street _____	Attorney for Appellant <u>Gould & Ratner</u>
City _____	Street <u>222 N. LaSalle Street, #800</u>
State _____ ZIP _____	City <u>Chicago</u>
Telephone _____	State <u>IL</u> ZIP <u>60601</u>
	Telephone <u>312-236-3003</u>

Petition is hereby made to appeal from the final, written decision of the _____ County Board of Review relating to the property described below. Notice of such decision was postmarked on _____.
Submit 2 copies of the Notice of Final Decision on Assessed Value by the board of review.

2a Property ID No. (P.I.N.) _____ Township : _____
Address of property: _____

(Cook County) Property Class No. _____ Volume No. _____

2b If appellant is other than owner, give name and address of owner: Owner _____
Address _____ street _____ city _____ state _____ ZIP code _____

2c The assessments of the property for the year as made by the (P.I.N. only): A separate page may be attached for multiple parcels.

1. Assessor	Land _____	Impr. _____	Total _____
2. Board of review	Land _____	Impr. _____	Total _____
3. Appellant's claim	Land _____	Impr. _____	Total _____

Lines 1 through 3 above must be completed. This information is available from the supervisor of assessments/county assessor or the board of review offices.

May the Property Tax Appeal Board decide the appeal based on the evidence submitted by the parties without an oral hearing?
_____ Yes _____ No, I request an oral hearing.

2d Date: _____

Signature: _____
Attorney or Appellant only



2e This appeal is based on (you must check one or more boxes):

- ☐ Recent sale - complete Section IV
☐ Comparable sales - complete Section V
☐ Contention of law - submit legal brief

- ☐ Assessment equity - complete Section V
☐ Recent construction - complete Section VI
☐ Recent appraisal

Section III — Description of Property

Lot size (in sq. ft. or acres) _____

Describe land _____

Wooded _____

Lake frontage _____

Age of house _____

Outside dimensions of house _____

House square footage _____

Construction ☐ frame ☐ brick ☐ masonry ☐ steel ☐ other _____

Design/No. Stories ☐ single ☐ two ☐ one and one-half ☐ other _____

Basement ☐ none ☐ full ☐ partial ☐ finished ☐ unfinished

Garage ☐ attached ☐ one-car ☐ two-car Garage dimensions _____ sq. ft.

No. of Bathrooms _____ Fireplace ☐ yes ☐ no Central air ☐ yes ☐ no

Other improvements _____

Section IV — Recent Sale Data

The following information regarding the sale of the subject property is furnished to the Property Tax Appeal Board to render a decision based on the sale evidence provided by the appellant. It is the policy of the Board that when the appellant supplies evidence of a recent sale of a residence and the Board of Review has not refuted the arm's length nature of the transaction, the appeal will be decided based on the evidence contained in the record. You must submit evidence of the actual sales price by including a sales contract, RESPA statement, Real Estate Transfer Declaration (Department of Revenue) or Settlement Statement. The Property Tax Appeal Board generally finds that the sale price of a recent arm's length sale of the subject property is the best evidence of value.

Read carefully and answer all questions.

Full consideration (sale price) \$ _____ Date of sale _____

From whom purchased _____

Is the sale of this residence a transfer between family or related corporations? ☐ yes ☐ no

Sold by: ☐ Owner ☐ Realtor ☐ Auction ☐ Other _____

Name of Realtor firm _____ Agent _____

Was this property advertised for sale? ☐ yes ☐ no How long a period? _____

If so, in what manner? ☐ local paper ☐ multiple listing other _____

Was this property sold in settlement of ☐ an installment contract ☐ a contract for deed or ☐ a foreclosure?

Was the seller's mortgage assumed? ☐ yes ☐ no If yes, specify amount \$ _____

If renovated, amount spent before occupying \$ _____ Date occupied _____

Section V — Comparable Sales/Assessment Equity Grid Analysis

An appraisal may be substituted for completion of this section.

An appraisal establishing the fair market value of the subject property under appeal as of the assessment date may also be submitted. (Note: If a hearing is held in the case, the Property Tax Appeal Board will be better able to judge the weight and credibility of the appraisal if your appraiser testifies in person.)

Evidence of recent sales of property comparable to the subject property, including the dates of sale, the prices paid, and a property record card or description of each sale showing how it compares to the subject property may also be submitted. (Note: The comparable sales should be similar to the subject property in design, age, amenities, and location.) Provide at least three comparables.

Evidence of assessments of property similar to the subject property, including current assessment of each property, the property record card for each property, or description of each property demonstrating its comparability to the subject property may also be submitted. (Note: The assessment comparables should be similar to the subject property in size, design, age, amenities, and location.)

Provide at least three comparables. All comparables should be similar to the subject in size, design, age, amenities, and location. Photographs of the comparables should be submitted.

Property Index Number (PIN)	Subject (your house)	Comp #1	Comp #2	Comp #3	Comp #4
Address					
Proximity to subject					
Total Land Sq. Ft.					
Design/Number of stories/Class					
Exterior construction					
Age of property					
Number of bathrooms					
Living area (square feet)					
Basement area - Square Feet					
Finished basement area - Sq. Ft.					
Air conditioning					
Fireplace					
Garage or car port (square feet)					
Other improvements					
Date of sale					
Sale price					
Sale price per square foot (Sale price ÷ impr. size)					
Land assessment					
Improvement assessment					
Total Assessment					
Improvement assessment per sq. ft. Impr. assessment ÷ Impr. size					

Section VI — Recent Construction Information on Your Residence

Submit evidence of recent construction of the subject property including the price paid for the land and construction of the building including all labor. Note: If the appellant provided any labor or acted as general contractor, evidence of the value of this service should be included with the evidence of the other construction costs.

The residence was constructed, or remodeled, an addition added, or other building erected on _____ Date _____

Date Land Purchased _____

Total cost of the Land \$ _____ Building(s) \$ _____

Does this amount include all costs incurred for the construction, such as contractor's fees, architectural or engineering fees, landscaping of homesite, and/or building permits? ☐ yes ☐ no

You must supply a Contractor's Affidavit or a written summary of the total cost to the Property Tax Appeal Board.

Date the occupancy permit was issued. (Submit 2 copies.) _____

Date the building was inhabitable and fit for occupancy or intended use _____

Date the remodeling was completed _____

Date the addition or other building(s) was completed _____

Did owner or member of owner's family act as the general contractor? ☐ yes ☐ no

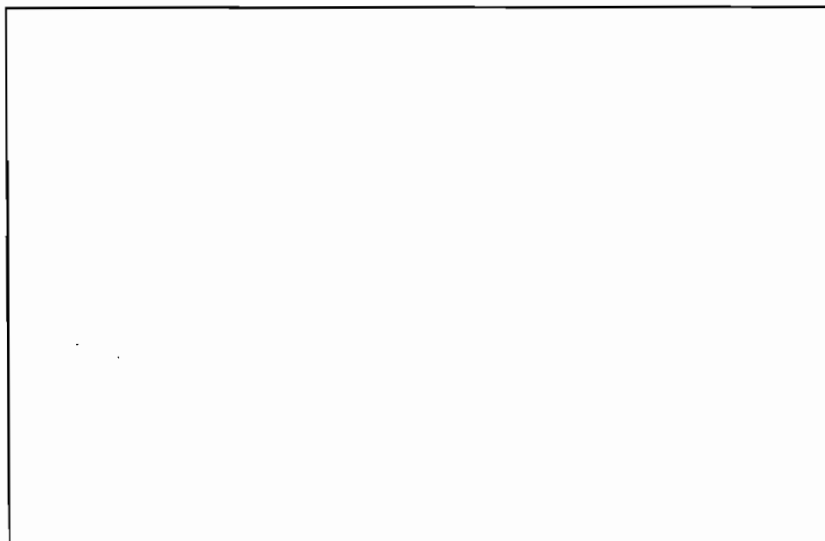
If yes, what was the estimated value of the service? \$ _____

Was any non-compensated labor performed? ☐ yes ☐ no

If yes, please describe and provide estimated value of labor _____

Note: A Contractor's Affidavit/Statement or documentation of the total cost must be submitted to the Property Tax Appeal Board.

Section VII — Recent Photograph of Subject Property and Comparable Properties



Docket No. _____
(Office Use Only)

COMMERCIAL APPEAL

State of Illinois - Property Tax Appeal Board

Room 402 Stratton Office Building
401 South Spring Street
Springfield, IL 62706-4001
(217) 782-6076
TDD (217) 785-4427

Suburban North Regional Office Facility
9511 West Harrison Street, Suite 171
Des Plaines, IL 60016-1563
(847) 294-4360
TDD (847) 294-4371

Failure to properly complete this form and provide the necessary documentation shall result in dismissal of your appeal.

For Assessment Year 20 _____

Are you appealing off a recently issued township equalization factor? (Multiplier) ☐ yes ☐ no (Not applicable to Cook County.)

If an appeal was filed with the Property Tax Appeal Board on this Tax Parcel for the prior year, please indicate the Property Tax Appeal Board docket number assigned to that appeal: _____

Section I

This form must be completed and filed within 30 days of the postmark on the decision you received from the Board of Review. Any additional written evidence must be submitted with this PTAB form. If you are unable to submit the additional written information with this form, a letter requesting an extension of time for filing the additional evidence must be submitted with this form. Without a written request for an extension, no evidence will be accepted after the 30 days. The Property Tax Appeal Board will grant only reasonable requests up to 90 days. **Faxed copies of this form will not be accepted.**

WHERE TO FILE THIS APPEAL:

If your property is located **OUTSIDE** of Cook County, file your appeal and all related documentation with the **SPRINGFIELD** office. If your property is located **IN** Cook County, file your appeal and all related documentation with the **DES PLAINES** office. The addresses are listed above. Without prior Property Tax Appeal Board approval, a separate appeal must be filed on each individual Property Identification Number (P.I.N.), or a breakdown may be submitted (see 2c below).

This form must be submitted in triplicate.

Evidence must be submitted in duplicate where a change in assessed valuation of less than \$100,000 is sought.

Evidence must be submitted in triplicate where a change in assessed valuation of \$100,000 or more is sought.

Section II

Appellant _____	T. Swain/F. Dempsey Attorney for Appellant Gould & Ratner
Street _____	Street <u>222 N. LaSalle Street, #800</u>
City _____	City <u>Chicago</u>
State, Zip _____	State, Zip <u>IL, 60601</u>
Telephone _____	Telephone <u>312-236-3003</u>

Petition is hereby made to appeal from the final, written decision of the _____ County Board of Review relating to the property described below. Notice of such decision was postmarked on _____

Submit 2 copies of the Notice of Final Decision on Assessed Value by the Board of Review.

2a Property ID No. (P.I.N.) _____ Township _____
Address of Property _____

(Cook County) Property Class No. _____ Volume No. _____

2b If the appellant is **not** the owner, give name and address of the property owner: Owner _____
Address _____ street _____ city _____ state _____ ZIP code _____

2c The assessments of the property for the year as made by the: (1 P.I.N. only) A separate page may be attached for multiple parcels.

1. Assessor	Land _____	Impr. _____	Total _____
2. Board of Review	Land _____	Impr. _____	Total _____
3. Appellant's claim	Land _____	Impr. _____	Total _____

NOTE: Lines 1 through 3 must be completed. This information is available from the Supervisor of Assessments, County Assessor or the Board of Review offices.

May the Property Tax Appeal Board decide the appeal based on the evidence submitted by the parties without an oral hearing?

_____ Yes _____ No, I request an oral hearing.

2d Date _____ Signature _____

Attorney or Appellant only

2e This appeal is based on: (You must check one or more boxes)

☐ Recent Sale - Complete Section IV

☐ Assessment equity - Complete Section V

☐ Comparable Sales - Complete Section V

☐ Recent Construction - Complete Section VI

☐ Contention of Law - Submit Legal Brief

☐ Recent Appraisal

NOTE: IF AN APPRAISAL IS SUBMITTED SECTIONS III THROUGH VII DO NOT NEED TO BE COMPLETED.

Section III - Description of Property

Land Size (indicate square feet or acres): _____

Number of Buildings: _____

Building Size (square feet): _____

Number of Floors: _____

Square Footage per Floor: _____

Construction: ☐ Frame ☐ Brick

☐ Steel ☐ Other: _____

Basement: ☐ yes ☐ no

Basement Use: _____

Other Improvements: _____

List the use of the building and the square footage attributable to that use:

Office Space: ☐ yes ☐ no Square Footage: _____

Warehouse: ☐ yes ☐ no Square Footage: _____

Apartments: ☐ yes ☐ no Number of Apartments: _____

Retail: ☐ yes ☐ no Square Footage: _____

Other: _____ Square Footage: _____

If there is more than one building on this parcel, provide the following information:

Building #1 Age _____ Size _____ Use _____

Building #2 Age _____ Size _____ Use _____

Building #3 Age _____ Size _____ Use _____

Section IV - Recent Sale Data

Generally, the price of a recently sold property is considered the best evidence of value. The more proximate in time the sale occurs to the assessment date of your appeal, the more relevant the evidence becomes in establishing the market value of the property. You must submit a valid settlement statement, sales contract and Real Estate Transfer Declaration for recent sale consideration.

Read Carefully and Answer All of the Questions

Full consideration (sale price): _____ Date of sale: _____

From whom purchased: _____

Is the sale of this property a transfer between related parties or related corporations? ☐ yes ☐ no

Sold by: ☐ Owner ☐ Realtor ☐ Auction ☐ Other: _____

Name of Realtor firm: _____ Agent: _____

Was this property advertised for sale? ☐ yes ☐ no How long of a period? _____

If so, in what manner? ☐ local paper ☐ multiple listing ☐ other: _____

Was the property sold in settlement of: ☐ an installment contract ☐ a contract for deed ☐ a foreclosure ?

Was the seller's mortgage assumed? ☐ yes ☐ no If yes, specify the amount \$ _____

If renovated, amount spent before occupying \$ _____ Date occupied: _____

Section V - Comparable Sales/Assessment Equity Grid Sheet

An appraisal which establishes the market value of the subject property under appeal as of the assessment date may also be submitted in place of completion of this section. If a hearing is held for this appeal, the Property Tax Appeal Board will be better able to judge the weight and credibility of the appraisal if your appraiser testifies in person.

Evidence of recent sales of property comparable to the subject property, including the dates of sale, the prices paid, and a property record card (printout sheet in Cook County), or description of each sale showing how it compares to the subject property may also be submitted.

Evidence of assessments of property similar to the subject property, including the current assessment of each property, the property record card (printout sheet in Cook County) for each comparable property, or description of each property demonstrating its comparability to the subject property may also be submitted.

NOTE: Provide at least three comparables. All comparables should be similar to the subject in size, design, age, amenities and location. Photographs of the comparables should be submitted.

	Subject	Comp #1	Comp #2	Comp #3
Property Index No.				
Address				
Proximity to Subject				
(Cook County)				
Assessment Class				
(Cook County)				
Volume				
Total Land Sq. Ft.				
Total Building Sq. Ft.				
Age of Building(s)				
Land-to-Building Ratio				
Number of Buildings				
Number of Stories				
Number of Apartments				
Apartment Mix				
Exterior Construction				
Sprinkler System				
Office Space Sq. Ft.				
Warehouse Sq. Ft.				
Date of Sale				
Sales Price				
Sales Price / Sq. Ft. (Sales Price ÷ Impr. Sq. Ft.)				
Land Assessment				
Impr. Assessment				
Total Assessment				
Impr. Assmt per Sq. Ft. (Impr. Assmt. ÷ Impr. Sq. Ft.)				

Section VI - Recent Construction Information

Submit evidence of recent construction of the subject property including the price paid for the land, construction costs of the building(s), and include all labor costs. Include the complete and final statement from the general contractor. NOTE: If the appellant provided any labor or acted as the general contractor, evidence of the value of this service should be included with the evidence of the other construction costs.

The building was constructed, or remodeled,
an addition added, or other building erected on _____
Date

Date Land Purchased _____

Total Cost: Land \$ _____ Improvement(s) \$ _____

Does this amount include all costs incurred for the construction, such as contractor's fees, architectural or engineering fees, landscaping and/or building permits? ☐ yes ☐ no

Date the occupancy permit was issued. (Submit 2 copies.) _____

Date the building was inhabitable and fit for occupancy or intended use _____

Date the remodeling was completed _____

Date the addition or other building was completed _____

Did the owner, or a member of the owner's family, act as the general contractor? ☐ yes ☐ no

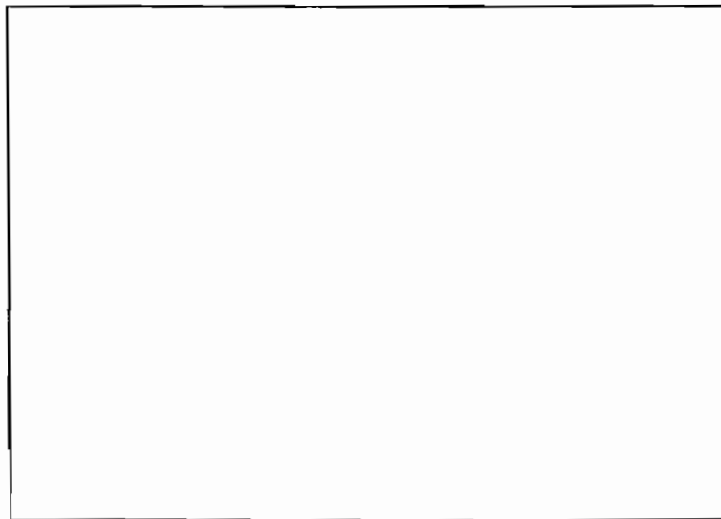
If yes, what was the estimated value of the service? \$ _____

Was any non-compensated labor performed? ☐ yes ☐ no

If yes, please describe and provide an estimated value of the labor _____

NOTE: A Contractor's Affidavit/Statement or documentation of the total cost must be submitted to the Property Tax Appeal Board.

Section VII - Recent Photographs of the Subject Property and Comparable Properties



Docket No. _____
(Office Use Only)

INDUSTRIAL APPEAL

State of Illinois - Property Tax Appeal Board

Room 402 Stratton Office Building
401 South Spring Street
Springfield, IL 62706-4001
(217) 782-6076
TDD (217) 785-4427

Suburban North Regional Office Facility
9511 West Harrison Street, Suite 171
Des Plaines, IL 60016-1563
(847) 294-4360
TDD (847) 294-4371

**Failure to properly complete this form and provide the necessary documentation shall result in the dismissal of your appeal.
For Assessment Year 20_____**

Are you appealing off a recently issued township equalization factor? (Multiplier) ☐ yes ☐ no (Not applicable to Cook County.)

If an appeal was filed with the Property Tax Appeal Board on this Tax Parcel for the prior year, please indicate the Property Tax Appeal Board docket number assigned to that appeal: _____

Section I

This form must be completed and filed within 30 days of the postmark on the decision you received from the Board of Review. Any additional written evidence must be submitted with this PTAB form. If you are unable to submit the additional written information with this form, a letter requesting an extension of time for filing the additional evidence must be submitted with this form. Without a written request for an extension, no evidence will be accepted after the 30 days. The Property Tax Appeal Board will grant only reasonable requests up to 90 days. **Faxed copies of this form will not be accepted.**

WHERE TO FILE THIS APPEAL:

If your property is located **OUTSIDE** of Cook County, file your appeal and all related documentation with the **SPRINGFIELD** office. If your property is located **IN** Cook County, file your appeal and all related documentation with the **DES PLAINES** office. The addresses are listed above. Without prior Property Tax Appeal Board approval, a separate appeal must be filed on each individual Property Identification Number (P.I.N.), or a breakdown may be submitted (see 2c below.).

This form must be submitted in triplicate.

Evidence must be submitted in duplicate where a change in assessed valuation of less than \$100,000 is sought.

Evidence must be submitted in triplicate where a change in assessed valuation of \$100,000 or more is sought.

Section II

Appellant _____	Attorney for Appellant <u>T. Swain/F. Dempsey</u> <u>Gould & Ratner</u>
Street _____	Street <u>222 N. LaSalle Street, #800</u>
City _____	City <u>Chicago</u>
State, Zip _____	State, Zip <u>IL, 60601</u>
Telephone _____	Telephone <u>312-236-3003</u>

Petition is hereby made to appeal from the final, written decision of the _____ County Board of Review relating to the property described below. Notice of such decision was postmarked on _____

Submit 2 copies of the Notice of Final Decision on Assessed Value by the Board of Review.

2a Property ID No. (P.I.N.) _____ Township _____

Address of Property _____

(Cook County) Property Class No. _____ Volume No. _____

2b If the appellant is **not** the owner, give name and address of the property owner: Owner _____

Address _____ street _____ city _____ state _____ ZIP code _____

2c The assessments of the property for the year as made by the (1 P.I.N. only): A separate page may be attached for multiple parcels.

1. Assessor	Land _____	Impr. _____	Total _____
2. Board of Review	Land _____	Impr. _____	Total _____
3. Appellant's claim	Land _____	Impr. _____	Total _____

NOTE: Lines 1 through 3 must be completed. This information is available from the Supervisor of Assessments, County Assessor or the Board of Review offices.

May the Property Tax Appeal Board decide the appeal based on the evidence submitted by the parties without an oral hearing?

_____ Yes _____ No, I request an oral hearing.

2d Date _____ Signature _____
Attorney or Appellant only

2e This appeal is based on: (You must check one or more boxes)

☐ Recent Sale - Complete Section IV

☐ Assessment equity - Complete Section V

☐ Comparable Sales - Complete Section V

☐ Recent Construction - Complete Section VI

☐ Contention of Law - Submit Legal Brief

☐ Recent Appraisal

NOTE: IF AN APPRAISAL IS SUBMITTED SECTIONS III THROUGH VII DO NOT NEED TO BE COMPLETED.

Section III - Description of Property

Land Size (indicate square feet or acres): _____

Number of Buildings: _____

Building Size (square feet): _____

Number of Floors: _____

Square Footage per Floor: _____

Construction: ☐ Frame ☐ Brick ☐ Steel ☐ Other: _____

Basement: ☐ yes ☐ no Basement Use: _____

Other Improvements: _____

List the use of the building and the square footage attributable to that use:

Office Space: ☐ yes ☐ no Square Footage: _____

Warehouse: ☐ yes ☐ no Square Footage: _____

Manufacturing: ☐ yes ☐ no Square Footage: _____

Other: _____ Square Footage: _____

If there is more than one building on this parcel, provide the following information:

Building #1 Age _____ Size _____ Use _____

Building #2 Age _____ Size _____ Use _____

Building #3 Age _____ Size _____ Use _____

Section IV - Recent Sale Data

Generally, the price of a recently sold property is considered the best evidence of value. The more proximate in time the sale occurs to the assessment date of your appeal, the more relevant the evidence becomes in establishing the market value of the property. You must submit a valid settlement statement, sales contract and Real Estate Transfer Declaration for recent sale consideration.

Read Carefully and Answer All of the Questions

Full consideration (sale price): _____ Date of sale: _____

From whom purchased: _____

Was the sale of this property a transfer between related parties or related corporations? ☐ yes ☐ no

Sold by: ☐ Owner ☐ Realtor ☐ Auction ☐ Other: _____

Name of Realtor firm: _____ Agent: _____

Was this property advertised for sale? ☐ yes ☐ no How long of a period? _____

If so, in what manner? ☐ local paper ☐ multiple listing ☐ other: _____

Was the property sold in settlement of: ☐ an installment contract ☐ a contract for deed ☐ a foreclosure?

Was the seller's mortgage assumed? ☐ yes ☐ no If yes, specify the amount \$ _____

Estimated amount spent before occupying \$ _____ Date occupied: _____

Section V - Comparable Sales/Assessment Equity Grid Sheet

An appraisal which establishes the market value of the subject property under appeal as of the assessment date may also be submitted in place of completion of this section. **If a hearing is held for this appeal, the Property Tax Appeal Board will be better able to judge the weight and credibility of the appraisal if your appraiser testifies in person.**

Evidence of recent sales of property comparable to the subject property, including the dates of sale, the prices paid, and a property record card (printout sheet in Cook County), or description of each sale showing how it compares to the subject property may also be submitted.

Evidence of assessments of property similar to the subject property, including the current assessment of each property, the property record card (printout sheet in Cook County) for each comparable property, or description of each property demonstrating its comparability to the subject property may also be submitted.

NOTE: Provide at least three comparables. All comparables should be similar to the subject in size, design, age, amenities and location. Photographs of the comparables should be submitted.				
	Subject	Comp #1	Comp #2	Comp #3
Property Index No.				
Address				
Proximity to Subject				
(Cook County) Volume/ Assessment Class				
Total Land Sq. Ft.				
Total Building Sq. Ft.				
Age of Building(s)				
Land-to-Building Ratio				
Number of Buildings				
Number of Stories				
Exterior Construction				
Office Space Sq. Ft.				
Warehouse Sq. Ft.				
Manufacturing Sq. Ft.				
Ceiling Height				
Loading Dock(s)				
Sprinkler System				
Site Improvements				
Date of Sale				
Sales Price				
Sales Price / Sq. Ft. (Sales Price ÷ Impr. Sq. Ft.)				
Land Assessment				
Impr. Assessment				
Total Assessment				
Impr. assessment per sq. ft. Impr. assessment ÷ Impr. size				

Section VI - Recent Construction Information

Submit evidence of recent construction of the subject property including the price paid for the land, construction costs of the building(s), and include all labor costs. Include the complete and final statement from the general contractor. NOTE: If the appellant provided any labor or acted as the general contractor, evidence of the value of this service should be included with the evidence of the other construction costs.

The building was constructed, or remodeled, an addition added, or other building erected on _____
Date

Date Land Purchased _____

Total Cost: Land \$ _____ Improvement(s) \$ _____

Does this amount include all costs incurred for the construction, such as contractor's fees, architectural or engineering fees, landscaping and/or building permits? ☐ yes ☐ no

Date the occupancy permit was issued. (Submit 2 copies.) _____

Date the building was inhabitable and fit for occupancy or intended use _____

Date the remodeling was completed _____

Date the addition or other building was completed _____

Did the owner, or a member of the owner's family, act as the general contractor? ☐ yes ☐ no

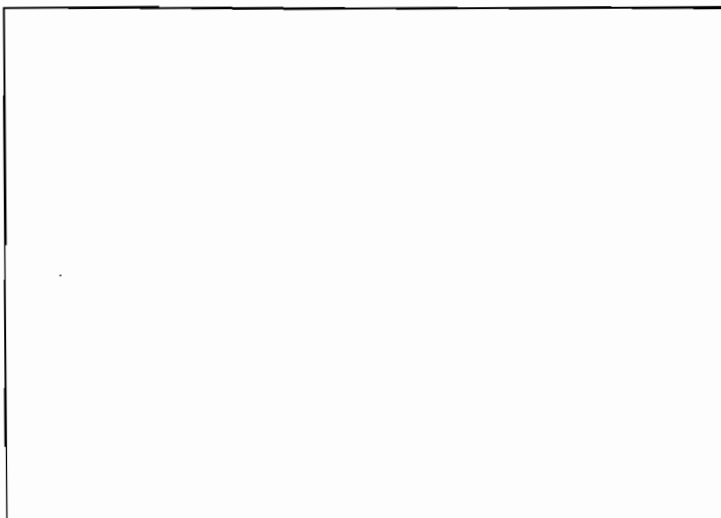
If yes, what was the estimated value of the service? \$ _____

Was any non-compensated labor performed? ☐ yes ☐ no

If yes, please describe and provide an estimated value of the labor _____

NOTE: A Contractor's Affidavit/Statement or documentation of the total cost must be submitted to the Property Tax Appeal Board.

Section VII - Recent Photographs of the Subject Property and Comparable Properties



SECOND DIVISION
September 24, 2002

No. 1-00-2976

THE COOK COUNTY BOARD OF REVIEW,	)	Petition from the Illinois
	)	Property Tax Appeal Board
Petitioner-Appellant,)	
)	
v.)	
)	
THE PROPERTY TAX APPEAL BOARD,)	
SEARS,)	
ROEBUCK AND COMPANY, Taxpayer, and)	
LEYDEN)	
TOWNSHIP HIGH SCHOOL DISTRICT No. 212,	)	Nos. 97-22778-1-3 through
Taxing)	
District,	)	97-22783-1-3
)	
Respondents-Appellees.)	

JUSTICE CAHILL delivered the opinion of the court:

We consider whether the Illinois Property Tax Appeal Board (PTAB) violated its rules when it considered an appraisal report dated two years earlier than the date of assessment at issue. We conclude that consideration of the appraisal report does not violate PTAB rules. Further, PTAB's order adjusting assessed value is not against the manifest weight of the evidence. We affirm.

Sears, Roebuck and Company (Sears) owns three parcels of property in Cook County. In 1997, the Cook County assessor's office determined that the parcels had a fair market value of \$11,398,021. Sears filed an unsuccessful appeal of the fair market valuation with the Cook County Board of Review (Board of Review). Sears appealed the Board of Review's decision to PTAB. Sears submitted an appraisal report dated January 1, 1995, in support of the appeal. The report concluded that the fair market value of the property was \$7,500,000.

The Board of Review submitted a valuation report generated by the Cook County assessor that assigned an \$11,400,000 fair market value as of January 1, 1997. Documents relating to the Cook County classification ordinance (Cook County Real Property Assessment Classification Ordinance, Ord. No. 80-0-14 (amended November 6, 1997)), and the use of sales ratio studies were also submitted.

Robert Herman, author of the 1995 appraisal report, testified for Sears. Herman testified that his report considered the three traditional approaches to value: (1) cost; (2) income capitalization; and (3) sales comparison. Herman explained how he calculated fair market value under each approach. Herman said he calculated \$7,810,000 under the cost approach, \$7,250,000 under the income approach, and \$7,460,000 under the sales comparison approach. These values were reconciled to reach a fair market value estimate of \$7,500,000. Herman testified that he inspected the property on March 1, 2000, and found no significant changes. Herman also said that, because 1995 was the triennial assessment year, the market determination for 1995 would be relevant for the assessment period, which included 1995, 1996 and 1997.

Cook County presented no testimony and relied on a valuation report generated by the assessor's office. The report was prepared by an employee who did not inspect the property. The report addressed only the income and sales approach but did not include the cost approach and concluded that the fair market value of the property was \$11,400,000. No witnesses testified for Cook County.

Gary Battuello testified on rebuttal for Sears. Battuello is a partner in a real estate appraisal and consulting firm. Battuello reviewed the assessor's valuation report and concluded that the report was incomplete, inconsistent and relied on inadequate or misstated facts. Battuello also criticized the comparables used, finding them incompatible to the Sears property. Battuello said that the report's conclusions were unreliable.

PTAB found that the date of assessment at issue was January 1, 1997, and that the triennial assessment date was January 1, 1995. PTAB concluded that Sears established that the property was overassessed. PTAB noted that the best evidence of value was presented by Sears and accorded little weight to the valuation report. PTAB concluded that, based on the evidence, the property had a market value of \$7,500,000. The assessed value of the property was reduced from \$3,903,701 to \$2,584,187. Cook County appealed.

PTAB decisions are subject to direct appellate review where, as here, a change in assessed valuation of \$300,000 or more is sought. 35 ILCS 200/16-195 (West 2000). Our review is in accordance with Administrative Review Law (735 ILCS 5/3-101 et seq. (West 2000)). 35 ILCS 200/16-195 (West 2000); Oregon Community Unit School District No. 220 v. Property Tax Appeal Board, 285 Ill. App. 3d 170, 674 N.E.2d 129 (1996).

Cook County first argues that PTAB violated its own rules when it accepted and relied on a 1995 appraisal to determine fair market value for 1997.

The scope of PTAB's power and authority is a question of law we review *de novo*. Geneva Community Unit School District No. 304 v. Property Tax Appeal Board, 296 Ill. App. 3d 630, 633, 695 N.E.2d 561 (1998).

The contesting party bears the burden of providing "substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment" in a PTAB appeal. 86 Ill. Adm. Code §1910.63(b) (Conway Greene CD-ROM 2002). Cook County contends that this burden requires a contesting party to submit an appraisal as of the date of assessment at issue. We disagree.

Section 1910.65(c) reads:

"(c) Proof of the market value of the subject property may consist of the following:

- (1) an appraisal of the subject property as of the assessment date at issue;
- (2) a recent sale of the subject property;
- (3) documentation evidencing the cost of construction of the subject property including the cost of the land and the value of any labor provided by the owner if the date of construction is proximate to the assessment date; or
- (4) documentation of not fewer than three recent sales of suggested comparable properties together with documentation of the similarity, proximity and lack of distinguishing characteristics of the sales comparables to the subject property." 86 Ill. Adm. Code §1910.65(c) (Conway Greene CD-ROM 2002).

Cook County's argument is based on a misreading of this rule. There is no requirement that a taxpayer must submit a particular type of proof in support of an appeal. The rule instead sets out the types of proof that *may* be submitted. Legislative use of the word "may" is construed as permissive, not mandatory. In re Marriage of Freeman, 106 Ill. 2d 290, 298, 478 N.E.2d 326 (1985). Clear and unambiguous regulatory provisions will be applied as written. We will not read into them exceptions, limitations or conditions not originally intended. Davis v. Toshiba Machine Co., America, 186 Ill. 2d 181, 184-85, 710 N.E.2d 399 (1999). Whether a two-year old appraisal is "substantive, documentary evidence" of a property's value goes to the weight of the evidence, not its admissibility. See Department of Transportation v. Zabel, 47 Ill. App. 3d 1049, 1052, 362 N.E.2d 877 (1977) (whether a six-month-old appraisal is sufficient to establish value is for the trier of fact to consider in weighing the evidence). Cook County's arguments relating to the weaknesses of a two-year-old appraisal underscore our conclusion. PTAB did not violate its rules in considering a 1995 appraisal report to determine fair market value in 1997.

Cook County next argues that PTAB's fair market value determination was against the manifest weight of the evidence.

An administrative agency decision will be set aside only when it is against the manifest weight of the evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d 1, 10, 544 N.E.2d 762 (1989). A decision fairly supported by competent evidence in the record will be sustained on review. Illini Country Club v. Property Tax Appeal Board, 263 Ill. App. 3d 410, 417, 635 N.E.2d 1347 (1994).

Cook County claims that PTAB should have given little or no weight to the 1995 appraisal. Cook County contends that the value assigned in 1995 was not connected to 1997 market conditions, making the 1995 value unreliable. This argument amounts to a difference of opinion as to the cash value of the property—a dispute in which we will not interfere. Kankakee, 131 Ill. 2d at 14; Edward Rose Building Co. v. Property Tax Appeal Board, 216 Ill. App. 3d 1063, 1065-66, 576 N.E.2d 572 (1991). The argument also overlooks the quantity of evidence supporting PTAB's decision.

Sears' appraisal report was supplemented by the author's live testimony. Herman explained his valuation approaches in detail and set out how he calculated the property value in 1995. Herman then testified that he inspected the property in 1997 and noticed no significant changes that would affect property value.

By contrast, Cook County presented no witness testimony and relied solely on a 1997 valuation report drafted by a person who had not inspected the property. Sears rebutted this evidence with testimony by Battuello. Battuello criticized the valuation report, finding it inaccurate and based on numerous misstatements. Battuello also noted that the report was incomplete, having considered only two of the three valuation approaches. Battuello also noted that the comparables listed were not compatible with the property and yielded an inaccurate comparison. PTAB's finding that the 1995 appraisal report was superior to the 1997 valuation report generated by the assessor's office was not against the manifest weight of the evidence under this record.

Differences of opinion as to appraised valuations will not be the basis for reversing an assessment. Robinson v. Property Tax Appeal Board, 72 Ill. App. 3d 155, 157, 390 N.E.2d 942 (1979). The fact that reasonable minds differ as to the value does not make a decision against the manifest weight of the evidence. Board of Review v. Illinois Property Tax Appeal Board, 104 Ill. App. 3d 859, 863-64, 433 N.E.2d 692 (1982). PTAB's decision assigning a corrected fair market value of \$7,500,00 and reducing the assessed value to \$2,548,187 is affirmed.

Affirmed.

McBRIDE, P.J., and GREIMAN, J., concur.

Σ

SECOND DIVISION

August 20, 2002

NOTICE

The text of this opinion may be changed or corrected prior to the time for filing of a Petition for Rehearing or the disposition of the same.

Nos. 1-00-1183, 1-00-1184, 1-00-2213, 1-00-2228, 1-00-2237, 1-00-2238, 1-00-2239 and 1-00-2595, Consolidated

THE COOK COUNTY BOARD OF REVIEW,	)	Petition from the Illinois
	)	Property Tax Appeal Board
Petitioner-Appellant,)	
)	
v.	)	97 22106 I3
	)	97 22107 I3
THE PROPERTY TAX APPEAL BOARD; ROBERT)	
BOSCH CORPORATION, Taxpayer; and KOMAREK)	
SCHOOL DISTRICT NO. 94, Taxing District,)	
)	
Respondents-Appellees.)	

THE COOK COUNTY BOARD OF REVIEW,	)	Petition from the Illinois
	)	Property Tax Appeal Board
Petitioner-Appellant,)	
)	
v.	)	97 20270 C3
	)	97 20286 C3
THE PROPERTY TAX APPEAL BOARD;)	
CORPORATE LAKES OF MATTESON LLC, Taxpayer;)	
RICH TOWNSHIP HIGH SCHOOL DISTRICT NO. 227,)	
Taxing District; and RICH TOWNSHIP ELEMENTARY)	
SCHOOL DISTRICT NO. 159, Taxing District,)	
)	
Respondents-Appellees.)	

THE COOK COUNTY BOARD OF REVIEW,

Petitioner-Appellant,

v.

THE PROPERTY TAX APPEAL BOARD;
LAKE HOLIDAY PROPERTIES, Taxpayer; UNION
RIDGE SCHOOL DISTRICT NO. 86, Taxing District; and
BOARD OF EDUCATION OF RIDGEWOOD HIGH
SCHOOL DISTRICT NO. 234, Taxing District,

Respondents-Appellees.

) Petition from the Illinois
) Property Tax Appeal Board
)
)

) 97 20778 C3
)
)

THE COOK COUNTY BOARD OF REVIEW,

Petitioner-Appellant,

v.

THE PROPERTY TAX APPEAL BOARD,
and KRAFT FOODS, INC., Taxpayer,

Respondents-Appellees.

) Petition from the Illinois
) Property Tax Appeal Board
)

) 97 22929 C3 through
) 97 22938 C3
)
)

THE COOK COUNTY BOARD OF REVIEW,

Petitioner-Appellant,

v.

THE PROPERTY TAX APPEAL BOARD,
and J.C. PENNEY COMPANY, INC., Taxpayer,

Respondents-Appellees.

) Petition from the Illinois
) Property Tax Appeal Board
)

) 97 21780 C3
)
)

THE COOK COUNTY BOARD OF REVIEW,	)	Petition from the Illinois
	)	Property Tax Appeal Board
Petitioner-Appellant,)	
)	
v.	)	97 20778 C3
)	
THE PROPERTY TAX APPEAL BOARD;)	
LAKE HOLIDAY PROPERTIES, Taxpayer; UNION)	
RIDGE SCHOOL DISTRICT NO. 86, Taxing District; and)	
BOARD OF EDUCATION OF RIDGEWOOD HIGH)	
SCHOOL DISTRICT NO. 234, Taxing District,)	
)	
Respondents-Appellees.)	

THE COOK COUNTY BOARD OF REVIEW,	)	Petition from the Illinois
	)	Property Tax Appeal Board
Petitioner-Appellant,)	
	)	97 22929 C3 through
v.	)	97 22938 C3
)	
THE PROPERTY TAX APPEAL BOARD,)	
and KRAFT FOODS, INC., Taxpayer,)	
)	
Respondents-Appellees.)	

THE COOK COUNTY BOARD OF REVIEW,	)	Petition from the Illinois
	)	Property Tax Appeal Board
Petitioner-Appellant,)	
)	
v.	)	97 21780 C3
)	
THE PROPERTY TAX APPEAL BOARD,)	
and J.C. PENNEY COMPANY, INC., Taxpayer,)	
)	
Respondents-Appellees.)	

THE COOK COUNTY BOARD OF REVIEW,	)	Petition from the Illinois
	)	Property Tax Appeal Board
Petitioner-Appellant,)	
)	
v.	)	97 20182 I3
)	
THE PROPERTY TAX APPEAL BOARD;)	
ACE HARDWARE CORPORATION, Taxpayer; BOARD)	
OF EDUCATION ELEMENTARY SCHOOL DISTRICT)	
NO. 159, Taxing District; and BOARD OF EDUCATION)	
OF RICH TOWNSHIP HIGH SCHOOL DISTRICT NO.)	
227, Taxing District,)	
)	
Respondents-Appellees.)	

THE COOK COUNTY BOARD OF REVIEW,	)	Petition from the Illinois
	)	Property Tax Appeal Board
Petitioner-Appellant,)	
)	
v.	)	97 23689 C3
	)	97 23690 C3
)	
THE PROPERTY TAX APPEAL BOARD; and)	
KRUPP REALTY PARK PLACE, CHICAGO LIMITED)	
PARTNERSHIP, Taxpayer,)	
)	
Respondents-Appellees.)	

THE COOK COUNTY BOARD OF REVIEW,	)	Petition from the Illinois
	)	Property Tax Appeal Board
Petitioner-Appellant,)	
)	
v.	)	97 22829 I3 through
	)	97 22849 I3
)	
THE PROPERTY TAX APPEAL BOARD;)	
and W.W. GRAINGER, INC., Taxpayer,)	
)	
Respondents-Appellees.)	

JUSTICE CAHILL delivered the opinion of the court:

1-00-1183, *et al.*, Cons.

We review eight consolidated appeals brought by the Cook County Board of Review (the Board), challenging decisions of the state Property Tax Appeal Board (PTAB). In each case PTAB first rejected a level of assessment percentage on commercial property mandated by the Cook County Real Property Assessment Classification Ordinance (Cook County ordinance or the ordinance) (Cook County Real Property Assessment Classification Ordinance, Ord. No. 80-0-14 (amended November 6, 1997)). PTAB then used a median level assessment percentage derived from sales ratio studies prepared by the Illinois Department of Revenue (the Department).

The decision of our supreme court in Walsh v. Property Tax Appeal Board, 181 Ill. 2d 228, 692 N.E.2d 260 (1998), is brief, clear and relevant to a consideration of the cases before us. Here are two excerpts that inform our response:

"The Illinois property tax scheme is grounded in article IX, section 4, of the Illinois Constitution of 1970, which provides in pertinent part that real estate taxes 'shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law.' Ill. Const. 1970, art. IX, § 4(a). Uniformity requires equality in the burden of taxation. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d 1, 20 (1989). This, in turn, requires equality of taxation in proportion to the value of the property taxed. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 401 (1960). Thus, taxing officials may not value the same kinds of properties within the same taxing boundary at different proportions of their true value. Kankakee County Board of Review, 131 Ill. 2d at 20. The party objecting to an assessment on lack of uniformity grounds bears the burden of proving the disparity by clear and convincing evidence. Kankakee County Board

1-00-1183, *et al.*, Cons.

of Review, 131 Ill. 2d at 22.

'[The] great central and dominant idea of the constitution is uniformity of taxation, and no power exists or should exist in any corporate authority to go counter to this command of the fundamental law. Therefore one person cannot be compelled to pay a greater proportion of taxes, according to the value of his property, than another, *and where assessors have disregarded the injunction of the law and made an assessment of property far below its real cash value, their misconduct must also follow the principle of uniformity and their assessments of all persons must be at the same proportional value.*' (Emphasis added.) People's Gas Light & Coke Co. v. Stuckart, 286 Ill. 164, 173 (1918).

To hold otherwise would sanction assessed valuations on different proportions of like properties in direct contravention of the uniformity clause. Ill. Const. 1970, art. IX, § 4(a); Kankakee County Board of Review, 131 Ill. 2d at 20." Walsh, 181 Ill. 2d at 234-37.

With Walsh in mind, we stress at the outset that the issue the parties would like us to decide, and the first issue raised by the Board—whether PTAB has the *power* to determine in an appropriate case that the percentages mandated by the Cook County ordinance for commercial property have not been uniformly applied—cannot be reached for two reasons: (1) the taxpayers never raised the issue of uniformity in six of the eight cases; and (2) in two cases, the evidence tendered by the taxpayers is wholly inadequate for meaningful appellate review. In concluding

1-00-1183, *et al.*, Cons.

that the issue of PTAB's power to deviate from the Cook County ordinance need not be reached, we do not mean to suggest that the records and briefs before us are otherwise adequate to fairly address the issue. We know that administrative agencies lack the authority to invalidate a statute on constitutional grounds or even to question its validity. Texaco-Cities Service Pipeline Co. v. McGaw, 182 Ill 2d 262 (1998). None of the parties raised this issue, nor would we address it unless necessary for a resolution of the case after full and fair briefing.

The Board raises the following issues on appeal in all eight cases:

(1) PTAB lacked authority to substitute median levels of assessment based on Department of Revenue sales ratio studies for those contained in the Cook County ordinance.

(2) The taxpayers did not raise the issue of uniformity and failed to present evidence on the issue in six cases, and presented untimely or insufficient evidence in two cases.

(3) PTAB took "official" notice of evidence not introduced by the taxpayers—the Department of Revenue sales ratio studies—contravening its own rules and in violation of the Administrative Procedure Act (5 ILCS 100/10-1-1 *et seq.* (West 1998)).

(4) The PTAB decisions in all eight cases were against the manifest weight of the evidence.

(5) In four of the eight cases the fair market value of the property set by PTAB is against the manifest weight of the evidence.

In response, PTAB argues that: (1) PTAB has the authority and duty under the Illinois constitutional requirement of uniformity to apply a median level of assessment derived from the Department of Revenue's sales ratio studies; (2) PTAB may take judicial notice of the studies even though the parties did not introduce them in evidence; and (3) the Board waived the

1-00-1183, *et al.*, Cons.

argument that PTAB lacked authority to apply a median level of assessment.

In the course of this opinion we conclude that the second and third issues raised by the Board are dispositive and that PTAB's orders substituting median level percentages for those codified in the Cook County ordinance must be reversed. We agree that the record supports the Board's argument that the issue of uniformity was never raised by the taxpayers in six of the cases. In two cases we conclude that the evidence offered by the taxpayers failed to meet their clear and convincing burden and must be reversed as well. In the four cases where the Board challenged the findings of PTAB on fair market value, we affirm.

We have been aided in our analysis by the serious interest in these cases among taxpayers and agencies of government, as well as concerned citizen groups. In addition to the PTAB brief of the Attorney General, each taxpayer has filed a brief. We have also allowed four *amici* briefs: from the Chicago Board of Education, the president of the Cook County Board, the Chicagoland Chamber of Commerce and the Village of Palatine. These have also been helpful.

The *arcana imperii* of tax law in Illinois are contained in the various acts codified in chapter 35 of the Illinois Compiled Statutes, and to a lesser extent, the enabling legislation, rules and regulations of the agencies created to oversee the orderly and fair imposition and collection of taxes. PTAB is one of these agencies. The legislature created PTAB in 1967 to review taxpayer challenges to property tax assessments imposed by local boards of review outside Cook County. Before 1967, challenges to assessments made by local boards were filed in the circuit court and the taxpayer faced a formidable burden of proof—constructive fraud—to overturn them. See, *e.g.*, People ex rel. Nordlund v. Lans, 31 Ill. 2d 477, 478-79, 202 N.E.2d 543 (1964). PTAB's enabling legislation and the rules adopted by PTAB "eliminate formal rules of pleading, practice

1-00-1183, *et al.*, Cons.

and evidence." 35 ILCS 200/16-180 (West 2000). PTAB is directed to make a decision "in each appeal" based on "equity and the weight of evidence and not upon constructive fraud." 35 ILCS 200/16-185 (West 2000). The taxpayer's burden of proof was eased: from evidence establishing constructive fraud to evidence that is "clear and convincing." See Walsh, 181 Ill. 2d at 234. In 1995 the legislature expanded PTAB's jurisdiction to Cook County, first to residential property appeals, and later to commercial property. The eight cases here consolidated for review are the first commercial property cases to reach us.

A word about the terms "sales ratio study" and "median level of assessment": At the risk of oversimplification, we can say a sales ratio study is a procedure employed by the Illinois Department of Revenue to track past sale prices of real estate in such a way that the current value of a particular piece of property can be fairly set. A median level of assessment is then derived from these studies. Expressed in a percentage, a median level of assessment, assigned to like parcels of property, insures that comparable properties will be assessed uniformly. A threshold issue in six of the cases is whether the taxpayers raised the uniformity issue. A threshold issue in two of the cases in which the issue was raised is whether the evidence of sales ratio studies offered by the taxpayers was sufficient to establish by clear and convincing evidence that the percentages mandated by the Cook County ordinance were not uniformly applied to commercial property in Cook County.

We reverse the orders of PTAB in all eight cases that applied a median level of assessment lower than that set out in the Cook County ordinance. We conclude that in six of the eight cases PTAB failed to follow its own rules and the Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (West 1998)) when it granted relief the taxpayers never asked for based on evidence the

1-00-1183, *et al.*, Cons.

taxpayers never submitted. In the other two cases, we find that the evidence submitted by the taxpayers was inadequate to support the findings made by PTAB without reference to evidentiary material outside the record.

At least since 1963 our supreme court has held that evidence such as the sales ratio studies are admissible only if properly brought before the court. "[C]ourts *** require that the mass of documents thus summarily received in evidence be placed in the hands of the court, or at least be made accessible to the opposing party in order that the correctness of the evidence may be tested by such inspection as is desired." People ex rel. Wenzel v. Chicago & North Western Ry. Co., 28 Ill. 2d 205, 213, 190 N.E.2d 780 (1963). We reject PTAB's argument that even if the taxpayer did not raise the issue, or even if evidence supplied by the taxpayer was insufficient, PTAB may take "judicial notice" of sales ratio studies evidence. We affirm the fair market values assessed by PTAB where contested by the Cook County Board of Review in: No. 1-00-1184, Corporate Lakes of Matteson LLC; No. 1-00-2228, Kraft Foods, Inc.; No. 1-00-2237, J.C. Penney, Inc.; and No. 1-00-2595, W.W. Grainger, Inc. We remand all eight cases to PTAB with directions to amend its orders to reflect the specified level of assessment for each class mandated by the Cook County ordinance.

In each of the eight cases before us PTAB decided that the Department's median levels of assessment for certain classifications of commercial property in Cook County must be used rather than the level mandated by the ordinance to insure that the uniformity requirement of section 4, article IX, of the 1970 Illinois Constitution was met.

We begin with a statement of our jurisdiction and standard of review. PTAB decisions are subject to direct appellate review where, as here, a change in assessed valuation of \$300,000 or

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more is sought. 35 ILCS 200/16-195 (West 2000); 155 Ill. 2d R. 335. Our review is in accordance with the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (West 2000)). 35 ILCS 200/16-195 (West 2000).

We consider all questions of law and fact presented by the record on administrative review. City of Belvidere v. Illinois State Labor Relations Board, 181 Ill. 2d 191, 204, 692 N.E.2d 295 (1998).

We review PTAB's evidentiary rulings in the eight cases under a manifest weight of the evidence standard. Commonwealth Edison Co. v. Property Tax Appeal Board, 102 Ill. 2d 443, 468 N.E.2d 948 (1984). PTAB's argument that its rules and enabling legislation empower it to deviate from the Cook County ordinance in granting uniformity relief is reviewed *de novo*. Nolan v. Hillard, 309 Ill. App. 3d 129, 143, 722 N.E.2d 736 (1999) (we review *de novo* the interpretation placed on rules by an administrative agency charged with its administration). An agency's interpretation is accorded considerable deference but is not binding and will be rejected if erroneous. Denton v. Civil Service Comm'n, 176 Ill. 2d 144, 148, 679 N.E.2d 1234 (1997).

We note a standard of review question that arises out of language in the enabling legislation that created PTAB: the decisions we review here reach us after a *de novo* review by PTAB of the Cook County Board's decision. Section 1910.50(a) provides that "all proceedings before the Property Tax Appeal Board shall be considered *de novo*." 86 Ill. Adm. Code §1910.50(a) (Conway Greene CD-ROM 2002). PTAB's entrance into the Cook County tax appeal system creates an appeal hierarchy where, under certain circumstances, a tax complaint is reviewed by two administrative agencies before it reaches a court. PTAB's role as an administrative agency charged with *de novo* review of another administrative agency's decision

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requires some discussion of the nature of *de novo* review in an administrative context.

Black's Law Dictionary defines *de novo* simply as "anew" and then refers to "appeal *de novo*" and "hearing *de novo*." Black's Law Dictionary 447 (7th ed. 1999). Appeal *de novo* is defined as "[a]n appeal in which the appellate court uses the trial court's record but reviews the evidence and law without deference to the trial court's rulings." Black's Law Dictionary 94 (7th ed. 1999). A hearing *de novo* is defined as "[a] new hearing of a matter, conducted as if the original hearing had not taken place." Black's Law Dictionary 725 (7th ed. 1999). Since PTAB is empowered to conduct hearings on appeal and receive evidence, we must decide whether PTAB may consider evidence never presented to the local Board.

An appeal connotes bringing a matter to a higher authority for reconsideration. PTAB represents a higher appellate authority under the current tax adjudication structure. A "hearing" may be conducted anew, without deference to the proceedings before the Board. But we believe PTAB's review must be limited to the record created before the Board and may not traverse issues that, although related, are not properly before PTAB because the evidence was never introduced before the body whose decision is under review. Its very name—"appeal board"—suggests the scope of its jurisdiction. See generally 35 ILCS 200/16-180, 16-185 (West 2000). To the extent that PTAB implies in its brief that its *de novo* powers allow for the introduction of evidence and issues never considered by the Board, we reject it. We are aware that PTAB is empowered to "establish by rules an *informal procedure* for the determination of the correct assessment of property which is the subject of an appeal." (Emphasis added.) 35 ILCS 200/16-180 (West 2000). We have found no case where an administrative agency in Illinois is authorized to go beyond the record developed by the parties before it in reaching a decision. We also believe that

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PTAB's authority to relax the rules of evidence and develop informal procedures (35 ILCS 200/16-180 (West 2000)) cannot be read to allow PTAB to address issues never raised by the parties or to rely on evidence a court of review cannot find in the record.

PTAB, as an administrative agency, cannot base its decisions on facts, data and testimony not included in the record. Commonwealth Edison Co. v. Property Tax Appeal Board of the State of Illinois, 115 Ill. App. 3d 371, 379, 450 N.E.2d 780 (1983). PTAB decisions must be based on evidence introduced in the case. Nothing can be treated as evidence that is not introduced as such. Commonwealth Edison, 115 Ill. App. 3d at 379. The taxpayers' failure to introduce evidence before the Board supporting a constitutional uniformity challenge in their cases in chief prevents a grant of relief on this basis. We believe the language in PTAB's enabling legislation that provides for *de novo* proceedings simply means what it ordinarily means in an appellate context: that PTAB need not defer to the rulings of a local board that traditionally would be reviewed under an abuse of discretion standard. But PTAB remains bound, as are we, by the record presented to it.

The Board contends that a uniformity challenge was not made in six of the eight cases before us: No. 1-00-1183, Robert Bosch Corp.; No. 1-00-1184, Lakes of Matteson; No. 1-00-2228, Kraft Foods; No. 1-00-2237, J.C. Penney; No. 1-00-2238, Ace Hardware Corp.; and No. 1-00-2595, Grainger. PTAB contends that, even though the taxpayer may have failed to do so, the Board waived the issue when it subsequently failed to object. PTAB further argues that it "routinely" applies sales ratio studies in appeals and claims that the Board "either knew or should have known that the PTAB applies the median level of assessment in all complaints before it where the parties have presented evidence indicating the market value of the property." PTAB

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then argues that the Board "knew that the PTAB would use the Department [of Revenue] sales ratio studies to determine and apply the median level of assessment because [the Board] submitted [evidence challenging the sales ratio studies] *** and case law relating to the sales ratio studies." PTAB concludes that the evidentiary material submitted by the Board placed uniformity at issue and allowed PTAB to address it, even though the taxpayers did not raise it. We are not persuaded.

The lack of an objection by the Board is not to the point. The burden is on the taxpayer to submit substantive evidence to establish a lack of uniformity. 86 Ill. Adm. Code §1910.63(b) (Conway Greene CD-ROM 2002). The taxpayers have conceded that no such evidence had been submitted in six of the eight cases. Instead, it is suggested that the tender by the Board of a study criticizing the methods and procedures used by the Department in its sales ratio studies and citation to a supreme court case (In re Application of Rosewell, 106 Ill. 2d 311, 478 N.E.2d 343 (1985) (U.S. Steel)) anticipated PTAB's use of the sales ratio studies. The flaw in the argument is that the burden of proof did not shift to the Board unless and until the taxpayers met their burden of going forward with substantive evidence. 86 Ill. Adm. Code §1910.63(c) (Conway Greene CD-ROM 2002). Nor could the sales ratio studies be introduced under the guise of rebuttal evidence. 86 Ill. Adm. Code §1910.66(b) (Conway Greene CD-ROM 2002) (rebuttal evidence shall not consist of new evidence and a party is precluded from submitting its case in chief under the guise of rebuttal evidence). The Board's submission of a report did not alter the nature of the claim in the six cases before PTAB where the taxpayers challenged only the fair market value assigned. There is evidence in the record that the Board was aware of PTAB's "procedures," but that knowledge, and the Board's tender of evidence in "anticipation" of PTAB's action, cannot

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invest PTAB with the power to supplement the record with evidence never introduced by the taxpayers and grant relief the taxpayers never sought.

PTAB cites no authority to support its argument that an administrative agency's routine practice of using certain documents in reaching its decision and a party's alleged knowledge of such a practice supplants the procedural requirement that the evidence relied upon in reaching its decision be introduced by the party bearing the burden of proof. Commonwealth Edison, 115 Ill. App. 3d at 379.

Nor does PTAB's mandate that its decisions be based on equity circumvent the requirement to base its decision on clear and convincing evidence introduced by the taxpayer. An "equitable" decision must be based on the "weight of the evidence." Equitable powers may not be used to fashion a remedy in contradiction to the plain requirements of a statute. Stone v. Gardner, 20 Ill. 304 (1858). PTAB's own rules place the burden of proof on the complaining party.

We also disagree with PTAB that two cases cited by the Board in support of its position on this issue are inapplicable. PTAB contends that County of Coles v. Property Tax Appeal Board, 275 Ill. App. 3d 945, 657 N.E.2d 673 (1995), and Community High School District No. 155 v. Property Tax Appeal Board, 288 Ill. App. 3d 386, 682 N.E.2d 235 (1997), "have nothing to do with raising uniformity claims" and do not support the proposition that PTAB was without authority to grant uniformity relief. PTAB misreads the Board's reason for citing these cases.

The issue in both County of Coles and Community High School was how a change in assessed valuation was to be measured for purposes of determining whether jurisdiction was in the circuit or appellate court. County of Coles, 275 Ill. App. 3d at 946; Community High School

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District, 288 Ill. App. 3d at 388. We held that the change in assessed valuation is the difference between the final decision of the Board and the proposed assessment set out in the petition filed with PTAB. County of Coles, 275 Ill. App. 3d at 949; Community High School District, 288 Ill. App. 3d at 388-89. We reasoned that this rule had the advantage of certainty and prevented the parties from amending the amount of change sought. County of Coles, 275 Ill. App. 3d at 949; Community High School District, 288 Ill. App. 3d at 388.

Although uniformity was not an issue in County of Coles or Community High School District, the Board correctly analogizes the holding in these cases to support the proposition that amendments to PTAB petitions to add claims not raised earlier are not allowed, for the same reason that amendments to a change in valuation are not allowed: the claims are fixed with the filing of a petition with PTAB. See County of Coles, 275 Ill. App. 3d at 949; Community High School District, 288 Ill. App. 3d at 388. Here, the petitions filed in six cases challenged only fair market value. Under the rationale in County of Coles and Community High School District, additional issues cannot be added on appeal.

PTAB argues, in the alternative, that it did not abuse its discretion when it took judicial notice of the sales ratio studies. PTAB states in its brief: "It is well known that the PTAB routinely takes judicial notice of the Department's sales ratio studies in its decisions so as to determine the proper level of assessment to apply." But judicial notice cannot expand the scope of review to matters not properly part of the record on appeal. In re Marriage of Holder, 137 Ill. App. 3d 596, 602, 484 N.E.2d 485 (1985), citing Hofmann v. Hofmann, 94 Ill. 2d 205, 226, 446 N.E.2d 499 (1983). We note again that evidence of the sales ratio studies was never part of the record before the Board.

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PTAB suggests that the power to take judicial notice is embedded in its own rule, which provides that PTAB "may take official notice of decisions it has rendered, matters within its specialized knowledge and expertise, and all matters of which the Circuit Courts of this State may take judicial notice." 86 Ill. Adm. Code §1910.90(i) (Conway Greene CD-ROM 2002). PTAB contends that the sales ratio studies are embraced by two of these categories: matters "within its specialized knowledge and expertise" and matters "of which the Circuit Courts of this State may take judicial notice." We disagree.

The sales ratio studies are generated by the Department of Revenue. PTAB is an independent agency charged with taking evidence and reviewing assessments, independent of the Department. People ex rel. Thompson v. Property Tax Appeal Board, 22 Ill. App. 3d 316, 321-22, 317 N.E.2d 121 (1974). PTAB has no investigative or executive arm that specializes in compiling or examining sales ratio studies. The Administrative Procedure Act provides:

"(c) Notice may be taken of matters of which the circuit courts of this State may take judicial notice. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence." 5 ILCS 100/10-40 (c) (West 1998).

The sales ratio studies are not "technical or scientific facts," but Department of Revenue studies whose methodology and results are subject to interpretation. See U.S. Steel, 106 Ill. 2d at 320-

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Nor are the sales ratio studies matters of which courts may take judicial notice. Judicial notice is limited to those facts that are so capable of verification as to be beyond reasonable controversy. "To say that a court will take judicial notice of a fact is merely another way of saying that the usual forms of evidence will be dispensed with if the fact is one which is commonly known or readily verifiable from sources of indisputable accuracy." Holder, 137 Ill. App. 3d at 602, citing Murdy v. Edgar, 103 Ill. 2d 384, 394, 469 N.E.2d 1085 (1984); see also City of Rock Island v. Cuinely, 126 Ill. 408 (1888) (judicial notice properly taken of legislative enactments); People ex rel. Lejcar v. Meyering, 345 Ill. 449, 452, 178 N.E. 80 (1931) (geographical facts); Dowie v. Sutton, 227 Ill. 183, 193, 81 N.E. 395 (1907) (historical events). A court will not take judicial notice of critical evidentiary material not presented in the court below or of evidence that may be significant in the proper determination of the issues between the parties. People v. Mehlberg, 249 Ill. App. 3d 499, 531, 618 N.E.2d 1168 (1993), citing Vulcan Materials Co. v. Bee Construction, 96 Ill. 2d 159, 166, 449 N.E.2d 812, 815 (1983). "[T]he well-defined rule is that courts refrain from taking judicial notice of the value of specific realty due to the many factors affecting its value." Holder, 137 Ill. App. 3d at 602, citing 222 East Chestnut Street Corp. v. Board of Appeals, 14 Ill. 2d 190, 194, 152 N.E.2d 465 (1958).

Even if we were to grant some weight to PTAB's judicial notice argument, PTAB's contention that the Board received adequate notice that PTAB would take judicial notice of the sales ratio studies from PTAB's "past practice" is unpersuasive. If a party is not informed of the facts of which the court is taking judicial notice, he is deprived of the opportunity to challenge the deductions drawn from such notice or to dispute the truth of the facts allegedly relied upon.

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People v. Smith, 176 Ill. 2d 217, 238, 680 N.E.2d 291 (1997), citing Garner v. Louisiana, 368 U.S. 157, 173, 7 L. Ed. 2d 207, 219, 82 S. Ct. 248, 256-57 (1961). PTAB admits that it "did not formally state that it was taking judicial notice of the Department's sales ratio studies until after the hearing." (Emphasis added.) PTAB relies on Siddiqui v. Department of Professional Regulation, 307 Ill. App. 3d 753, 757, 718 N.E.2d 217 (1999), where the Department took judicial notice of a statute for the first time after a hearing. We find Siddiqui easily distinguishable. In that case, the court found that Siddiqui was not prejudiced by the evidentiary error because he had an opportunity to respond in a reply brief. Siddiqui, 307 Ill. App. 3d at 758. Nor does the Board's submission of a report critical of the sales ratio studies necessarily show that the Board knew the studies would be judicially noticed by PTAB. Even in No. 1-00-1183, Bosch, where the taxpayer tried to raise the issue of uniformity during the hearing, the PTAB hearing officer did not give the parties an opportunity to introduce evidence on uniformity that might support or challenge the sales ratio studies. Nevertheless, PTAB later took judicial notice of the studies—after the hearing. The hearing officer did not allow Bosch to pursue the issue of uniformity. She found the issue irrelevant at the hearing stage. As she pointed out:

"He's supposed to be giving the opinion of what market value is, what he believes market values is according to his appraisal. His opinion of how an assessor assesses, whether they're equitable and not equitable isn't really relevant. I'm not going to allow it."

The Board had argued at the PTAB hearing that Bosch did not raise the issue of uniformity when it first filed its PTAB appeal. In fairness to PTAB, while the hearing officer limited the hearing to the issue of fair market value, she did imply that uniformity would be

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addressed by PTAB: "Ultimately, the decision will be made by the Board as far as what the equitable—as far as what the percent is going to be."

In fairness to the Board, however, the question arises: how should a party to an adversarial proceeding respond to a suggestion that an issue will be addressed later, after the hearing is over? At this point, the record built by the parties and sent to PTAB was devoid of evidence relating to a lack of uniformity in the assessment process. It remains so, unless we accept PTAB's argument that PTAB is empowered to develop the issue on its own.

PTAB's reliance on a series of cases such as People ex rel. Ruchty v. Saad, 411 Ill. 390, 104 N.E.2d 273 (1952), People ex rel. Kohorst v. Gulf, Mobile & Ohio R.R. Co., 22 Ill. 2d 104, 105, 174 N.E.2d 182 (1961), People ex rel. Hillison v. Chicago, Burlington & Quincy R.R. Co., 22 Ill. 2d 88, 97, 174 N.E.2d 175 (1961), and Wenzel, 28 Ill. 2d at 212, to support its argument that Illinois courts have long relied on sales ratio studies for deciding uniformity claims is misplaced. Sales ratio studies were important evidence in these cases, but they were tendered in evidence by a party. Multiple challenges to the sales ratio studies were considered and evidence of the Department's methodology was made of record and subject to cross-examination. The taxpayer was given full opportunity to impeach the evidence in an adversarial proceeding. In Hillison, the taxpayer introduced the sales ratio studies, which were unrebutted by the Department and so were admitted as *prima facie* evidence of the level of assessment. But the court cautioned that it was not implying that the sales ratio studies are conclusive evidence of value where the Department introduces conflicting evidence. Hillison, 22 Ill. 2d at 100–01. In Kohorst, cited by Wenzel, the sales ratio studies were admitted, supported by testimony from a supervisor of the property tax division of the Department and several experts. Kohorst, 22 Ill. 2d at 111–12. In

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Wenzel, "defendant also introduced testimony explaining the ratio studies and expressing opinions as to their reliability." Wenzel, 28 Ill. 2d at 208. In contrast, in U.S. Steel, 106 Ill. 2d at 320, the court found the sales ratio studies at issue were not sufficiently accurate to show constructive fraud, the burden of proof at that time. The U.S. Steel court found the uncontradicted expert testimony showed that the sales ratio studies for the years in question should be afforded little weight because the studies were "not random, not representative, unadjusted and insufficiently edited." U.S. Steel, 106 Ill. 2d at 324.

Challenging the U.S. Steel holding, PTAB cites two later supreme court cases, Airey v. Department of Revenue, 116 Ill. 2d 528, 537-38, 508 N.E.2d 1058 (1987), and Advanced Systems, Inc. v. Johnson, 126 Ill. 2d 484, 496, 535 N.E.2d 797 (1989), as cases in which the methodology of the sales ratio studies was upheld. These cases are readily distinguishable: they were not contested cases within the meaning of the Administrative Procedure Act (5 ILCS 100/1-30 (West 1998)). Johnson, 126 Ill. 2d at 506. In a contested case, such as those before us, "[t]rial-type procedures, including the taking of evidence subject to cross-examination, are required when individual interests are at stake and specific facts are in dispute." Johnson, 126 Ill. 2d at 506. But Airey and Johnson were both equalization cases, where "the nature of [the hearing] is similar to a rulemaking or informational proceeding," which is not subject to such evidentiary requirements. Johnson, 126 Ill. 2d at 506-07. PTAB relies on Airey and Johnson to suggest that the supreme court's holding in U.S. Steel has been overruled *sub nom.*, without ever pointing out that Airey and Johnson were not contested cases and that U.S. Steel was.

Where, it is argued, the taxpayers preserved the uniformity issue for review in No. 1-00-2213, Lake Holiday, and No. 1-00-2239, Krupp Realty, we find that the evidence in the record of

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the sales ratio studies was, in fact, weightless from an appellate perspective. The burden is on the taxpayer to support a uniformity challenge by clear and convincing evidence. Walsh, 181 Ill. 2d at 234; 86 Ill. Adm. Code §1910.63(e) (Conway Greene CD-ROM 2002). The contesting party has the burden of going forward and "must provide substantive, documentary evidence or legal argument challenging the correctness of the assessment of the subject property." 86 Ill. Adm. Code §1910.63(b) (Conway Greene CD-ROM 2002). To show a lack of uniformity by using the Department's sales ratio studies, a taxpayer must show by clear and convincing evidence that the studies are random, representative, properly edited and properly adjusted for the court to consider them as competent evidence. U.S. Steel, 106 Ill. 2d at 323-24. In this record we have a one-page, handwritten, unsigned summary document entitled PTAX-215, "Assessment Ratios Adjusted for Changes through 1997 Assessor for Cook County." The weight of PTAB's argument ultimately rests on this document. Setting aside the manner in which it found its way into the record, we are at a loss to determine how the underlying studies can be subjected to rational appellate review based on it.

PTAB's embrace of the Department's sales ratio studies in the form they have reached this record also suggests that PTAB ignored the Joint Committee on Administrative Rules (JCAR) objections to a rule proposed by PTAB authorizing consideration of such evidence in nonresidential property appeals in Cook County.

PTAB proposed a rule that did not distinguish between residential and nonresidential property in Cook County. As originally drafted, it allowed PTAB to consider sales ratio studies and other competent assessment level evidence to resolve an appeal. 98 Ill. Reg. 3724 (proposed February 20, 1998). JCAR objected to the use of sales ratio studies as *prima facie* competent

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evidence:

"[B]y prejudging to be competent evidence the Department of Revenue's Annual Sales Ratios Studies, and not other specific forms of competent evidence, the rulemaking could adversely affect the local governments and school districts of Cook County. Illinois statutes refer only to use of these Studies in counties other than Cook, thus the Department has no clear statutory basis for applying the Studies in Cook County." 98 Ill. Reg. 11646.

The objection made clear that the legislature did not intend PTAB to elevate sales ratio studies over other forms of evidence, and use them to create a rebuttable presumption of a lack of uniformity in the process. In response, PTAB changed the wording. The rule now allows PTAB to "*consider competent evidence* *** which is relevant to the level of assessment applicable to the subject property." (Emphasis added.) 86 Ill. Adm. Code 1910.50(c)(3) (Conway Greene CD-ROM 2002). Absent is a specific reference to sales ratio studies in PTAB's proposed rule. Yet, it is clear from PTAB's brief that it is operating as if the JCAR objection is of no moment. The legislature may have another view.

We are left only to decide whether PTAB's findings on fair market value were proper in those cases where the issue was contested by the Board: No. 1-00-1184, Lakes of Matteson; No. 1-00-2228, Kraft Foods; No. 1-00-2237, J.C. Penney; and No. 1-00-2595, Grainger. Where fair market value is the basis of an appeal, the value of the property must be proved by a preponderance of the evidence. 86 Ill. Adm. Code §1910.63(e) (1996). We will not overturn a decision of an administrative agency unless it was against the manifest weight of the evidence. Department of Mental Health & Developmental Disabilities v. Civil Service Comm'n, 85 Ill. 2d

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547, 550, 426 N.E.2d 885 (1981). "A reviewing court will neither substitute its judgment for that of the administrative agency nor overturn administrative findings unless they are without substantial foundation in the record." Lyon v. Department of Professional Regulation, 238 Ill. App. 3d 379, 383, 606 N.E.2d 475 (1992), citing Irving's Pharmacy v. Department of Registration & Education, 75 Ill. App. 3d 652, 394 N.E.2d 627 (1979).

In these four cases, the taxpayers each submitted an appraisal finding fair market value less than that used by the assessor. PTAB's decision in each case details the reasons why PTAB gave greater weight to the taxpayers' appraisals than those submitted by the Board. "Because the weight of the evidence and the credibility of the witnesses are uniquely within the province of the administrative agency, there need only be some competent evidence in the record to support its findings." Jagielnik v. Board of Trustees of the Police Pension Fund, 271 Ill. App. 3d 869, 875, 649 N.E.2d 527 (1995). PTAB's decisions on the issue of fair market value are not against the manifest weight of the evidence.

[The following material is nonpublishable under Supreme Court Rule 23.]

We now address two motions taken with the case. On October 6, 2000, PTAB filed a motion to dismiss the appeal in No. 1-00-2228, Kraft Foods, for failure to name a party of record. PTAB alleged that the Board failed to name Kraft Foods, Inc., as a party in the caption of its petition for review filed under appeal No. 1-00-2228 on July 12, 2000. Attached as an exhibit to the petition for review was PTAB's decision, which names Kraft Foods. The docketing statement included Kraft Foods in the caption. Kraft Foods was timely served and filed an appearance. On October 16, 2000, the Board filed its response to the motion and a motion for leave to amend its petition for review to add Kraft Foods as a party.

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PTAB cites Supreme Court Rule 335(a) (155 Ill. 2d R. 335(a)) and section 3-113(b) of the Administrative Review Law (735 ILCS 5/3-113(b) (West 1998)) for the proposition that all parties of record must be named as respondents. Section 3-102 provides that "[u]nless review is sought of an administrative decision within the time and in the manner herein provided, the parties to the proceeding before the administrative agency shall be barred from obtaining judicial review of such administrative decision." 735 ILCS 5/3-102 (West 1998). "In matters involving the exercise of special statutory jurisdiction, a party seeking a remedy under the statute must strictly adhere to the prescribed procedures." McGaughy v. Illinois Human Rights Comm'n, 165 Ill. 2d 1, 12, 649 N.E.2d 404 (1995), citing Fredman Brothers Furniture Co. v. Department of Revenue, 109 Ill. 2d 202, 210, 486 N.E.2d 893 (1985). Meeting the service requirement does not relieve a petitioner of the obligation to name all necessary party respondents in its petition for review. McGaughy, 165 Ill. 2d at 15.

We agree that the Board failed to name a necessary party in the caption of its petition for review. Noncompliance with the requirements of Rule 335 and the Administrative Review Law requires dismissal of a review proceeding. McGaughy, 165 Ill. 2d at 12. But because neither petitioner in that case sought leave to amend the petitions for review to join all necessary parties, the supreme court in McGaughy did not consider "whether, and under what circumstances, amendments to defective petitions should be allowed." McGaughy, 165 Ill. 2d at 12. The court cited two appellate court opinions in which amendment was allowed. Worthen v. Village of Roxana, 253 Ill. App. 3d 378, 623 N.E.2d 1058 (1993); Parham v. Macomb Unit School District No. 185, 231 Ill. App. 3d 764, 596 N.E.2d 1192 (1992).

In Worthen, the question before the court was "whether the failure to name a necessary

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party in the caption of the petition for review is a fatal defect where the unnamed party is properly served with a copy of the petition for review and petitioner, without delay, requests leave to amend the petition for review to add the unnamed party to the caption." Worthen, 253 Ill. App. 3d at 381. We address the same question in this case. The Worthen court found that the petitioners demonstrated "a sufficient good-faith effort to comply with the rules" by timely serving the unnamed party with a copy of the petition for review and promptly seeking leave to amend the petition. Worthen, 253 Ill. App. 3d at 382, citing Lockett v. Chicago Police Board, 133 Ill. 2d 349, 549 N.E.2d 1266 (1990). Here as well, the failure to include an unnamed party in the caption appears to be a clerical error, and no delay or harm to any party was caused by the technical violation. Worthen, 253 Ill. App. 3d at 382. We deny PTAB's motion to dismiss and grant the Board's motion for leave to amend its petition to add Kraft Foods to the caption.

The second motion taken with the case is one filed by the Board for leave to file *instante* the supplemental appendix to its brief in the Bosch case under appeal No. 1-00-1183. The supplemental appendix consists of a transcript of the July 14, 1989, proceedings in *In the Matter of the Application of Cook County Treasurer v. American Can*, 78-959 and 79-984 (Cir. Ct. Cook Co.). The Board argues that this trial court transcript is material properly included in a supplemental appendix under Supreme Court Rule 342 (155 Ill. 2d R. 342) as instructive authority essential to an understanding of the issues raised in its petition for review. We disagree.

Rule 342 allows "in a supplementary appendix other materials *from the record* which also are the basis of the appeal or are essential to any understanding of the issues raised in the appeal." (Emphasis added.) 155 Ill. 2d R. 342. On administrative review, no new or additional evidence in support of or in opposition to a decision of the administrative agency may be heard. 735 ILCS

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5/3-110 (West 1998). A party may not supplement the record with evidence that was not before the administrative agency, nor can a reviewing court go beyond the administrative agency's record. Marion Hospital Corporation v. Illinois Health Facilities Planning Board, 321 Ill. App. 3d 115, 130, 746 N.E.2d 880 (2001). The Board's motion to file a supplemental appendix is denied.

[The preceding material is nonpublishable under Supreme Court Rule 23.]

We reverse the assessment findings in all eight cases. We affirm the fair market values assessed by PTAB in No. 1-00-1184, Lakes of Matteson; No. 1-00-2228, Kraft Foods; No. 1-00-2237, J.C. Penney; and No. 1-00-2595, Grainger. All eight cases are remanded to PTAB with directions to apply the level of assessment mandated by the classification ordinance. PTAB's motion to dismiss is denied; the Board's motion to amend its petition for review in No. 1-00-2228, Kraft Foods, is granted. The Board's motion to file a supplemental appendix in No. 1-00-1183, Bosch, is denied.

Affirmed in part and reversed in part; remanded with directions.

GREIMAN, J., and McBRIDE, J., concur.

Practice Before the Circuit Court, Cook County - Illinois
Specific Tax Objections

Frederick R. Dempsey

PRACTICE BEFORE THE CIRCUIT COURT

COOK COUNTY - ILLINOIS

SPECIFIC TAX OBJECTIONS

By Frederick R. Dempsey

Article 23 of the Property Tax Code governs the practice and procedure of Specific Tax Objections. In Cook County, the person paying the real estate tax on a parcel may file an objection complaint under 35 ILCS 200/23-15, within 75 days after the first penalty date of the final installment of taxes for the year. Taxes must have been paid within 60 days from the first penalty date of the final installment of taxes for the year. Protest letters are no longer required. Exhaustion of administrative remedies, before the Board of Review or Appeals, is a prerequisite to filing a Specific Tax Objection. Additional rules relating to filing Specific Tax Objections in counties other than Cook can be found at 35 ILCS 200/23-10.

The seminal case in Specific Tax Objection practice is *People ex rel. Devine v. Murphy*, 181 Ill.2d 522 (1998). In that case, the Illinois Supreme Court upheld the constitutionality of 35 ILCS 200/23-15, which had been declared unconstitutional *sua sponte* by Cook County Judge Michael J. Murphy. Section 23-15 (a) permits joinder of plaintiffs but denies class actions. Section 23-15 (b)(1) allows only for the cases to be bench trials without a jury. Section 23-15 (b)(2) declares that the assessment is presumed to be correct and legal, but that the presumption is rebuttable; and, it established the burden of proof upon the plaintiff of clear and convincing evidence. The prior doctrine

known as constructive fraud is specifically abolished by Section 23-15 (b)(3), which also declares that the objection is heard *de novo* by the court and that the court cannot consider the practice, procedure, method of valuation, intent or motivation of any assessing official.

Significantly, Section 23-20 declares that the payment of any refund shall be paid to the taxpayer at the rate of 5% per year. However, the Specific Objection remedy is not available for complaints based on the grounds that the property is exempt from taxation (Section 23-25), or on grounds based on the budget or appropriation ordinance of any municipality (Section 23-35).

After a brief hiatus in housing court following the decision in *Devine v. Murphy*, Judge Murphy returned to the property tax arena as Presiding Judge of the County Division and established the Tax Objection Practice and Procedural Rules attached hereto. The Rules, which include a flow chart and detailed explanation of each procedural step, is an invaluable and comprehensive guide to the timetables, deadlines, procedures and forms required of practitioners in order to comply with the provisions of Rule 10.8 of the Rules of the Circuit Court of Cook County

Finally, the practitioner should weigh several factors in making the choice of filing a Specific Tax Objection complaint in Circuit Court or a complaint at the PTAB. Foremost among them is that filing in one forum is an election of remedies that precludes filing in the other forum. The client should be alerted to the fact that the PTAB has the power to raise an assessment *LaSalle Partners, Inc. v. Illinois Property Tax Appeal Board*, 269 Ill. App.3d 621, 646 N.E.2d 935 (2nd Dist. 1995). Specific Tax Objection

cases take much longer to adjudicate than PTAB cases, with each case proceeding through a 22 month cycle once they are activated on the Case Management Call (currently, 1997 cases are up for the Case Management Call). An important strategic difference between the forums is that there are no intervenors in Specific Tax Objection cases. Thus, there is no danger of a school district intervening and pursuing the case even after the assistant state's attorney has reached a settlement with the plaintiff.

####

COUNTY DIVISION

(Revised 7/16/01)

JUDGE	ROOM	DIRECT	CLERK	PHONE
MICHAEL J. MURPHY Presiding Judge	1701		Darlene	3-6195
Bertucci, Robert W.	1713		Charles	3-5113
Gillis, Susan Fox	1708		Gina	3-4098
Hayes, Marsha D.	1710		Beverly	3-4096
Howse, Nathaniel R.	1711		Evelyn	3-6547
Jagielski, Raymond L.	1702		Cleo/Donna	3-6040
Maras, Marcia	1707		Steve	3-4324
O'Brien Edward P.	1706		Darcene	3-7892
Paul, Alfred J.	1704		Carmen Monica	3-4821 3-3596
Jane Cozzi Court Administrator	1701	3-6194	Bonnie Kennedy Staff Attorney	
Vivian Morris Administrative Assistant	1701		Mary Rutkowski Law Clerk	
Gloria Contreras Administrative Assistant	1707		Rita Adoption Clerk	3-4355
FAX	1701	3-4351		

CLERK'S OFFICE- Room 1202

NANCY VIOLETTA, Assistant Chief Deputy	3-5516
PERPETUA (Peppie) GAUTIER	3-5515
FAX NUMBER	3-3335

ASA/ JUDGE ASSIGNMENTS
SMALL CLAIMS

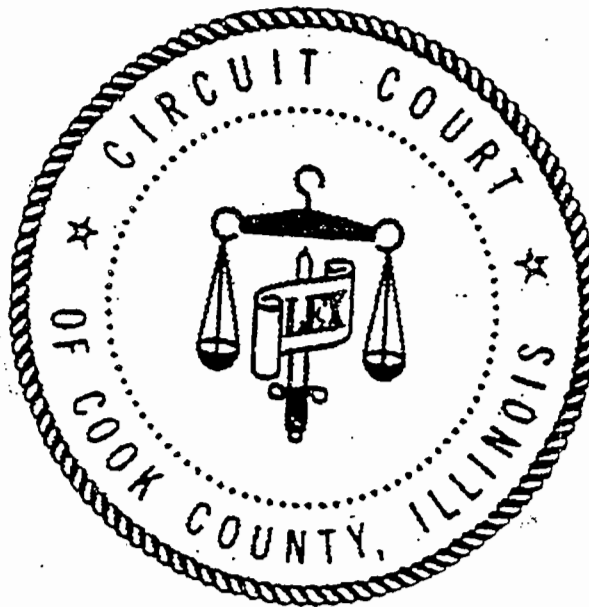
BALL-REED/ CAHNMANN/ AMARI	JUDGE HAYES
BILTON/ PROIETTI	JUDGE FOX GILLIS
CULLINAN/ GROSSMAN/ PIKARSKI	JUDGE O'BRIEN
GIBBONS/ O'BRIAN	JUDGE HOWSE
FIOTI /MARSICO	JUDGE BERTUCCI
MCGUIRE/YEE	JUDGE PAUL

ASA/ BANKRUPTCY

PIKARSKI / FIOTI

Dec-01

CIRCUIT COURT OF COOK COUNTY, ILLINOIS
TAX OBJECTION PRACTICE AND PROCEDURE RULES



THE HONORABLE TIMOTHY C. EVANS
CHIEF JUDGE
CIRCUIT COURT OF COOK COUNTY, ILLINOIS

.....

HONORABLE MICHAEL J. MURPHY
PRESIDING JUDGE-COUNTY DIVISION
CIRCUIT COURT OF COOK COUNTY

HONORABLE ALFRED J. PAUL
JUDGE PRESIDING-ROOM 1702
CIRCUIT COURT OF COOK COUNTY

ACKNOWLEDGEMENT

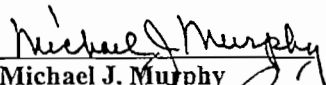
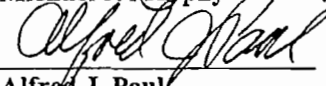
Circuit Court Rule 10.8 was drafted by a Bench-Bar Committee consisting of judges in the county Division and attorneys practicing in the field of Real Estate Taxation. The Rule was passed in June, 1996.

An up-dated version of Circuit Court Rule 10.8 was made to incorporate changes to conform to the current Practice and Procedures. These changes were made to make the court more *user friendly*.

This Practice and Procedural book was developed to explain, in laymen's terms, how Circuit Court Rule 10.8 works. The court date charts, schedules, flow charts, explanations, and form orders are to assist the practitioners in the implementation of Circuit Court Rule 10.8 and Circuit Court Rule 10.6.

We remain deeply appreciative to the Bench-Bar Committee that make these Rules possible and to all the participating Bar for their help and encouragement. Special gratitude is owed to those who wrote and re-wrote portions of the manuscript and offered insights and suggestions. These Rules would have been impossible without their help. While all members of the Bar were extraordinarily helpful in this project, a special mention of gratitude is owed to our Staff Attorney, Ms. Bonnie Kennedy and to the County Division Law Clerk, Mary Rutkowski.

November, 2001


Michael J. Murphy

Alfred J. Paul

INTRODUCTION

These practice and procedural rules are designed to process the majority of the tax valuation objection cases in a twenty-two month cycle, or less, if small claims election is made. Occasionally a rare case will come to the call that involves complex issues of law and fact. These complex cases can, at the discretion of the court, be assigned to the individual calendar of a judge. Once assigned to an individual calendar these rules will not apply. The assigned judge will conduct a case management conference to evaluate the case and to establish a schedule to resolve the case within reasonable time limits.

Attorneys are expected to evaluate each case early. The longer an attorney waits to request that the case be placed on an individual calendar, the more difficult it will be to do so. The attorney must explain what efforts were made to evaluate the case.

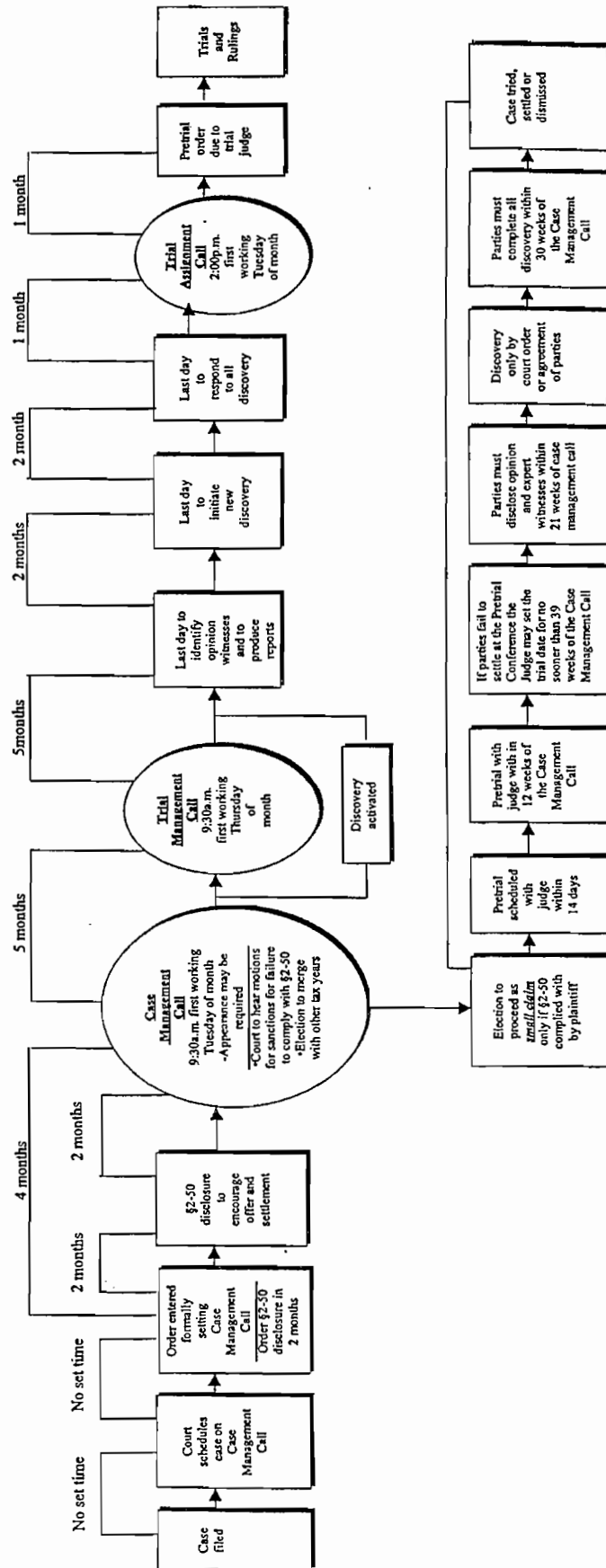
The goal is to process a large volume of cases so we can eliminate the backlog of cases by the year 2004.

Most cases will be disposed of utilizing the time limits set forth in this material. Some will be assigned out to go at a slower pace. These will still proceed. Others, for whatever reason, will not fit into this cycle and will be placed on a dormant calendar. These cases will be recalled when the court call is current.

*You are encouraged to talk to the court personnel
in Room 1702 to learn the simplicity of the system.*

TIME SCHEDULE

<u>22 MONTH CYCLE</u>		
		Case filed
		Court schedules case
1		Order entered setting 1.) §2-50 document production date 2.) Case Management Call
2		
3		§2-50 Document Production due
4		
5		Case Management Call – First working Tuesday of each month at 9:30a.m.
6	1	
7	2	
8	3	
9	4	
10	5	Trial Management Call – First working Thursday of each month at 9:30a.m. Discovery activated
11	6	
12	7	
13	8	
14	9	
15	10	Last day to disclose opinion witnesses and reports
16	11	
17	12	Last day to initiate new discovery
18	13	
19	14	Last day to respond to all discovery
20	15	Trial Assignment Call – First working Tuesday of each month at 2:00p.m.
21	16	Pretrial order due to trial judge
22	17	Trials



EXPLANATION OF FLOW CHART:

CASE FILED

(Case Inactive)

(Month 0)

PURPOSE:

- Plaintiff files objection, timely and in proper form. (See 35 ILCS 200/23-10 and C.C.R. 10.8 §1-20).

OPTION:

- Plaintiff considers merger with other tax years for purpose of settlement. (See C.C.R. 10.8 §2-32).

NOTE:

- Case will remain inactive.
- If cases are merged, the objector must submit evidence of value for each tax year. Evidence of value for one year is not, in itself, evidence of value for other years.

COURT SCHEDULES CASE
ON A CASE MANAGEMENT CALL

(Case Activated)

PURPOSES:

- The scheduling of the case will make it active for all purposes except mandatory discovery.
(See C.C.R. 10.8 § 2-20).
- The purpose is to activate the case well in advance of the actual court dates and the mandatory deadlines set by the circuit court rules. This advance notice will give litigants additional time to plan and prepare for:
 - a) §2-50 disclosure;
 - b) decision to merge tax years;
 - c) decision to proceed as a small claims;
 - d) decision to retain expert witnesses.
- The schedule (Numerical Listing) indicating on which Case Management Call each case is set will be available well in advance of the actual Case Management Call from the court clerks in Room 1702.
(See C.C.R. 10.8 § 2-35).
- **You are encouraged to talk to the court personnel in Room 1702 to learn the simplicity of this system.**
- The schedule will list the cases filed for each tax year in numerical order and will indicate the date of the Case Management Call.
- Charts indicating the future scheduled court dates for each case are also available from the court clerks in Room 1702. (See charts starting on page B1 of this material).

OPTIONS:

- Plaintiff prepares the Case Management Order. (See form order on page D2 or D3 and charts starting on page B1 of this material).
- Plaintiff considers merger with other tax year cases. (See C.C.R. 10.8 §2-32).
- Plaintiff prepares for §2-50 document production.
- Plaintiff considers processing case as a small claim.

ORDER ENTERED SETTING THE CASE MANAGEMENT CALL

(Month 1)

PURPOSES:

- Formally activates the case and sets the case on a twenty two-month cycle. (See preceding flowchart of this material).
- The majority of the tax objections will be tried, settled or dismissed within this twenty-two month cycle. (See *Introduction* concerning exceptions).
- The order sets date for Plaintiff's compliance with disclosure requirements as provided in §2-50 of C.C.R. 10.8. The date will be the first working Tuesday of the second month following the date of this order. (See charts starting on pages B1 and C.C.R. 10.8 §2-50).

OPTIONS:

- Plaintiff prepares a *Case Management Call order*. (For a regular case, see order on page D2 as well as charts starting on page B-1 of this material. For a small claim, see page D3 of this material.)
- Plaintiff has option to submit an order in advance. The court clerk will accept the order beginning 10 working days in advance of the actual Case Management Call date. If an order is submitted in advance, Plaintiff need not attend the Case Management Call provided there is substantial compliance with §2-50 disclosures. (See "§2-50 Document Production" which follows).

MANDATES:

- Plaintiff and Defendant shall use orders set out in the circuit court rule. (See C.C.R. 10.8 §2-45). Litigants electing to use a different order shall appear at the call to explain the deviations. A copy of the order suitable for

reproduction can be found on pages D2 and D3 of this material.

NOTE:

- Once a Case Management Call date has been set, the litigants can determine all other dates that are significant to the case from the charts found starting on page B1 of this material.

§2-50 DOCUMENT PRODUCTION

(Month 3)

PURPOSES:

- Encourage settlement.
- Encourage full disclosure of all relevant facts.

OPTIONS:

- Plaintiff may produce whatever additional information it feels is relevant but must make available, at least, all material in attorney's file which should include material set forth in §2-50 (d).
- It is beneficial for Plaintiff to retain and bring to court receipted copies of documents delivered to the State's Attorney.
- Defendant may request additional information it feels is relevant to settle the case.
- Plaintiff may object to the production of any item required to be produced. (See C.C.R. 10.8 §2-50(b)).

MANDATES:

- Plaintiff is required to complete a "§2-50 Cover Sheet" for each tax year. A copy of the Cover Sheet can be found at page D1.
- Plaintiff must submit statement, under oath, that all information is being produced.
 - Plaintiff must specify information that does not exist as well as information known to exist, but not within its control.(See C.C.R. 10.8 §2-50(c))

- It is preferable that the affidavit be signed by Plaintiff. The attorney of record may sign the affidavit.
- Plaintiff must produce:
 - 1.) Copies of all tax bills for subject property for the subject tax year.
 - 2.) Protest letters (if appropriate).
 - 3.) Description of subject property during tax year (size, age, condition, use etc.)
 - 4.) Description of the nature and cost of any improvement to the property during the period of two years prior to and through the subject tax year.
 - 5.) Contracts and closing statements relating to transfer of ownership of property during period of two years prior to and through the subject tax year.
 - 6.) Complaints and related documents submitted to Cook County Assessor's Office or to the Cook County Board of Appeals for the subject tax year.
 - 7.) Any appraisal report or other estimate of value which has a date of valuation within the period of two years prior to and through the subject tax year. (See C.C.R. 10.8 §2-50(d)).
- If Plaintiff objects to production of any item, Plaintiff must prepare a written objection.
- Defendant must review material submitted to determine if Plaintiff has substantially complied with §2-50.
- Defendant must file a motion for sanctions if Defendant feels that Plaintiff has not substantially complied with disclosures mandated by §2-50. Motions for sanctions will be heard on scheduled Case Management Call dates at 9:00 a.m.

CONSEQUENCE:

- Failure to produce §2-50 material will result in sanctions.
- Cases may be placed on a dormant calendar. Cases are reinstated only upon showing of good cause or when the calendar is current.
- The accrual of interest required pursuant to 35 ILCS 200/23-20 may be tolled while the case is on a dormant calendar.
- Other appropriate sanction.

NOTES:

- Plaintiff must prepare cover sheet for each tax year. (See form at page D1).
- The rule is to *encourage* full disclosure of all relevant facts to reach a prompt settlement.
- The rule *mandates* disclosure of specific information. The rule does not prevent disclosure of additional information which Plaintiff feels is relevant.
- Past practice enabled Plaintiff and Plaintiff's attorney to disclose information beneficial to its case, but to hold information that was detrimental to its case. The new rule discourages this practice.
- Rule is designed to encourage full, early disclosure of information, yet recognizes that it may impose hardship on Plaintiff to produce volumes of material at an early stage, which material may not be needed by Defendant. An example of such material is leases.

CASE MANAGEMENT CALL

(See order on page D2)

9:30a.m. First working Tuesday of each month

Appearance may *not* be required

(Month 5)

PURPOSES:

- Determine Plaintiff's compliance with initial document production and hear motions for sanctions for failure to comply. (See C.C.R. 10.8 §2-50). Motions will be heard at 9:00 a.m.
- Merge tax year cases where appropriate. (See C.C.R. 10.8 §2-32).
- Election to be made to proceed as a small claim. (See Section on C.C.R. 10.6 which follows)
- Establish time schedule for disposition of case.
 - Time schedule may be calculated from C.C.R. 10.8 §2-34 and /or §2-90 or it may be taken directly from charts provided starting on pages B1 of this material.

OPTIONS:

- Defendant may file a motion to request sanctions seeking dismissal or other remedies for Plaintiff's failure to substantially comply with §2-50 production.
- Defendant may request sanctions for Plaintiff's failure to provide *Case Management Call order*.
- Plaintiff or Defendant may request that case be merged with other tax year cases. Keep in mind that each tax year stands on its own. Proof of valuation from one year does not, in itself, establish proof of valuation for any other year.

- Parties need not appear in court if order is submitted, within three (3) working days before the call.
- Parties must appear if motion on compliance with §2-50 document production is scheduled. Hearings will be at 9:00 a.m.
- Parties must appear if request to modify time schedule is made.
- Plaintiff may elect that the case proceed as a small claim.

MANDATES:

- Plaintiff must present *Case Management Call order*.
- Parties must appear if request to modify schedule is made.
- Parties must appear if there is a motion on compliance with §2-50 document production.
- Must use form order (page D1) and insert dates set forth in charts starting on page B1.

**AFTER CASE MANAGEMENT CALL BUT PRIOR
TO TIME DISCOVERY ACTIVATED
(TRIAL MANAGEMENT CALL)**

(Months 5-10)

PURPOSES:

- During this period both parties will attempt settlement.
- Defendant will review Plaintiff's production of evidence.
- Plaintiff and Defendant will confer regarding settlement.

OPTIONS:

- Plaintiff and Defendant may negotiate a settlement.
- Plaintiff and/or Defendant may produce discovery voluntarily.

NOTES:

- Plaintiff and Defendant must keep in mind that discovery is activated in 10th month (5th month following the *Case Management Call*).
- Begin compliance with discovery.
- Evaluate all discovery.
- Determine need for expert opinion for each tax year.

TRIAL MANAGEMENT CALL

(See order on page D2)

9:30a.m. First working Thursday of each month

Appearance *may be required*¹

(Month 10)

PURPOSES:

- Trial Management Call marks transition from settlements to preparation for trial.
- Discovery is now active and will proceed pursuant to the schedule outlined in the *Case Management Order*.
- Provides a forum to resolve disputes before full-scale discovery.

OPTIONS:

- All previous orders to stand – case will automatically be set on the Trial Assignment Call pursuant to the Case Management order.
- Parties may pursue settlement with each other.
- Parties may pursue settlement conference with court only if:
 - a) Both parties have named an opinion witness and have the report of the witness;
 - OR
 - b) One party has named an opinion witness and has the report of the witness and the other party has irrevocably elected to proceed without an opinion witness

OR

¹ Parties need not appear in court *if an agreed* order is submitted within three (3) working days before the call.

c) Both parties have irrevocably elected to proceed without an opinion witness.

- Request modification in scheduled dates set in *Case Management Order*. (See C.C.R. 10.8 §2-34B).

MANDATES:

- Plaintiff must prepare a *Trial Management Order*. (See form order at page D4 of this book).

DISCOVERY ACTIVATED

(Month 10)

PURPOSES:

- Discovery is stayed until the 10th month (5th month following the Case Management Call) to give both sides the opportunity to settle the case without the responsibility of responding to discovery. The required responses to the discovery are due pursuant to Supreme Court Rules, within twenty-eight (28) days. (See Case Management Call Order on page D3 of this material and C.C.R. 10.8 §2-45).
- The purpose is to encourage a free flow of all information needed to resolve the case.

OPTIONS:

- Consider deposition of disclosed experts.
- Retain expert.
- Consider offer/non-offers.
- Consider sanctions for failure to respond to requests for discovery.

MANDATE:

- Plaintiff and Defendant must respond to all requests for discovery within twenty-eight (28) days.

NOTE:

- The date that discovery is activated is the first working Tuesday of the 10th month (5th month following the Case Management Call) and the *Trial Management Call* is the first working Thursday of the 10th month. The *Trial Management Call* and the *discovery activation date* basically coincide.
The bottom line: to bring the parties together for one last chance at settlement.

**LAST DATE TO IDENTIFY ALL OPINION WITNESSES
AND TO DISCLOSE ALL REPORTS**

(Month 15)

PURPOSES:

- Purpose in delaying identification of expert is to allow parties time to settle without incurring expense of retaining expert.
- Disclosure at this time will enable Plaintiff and Defendant to evaluate all evidence and prepare to try, settle or dismiss case.

OPTIONS:

- Plaintiff must identify opinion witnesses and deliver reports if available prior to mandated §2-50 disclosure. Plaintiff may wish to disclose such information as soon as it is available in order to help settle the case.
- Defendant may disclose any opinion witness and report as soon as it is available.

MANDATES:

- Failure to disclose opinion witness and report shall be deemed election not to use such opinion witness. (See C.C.R. 10.8 §2-115).

NOTE:

- Each tax year requires independent evidence of value. An opinion of value of one year is not, in itself, proof of value of any other year.

LAST DATE TO INITIATE NEW DISCOVERY

(Month 17)

PURPOSES:

- To set a final date to request information by way of discovery.

MANDATE:

- All requests for discovery must be served by this deadline.
(See C.C.R. 10.8 §2-34A(iii)).

NOTE:

- Purpose of cut-off is to force parties to evaluate case for trial and/or settlement. Failure to timely seek discovery may be viewed as a waiver of discovery.

LAST DATE TO RESPOND TO ALL DISCOVERY

(Month 19)

PURPOSES:

- Purpose is to close all discovery to enable both sides time to prepare for trial.
- The date discovery closes on each case is known well in advance. (See charts starting on page B1 of this material).
- Extensions of time to respond will be given only in exceptional circumstances.

OPTIONS:

- Plaintiff and/or Defendant may seek sanctions for failure to comply.

MANDATE:

- Responses to discovery must be completed timely.

TRIAL ASSIGNMENT CALL

(See order on page D5)

2:00p.m. First working Tuesday of each month

Appearance elective

(Month 20)

PURPOSES:

- Assign case to trial judge.
- Obtain trial date from trial judge.

MANDATES:

- Plaintiff and Defendant must start preparing *Pretrial order*. (See order on page D6 of this material).
- Plaintiff must forward proposed agreed *final pretrial order* to Defendant at least 14 days prior to due date of *pretrial order*.
- Defendant must return *final pretrial order* to Plaintiff at least 7 days prior to due date of *pretrial order*.
- **Plaintiff must submit signed order to court on or before due date.**
- If the plaintiff fails to submit the Final Pretrial Order within 14 days prior to the due date of this order, the plaintiff will be subject to sanctions on motion of the defendant or on the courts own order. Such sanctions may include barring of evidence.
- If the defendant fails to submit the Final Pretrial Order within 7 days prior to the due date of this order, the defendant will be subject to sanctions on motion of the plaintiff or on the courts own order. Such sanctions may include barring of evidence.

FINAL PRETRIAL ORDER DUE TO TRIAL JUDGE

(See order on page D6)

(Month 21)

PURPOSE:

- Provisions in order are designed to facilitate speedy and orderly trials.

OPTIONS:

- Plaintiff and Defendant may settle case.
- Plaintiff may dismiss case.
- Parties may proceed to trial.
- Plaintiff or Defendant may request sanctions for failure to cooperate in the preparation of the *pretrial order*.

MANDATES:

- Plaintiff and Defendant must prepare *pretrial order*.
- Plaintiff and Defendant must obtain a trial date from court clerk of the trial judge.
- Plaintiff must forward proposed *pretrial order* to Defendant at least 14 days prior to due date of the *pretrial order*.
- Defendant must return *pretrial order* to Plaintiff at least 7 days prior to due date of *pretrial order*.
- Plaintiff must submit signed order to court on or before due date.
- If the plaintiff fails to submit the Final Pretrial Order within 14 days prior to the due date of this order, the plaintiff will be subject to sanctions on motion of the

defendant or on the courts own order. Such sanctions may include barring of evidence.

- If the defendant fails to submit the Final Pretrial Order within 7 days prior to the due date of this order, the defendant will be subject to sanctions on motion of the plaintiff or on the courts own order. Such sanctions may include barring of evidence.
- Failure to include material in order will subject party to sanctions on motion of the other party or on courts own order. Sanction to include the baring of evidence.

NOTE:

- Only under the **most exceptional** circumstances will a trial judge continue a case once it is set for trial.

TRIAL

(Month 22)

MANDATE:

- Each case must be tried, settled or dismissed within 90 days.

NOTE:

- Each tax year is a separate case.
- It is desirable that both parties schedule a pre-trial conference with the trial judge to discuss such items as schedules, witnesses, stipulations, trial briefs and any other items which could contribute to an orderly trial.

THE COURT INTENDS TO CALL TAX OBJECTION CASES PURSUANT TO THIS SCHEDULE:

TAX OBJECTION CASE CALL
MONTH AND YEAR IN WHICH TAX OBJECTIONS CASES
FROM 1995 THROUGH 2002 WILL BE HEARD

MONTH	2000	2001	2002	2003	2004
JAN	1995 Objections 6,249 Total 695 per month	1996"	1997"	1999"	2000"
FEB	1995"	1996"	1997"	1999"	2000"
MAR	1995"	1996"	1997"	1999"	2001 Objections
APR	1995"	1996"	1998 Objections	1999"	2001"
MAY	1995"	1996"	1998"	1999"	2001"
JUNE	1995"	1996"	1998"	1999"	2001"
JULY	1995"	1995 Objections 6249 Total 695 per Month	1998"	2000 Objections	2001"
AUG	1995"	1997"	1998"	2000"	2001"
SEPT	1995"	1997"	1998"	2000"	2001"
OCT	1996 Objections 6,516 Total 724 per Month	1997"	1998"	2000"	2001"
NOV	1996"	1997"	1999 Objections	2000"	2002 Objections will be current and called over a 12 month cycle
DEC	1996"	1997"	1999"	2000"	

*The 1995 cases will vary from month to month. This is due to changing the schedule from 7 months to 9 months.

TIME SCHEDULE

<u>22 MONTH CYCLE</u>		
		Case filed
		Court schedules case
1		Order entered setting 1.) §2-50 document production date 2.) Case Management Call
2		
3		§2-50 Document Production due
4		
5		Case Management Call – First working Tuesday of each month at 9:30a.m.
6	1	
7	2	
8	3	
9	4	
10	5	Trial Management Call – First working Thursday of each month at 9:30a.m. Discovery activated
11	6	
12	7	
13	8	
14	9	
15	10	Last day to disclose opinion witnesses and reports
16	11	
17	12	Last day to initiate new discovery
18	13	
19	14	Last day to respond to all discovery
20	15	Trial Assignment Call – First working Tuesday of each month at 2:00p.m.
21	16	Pretrial order due to trial judge
22	17	Trials

* This column represents the months from the Case Management Call.

EXPLANATION OF CHARTS

Litigant can determine exact dates by charts on pages B1 of this material.

For example assume that your Case Management date is August 1, 2000. You first locate August 1, 2000 in the *Case Management Call* column by reading across. August 1, 2000 is found on the *Case Management Call* column on page B-1. Reading down from that date you can determine that discovery will be activated on January 4, 2001, that the *Trial Management Call* is set for January 4, 2001, and that the case will ultimately be assigned to a judge for trial on November 6, 2001.

**CASES FILED FOR TAX YEAR 1994/1995
SCHEDULED OVER 9 MONTHS**

	1 st Month Dec. '99	2 nd Month Jan. '00	3 rd Month Feb. '00	4 th Month March '00	5 th Month April '00	6 th Month May '00	7 th Month June '00	8 th Month July '00	9 th Month Aug. '00
• Order setting 1) § 2-50 Document Production Date and 2) Case Management Call Date									
• C.C.R. 10.8 § 2-50 Document Production Due	* 10-5-99	* 11-2-99	* 12-7-99	* 1-4-00	* 2-1-00	* 3-7-00	* 4-4-00	* 5-2-00	* 6-6-00
• Case Management Call Tuesday at 9:30 a.m.	12- -99	1-4-00	2-1-00	3-7-00	4-4-00	5-2-00	6-6-00	7-11-00	8-1-00
• Election to merge tax cases for different tax years	12- -99	1- -00	2- -00	3- -00	4-4-00	5-2-00	6-6-00	7-11-00	8-1-00
• Election to proceed as Small Claim	12- -99	1- -00	2- -00	3- -00	4-4-00	5-2-00	6-6-00	7-11-00	8-1-00
• Plaintiff's initial production of documents pursuant to C.C.R. 10.8 § 2-50 if not already completed.	2-1-00	3-7-00	4-4-00	5-2-00	6-6-00	7-11-00	8-1-00	9-5-00	10-2-00
• Trial Management Call Thursday at 9:30a.m. (Insert this date in Section C, paragraph 1 of Case Management Call Order)	9-7-00	6-6-00	7-11-00	8-1-00	9-7-00	10-5-00	11-2-00	12-7-00	1-4-01
• Discovery activated Previously filed discovery stayed until this date. (Insert this date in Section C, paragraph 2 of Case Management Call Order)	9-7-00	6-6-00	7-11-00	8-1-00	9-7-00	10-5-00	11-2-00	12-7-00	1-4-01
• Last day to identify opinion witnesses and to produce opinion witness report. (Insert this date in Section C, paragraph 3 of Case Management Call Order)	10-3-00	11-7-00	12-7-00	1-2-01	2-6-01	3-6-01	4-3-01	5-1-01	6-5-01
• Last date to initiate all new discovery including depositions. (Insert this date in Section C, paragraph 4 of Case Management Call Order)	12-5-00	1-2-01	2-6-01	3-6-01	4-3-01	5-1-01	6-5-01	7-3-01	8-7-01
• Last date to respond to all discovery including completion of depositions. (Insert this date in Section C, paragraph 5 of Case Management Call Order)	2-6-01	3-6-01	4-3-01	5-1-01	6-5-01	7-3-01	8-7-01	9-4-01	10-2-01
• Trial Assignment Call Tuesday at 2:00p.m. (Insert this date in Section C, paragraph 6 of Case Management Call Order)	3-6-01	4-3-01	5-1-01	6-5-01	7-3-01	8-7-01	9-4-01	10-2-01	11-6-01
• Pretrial Order due to Trial Judge (Insert this date in paragraph 2 of Trial Assignment Call Order)	4-3-01	5-1-01	6-5-01	7-3-01	8-7-01	9-4-01	10-2-01	11-6-01	12-4-01

* Due to the procedural change in this system, the date of § 2-50 Document Production for this schedule only, may not be practical. However, in no event shall production of § 2-50 material to be later than 30 days after the Case Management Call.

**CASES FILED FOR TAX YEAR 1996
SCHEDULED OVER 9 MONTHS**

	1 st Month Sept. '00	2 nd Month Oct. '00	3 rd Month Nov. '00	4 th Month Dec. '00	5 th Month Jan. '01	6 th Month Feb. '01	7 th Month March '01	8 th Month April '01	9 th Month May '01
• Order entered setting 1) §2-50 Document Production date and 2) Case Management Call date									
• C.C.R. 10.8 §2-50 Document Production due	7-11-00	8-1-00	9-5-00	10-3-00	11-7-00	12-5-00	1-2-01	2-6-01	3-6-01
• Case Management Call Tuesday at 9:30 a.m.	9-5-00	10-3-00	11-14-00	12-5-00	1-2-01	2-6-01	3-6-01	4-3-01	5-1-01
• Election to merge tax cases for different tax years	9-5-00	10-3-00	11-14-00	12-5-00	1-2-01	2-6-01	3-6-01	4-3-01	5-1-01
• Election to proceed as Small Claim	9-5-00	10-3-00	11-14-00	12-5-00	1-2-01	2-6-01	3-6-01	4-3-01	5-1-01
• Trial Management Call Thursday at 9:30a.m. (Insert this date in paragraph 1 of Case Management Call Order)	2-1-01	3-1-01	4-5-01	5-3-01	6-7-01	7-5-01	8-2-01	9-6-01	10-4-01
• Discovery activated Previously filed discovery stayed until this date. (Insert this date in paragraph 2 of Case Management Call Order)	2-1-01	3-1-01	4-5-01	5-3-01	6-7-01	7-5-01	8-2-01	9-6-01	10-4-01
• Last day to identify opinion witnesses and to produce opinion witness report. (Insert this date in paragraph 3 of Case Management Call Order)	7-3-01	8-7-01	9-4-01	10-2-01	11-6-01	12-4-01	1-8-02	2-5-02	3-5-02
• Last date to initiate all new discovery including depositions. (Insert this date in paragraph 4 of Case Management Call Order)	9-4-01	10-2-01	11-6-01	12-4-01	1-8-02	2-5-02	3-5-02	4-2-02	5-7-02
• Last date to respond to all discovery including completion of depositions. (Insert this date in paragraph 5 of Case Management Call Order)	11-6-01	12-4-01	1-8-02	2-5-02	3-5-02	4-2-02	5-7-02	6-4-02	7-2-02
• Trial Assignment Call Tuesday at 2:00p.m. (Insert this date in paragraph 6 of Case Management Call Order)	12-4-01	1-8-02	2-5-02	3-5-02	4-2-02	5-7-02	6-4-02	7-2-02	8-6-02
• Pretrial Order due to Trial Judge (Insert this date in paragraph 2 of Trial Assignment Call Order)	1-8-02	2-5-02	3-5-02	4-2-02	5-7-02	6-4-02	7-2-02	8-6-02	9-3-02

**CASES FILED FOR TAX YEAR 1997
SCHEDULED OVER 8 MONTHS**

	1st Month June '01	2nd Month July '01	3rd Month Aug. '01	4th Month Sept. '01	5th Month Oct. '01	6th Month Nov. '01	7th Month Dec. '01	8th Month Jan. '02
• Order entered setting 1) §2-50 Document Production date and 2) Case Management Call date								
• C.C.R. 10.8 §2-50 Document Production due	4-3-01	5-1-01	6-5-01	7-3-01	8-7-01	9-4-01	10-2-01	11-6-01
• Case Management Call Tuesday at 9:30a.m.	6-5-01	7-3-01	8-7-01	9-4-01	10-2-01	11-6-01	12-4-01	1-8-02
• Election to merge tax cases for different tax years	6-5-01	7-3-01	8-7-01	9-4-01	10-2-01	11-6-01	12-4-01	1-8-02
• Election to proceed as Small Claim	6-5-01	7-3-01	8-7-01	9-4-01	10-2-01	11-6-01	12-4-01	1-8-02
• Trial Management Call Thursday at 9:30a.m. (Insert this date in paragraph 1 of Case Management Call Order)	11-1-01	12-6-01	1-3-02	2-7-02	3-7-02	4-4-02	5-2-02	6-6-02
• Discovery activated Previously filed discovery stayed until this date. (Insert this date in paragraph 2 of Case Management Call Order)	11-1-01	12-6-01	1-3-02	2-7-02	3-7-02	4-4-02	5-2-02	6-6-02
• Last day to disclose opinion witnesses and to produce opinion witness report. (Insert this date in paragraph 3 of Case Management Call Order)	4-2-02	5-2-02	6-4-02	7-2-02	8-6-02	9-3-02	10-1-02	11-5-02
• Last date to initiate all new discovery including depositions. (Insert this date in paragraph 4 of Case Management Call Order)	6-4-02	7-2-02	8-6-02	9-3-02	10-1-02	11-5-02	12-3-02	1-7-03
• Last date to respond to all discovery including completion of depositions. (Insert this date in paragraph 5 of Case Management Call Order)	8-6-02	9-3-02	10-1-02	11-5-02	12-3-02	1-7-03	2-4-03	3-4-03
• Trial Assignment Call Tuesday at 2:00p.m. (Insert this date in paragraph 6 of Case Management Call Order)	9-3-02	10-1-02	11-5-02	12-3-02	1-7-03	2-4-03	3-4-03	4-1-03
• Pretrial Order due to Trial Judge (Insert this date in paragraph 2 of Trial Assignment Call Order)	10-1-02	11-5-02	12-3-02	1-7-03	2-4-03	3-4-03	4-1-03	5-6-03

**CASES FILED FOR TAX YEAR 1998
SCHEDULED OVER 8 MONTHS**

	1 st Month Feb. '02	2 nd Month March '02	3 rd Month April '02	4 th Month May '02	5 th Month June '02	6 th Month July '02	7 th Month Aug. '02	8 th Month Sept. '02
• Order entered setting 1) § 2-50 Document Production date and 2) Case Management Call date								
• C.C.R. 10.8 § 2-50 Document Production due	12-4-01	1-8-02	2-5-02	3-5-02	4-2-02	5-7-02	6-4-02	7-2-02
• <i>Case Management Call</i> Tuesday at 9:30a.m.	2-5-02	3-5-02	4-2-02	5-7-02	6-4-02	7-2-02	8-6-02	9-3-02
• Election to merge tax cases for different tax years	2-5-02	3-5-02	4-2-02	5-7-02	6-4-02	7-2-02	8-6-02	9-3-02
• Election to proceed as Small Claim	2-5-02	3-5-02	4-2-02	5-7-02	6-4-02	7-2-02	8-6-02	9-3-02
• <i>Trial Management Call</i> Thursday at 9:30a.m. (Insert this date in paragraph 1 of Case Management Call Order)	7-11-02	8-1-02	9-5-02	10-3-02	11-7-02	12-5-02	1-2-03	2-6-03
• Discovery activated Previously filed discovery stayed until this date. (Insert this date in paragraph 2 of Case Management Call Order)	7-11-02	8-1-02	9-5-02	10-3-02	11-7-02	12-5-02	1-2-03	2-6-03
• Last day to disclose opinion witnesses and to produce opinion witness report. (Insert this date in paragraph 3 of Case Management Call Order)	12-3-02	1-7-03	2-4-03	3-4-03	4-1-03	5-6-03	6-3-03	7-1-03
• Last date to initiate all new discovery including depositions. (Insert this date in paragraph 4 of Case Management Call Order)	2-4-03	3-4-03	4-1-03	5-6-03	6-3-03	7-1-03	8-5-03	9-2-03
• Last date to respond to all discovery including completion of depositions. (Insert this date in paragraph 5 of Case Management Call Order)	4-1-03	5-6-03	6-3-03	7-1-03	8-5-03	9-2-03	10-7-03	11-4-03
• <i>Trial Assignment Call</i> Tuesday at 2:00p.m. (Insert this date in paragraph 6 of Case Management Call Order)	5-6-03	6-3-03	7-1-03	8-5-03	9-2-03	10-7-03	11-4-03	12-2-03
• Pretrial Order due to Trial Judge (Insert this date in paragraph 2 of Trial Assignment Call Order)	6-3-03	7-1-03	8-5-03	9-2-03	10-7-03	11-4-03	12-2-03	1-6-04

**CASES FILED FOR TAX YEAR 1999
SCHEDULED OVER 8 MONTHS**

	1 st Month Oct. '02	2 nd Month Nov. '02	3 rd Month Dec. '02	4 th Month Jan. '03	5 th Month Feb. '03	6 th Month March. '03	7 th Month April '03	8 th Month May '03
• Order entered setting 1) § 2-50 Document Production date and 2) Case Management Call date								
• C.C.R. 10.8 § 2-50 Document Production due	8-6-02	9-3-02	10-1-02	11-5-02	12-3-02	1-7-03	2-4-03	3-4-03
• <i>Case Management Call</i> Tuesday at 9:30a.m.	10-1-02	11-5-02	12-3-02	1-7-03	2-4-03	3-4-03	4-1-03	5-6-03
• Election to merge tax cases for different tax years	10-1-02	11-5-02	12-3-02	1-7-03	2-4-03	3-4-03	4-1-03	5-6-03
• Election to proceed as Small Claim	10-1-02	11-5-02	12-3-02	1-7-03	2-4-03	3-4-03	4-1-03	5-6-03
• <i>Trial Management Call</i> Thursday at 9:30a.m. (Insert this date in paragraph 1 of Case Management Call Order)	3-6-03	4-3-03	5-1-03	6-5-03	7-3-03	8-7-03	9-4-03	10-2-03
• Discovery activated Previously filed discovery stayed until this date. (Insert this date in paragraph 2 of Case Management Call Order)	3-6-03	4-3-03	5-1-03	6-5-03	7-3-03	8-7-03	9-4-03	10-2-03
• Last day to disclose opinion witnesses and to produce opinion witness report. (Insert this date in paragraph 3 of Case Management Call Order)	8-5-03	9-2-03	10-7-03	11-4-03	12-2-03	1-6-04	2-3-04	3-2-04
• Last date to initiate all new discovery including depositions. (Insert this date in paragraph 4 of Case Management Call Order)	10-7-03	11-4-03	12-2-03	1-6-04	2-3-04	3-2-04	4-6-04	5-4-04
• Last date to respond to all discovery including completion of depositions. (Insert this date in paragraph 5 of Case Management Call Order)	12-2-03	1-6-04	2-3-04	3-2-04	4-6-04	5-4-04	6-1-04	7-6-04
• <i>Trial Assignment Call</i> Tuesday at 2:00p.m. (Insert this date in paragraph 6 of Case Management Call Order)	1-6-04	2-3-04	3-2-04	4-6-04	5-4-04	6-1-04	7-6-04	8-3-04
• Pretrial Order due to Trial Judge (Insert this date in paragraph 2 of Trial Assignment Call Order)	2-3-04	3-2-04	4-6-04	5-4-04	6-1-04	7-6-04	8-3-04	9-7-04

B 5

**CASES FILED FOR TAX YEAR 2000
SCHEDULED OVER 8 MONTHS**

	1 st Month June '03	2 nd Month July '03	3 rd Month Aug. '03	4 th Month Sept. '03	5 th Month Oct. '03	6 th Month Nov. '03	7 th Month Dec. '03	8 th Month Jan. 04
• Order entered setting 1) § 2-50 Document Production date and 2) Case Management Call date								
• C.C.R. 10.8 § 2-50 Document Production due	4-1-03	5-6-03	6-3-03	7-1-03	8-5-03	9-2-03	10-7-03	11-4-03
• Case Management Call Tuesday at 9:30a.m	6-3-03	7-1-03	8-5-03	9-2-03	10-7-03	11-4-03	12-2-03	1-6-04
• Election to merge tax cases for different tax years	6-3-03	7-1-03	8-5-03	9-2-03	10-7-03	11-4-03	12-2-03	1-6-04
• Election to proceed as Small Claim	6-3-03	7-1-03	8-5-03	9-2-03	10-7-03	11-4-03	12-2-03	1-6-04
• Trial Management Call Thursday at 9:30a.m. (Insert this date in paragraph 1 of Case Management Call Order)	11-6-03	12-4-03	1-1-04	2-5-04	3-4-04	4-1-04	5-6-04	6-3-04
• Discovery activated Previously filed discovery stayed until this date. (Insert this date in paragraph 2 of Case Management Call Order)	11-6-03	12-4-03	1-1-04	2-5-04	3-4-04	4-1-04	5-6-04	6-3-04
• Last day to identify opinion witnesses and to produce opinion witness report. (Insert this date in paragraph 3 of Case Management Call Order)	4-6-04	5-4-04	6-1-04	7-6-04	8-3-04	9-7-04	10-5-04	11-2-04
• Last date to initiate all new discovery including depositions. (Insert this date in paragraph 4 of Case Management Call Order)	6-1-04	7-6-04	8-3-04	9-7-04	10-5-04	11-2-04	12-7-04	1-4-05
• Last date to respond to all discovery including completion of depositions. (Insert this date in paragraph 5 of Case Management Call Order)	8-3-04	9-7-04	10-5-04	11-2-04	12-7-04	1-4-05	2-1-05	3-1-05
• Trial Assignment Call Tuesday at 2:00p.m. (Insert this date in paragraph 6 of Case Management Call Order)	9-7-04	10-5-04	11-2-04	12-7-04	1-4-05	2-1-05	3-1-05	4-5-05
• Pretrial Order due to Trial Judge (Insert this date in paragraph 2 of Trial Assignment Call Order)	10-5-04	11-2-04	12-7-04	1-4-05	2-1-05	3-1-05	4-5-05	5-3-05

**CASES FILED FOR TAX YEAR 2001
SCHEDULED OVER 8 MONTHS**

	1 st Month Feb '04	2 nd Month March '04	3 rd Month April '04	4 th Month May '04	5 th Month June '04	6 th Month July '04	7 th Month Aug. '04	8 th Month Sept. '04
• Order entered setting 1) §2-50 Document Production date and 2) Case Management Call date								
• C.C.R. 10.8 §2-50 Document Production due	12-2-03	1-6-04	2-3-04	3-2-04	4-6-04	5-4-04	6-1-04	7-6-04
• Case Management Call Tuesday at 9:30a.m.	2-3-04	3-2-04	4-6-04	5-4-04	6-1-04	7-6-04	8-3-04	9-7-04
• Election to merge tax cases for different tax years	2-3-04	3-2-04	4-6-04	5-4-04	6-1-04	7-6-04	8-3-04	9-7-04
• Election to proceed as Small Claim	2-3-04	3-2-04	4-6-04	5-4-04	6-1-04	7-6-04	8-3-04	9-7-04
• Trial Management Call Thursday at 9:30a.m. (Insert this date in paragraph 1 of Case Management Call Order)	7-1-04	8-5-04	9-2-04	10-7-04	11-4-04	12-2-04	1-6-05	2-3-05
• Discovery activated Previously filed discovery stayed until this date. (Insert this date in paragraph 2 of Case Management Call Order)	7-1-04	8-5-04	9-2-04	10-7-04	11-4-04	12-2-04	1-6-05	2-3-05
• Last day to disclose opinion witnesses and to produce opinion witness report. (Insert this date in paragraph 3 of Case Management Call Order)	12-7-04	1-4-05	2-1-05	3-1-05	4-5-05	5-3-05	6-7-05	7-5-05
• Last date to initiate all new discovery including depositions. (Insert this date in paragraph 4 of Case Management Call Order)	2-1-05	3-1-05	4-5-05	5-3-05	6-7-05	7-5-05	8-2-05	9-6-05
• Last date to respond to all discovery including completion of depositions. (Insert this date in paragraph 5 of Case Management Call Order)	4-5-05	5-3-05	6-7-05	7-5-05	8-2-05	9-6-05	10-4-05	11-1-05
• Trial Assignment Call Tuesday at 2:00p.m. (Insert this date in paragraph 6 of Case Management Call Order)	5-3-05	6-7-05	7-5-05	8-2-05	9-6-05	10-4-05	11-1-05	12-6-05
• Pretrial Order due to Trial Judge (Insert this date in paragraph 2 of Trial Assignment Call Order)	6-7-05	7-5-05	8-2-05	9-6-05	10-4-05	11-1-05	12-6-05	1-3-06

TAX VALUATION OBJECTIONS

SETTLEMENTS BETWEEN PARTIES

At any time prior to trial the parties may settle the case by jointly filing a Memorandum of Settlement and Proposed Agreed Judgment Order with the court. (See C.C.R. 10.8 §2-25 and order on page D-7 of this material).

Agreed orders are signed in court immediately after the 9:00 a.m. Motion Call on Tuesdays and Thursdays – except the first working Tuesday and Thursday each month.

Plaintiff's are responsible for docketing their case on the Settlement Call. A separate docket book will be maintained for settling settlements. Plaintiff's will enter the tax year, case number and name and telephone number of the attorney.

TAX VALUATION OBJECTIONS

SETTLEMENT CONFERENCE WITH THE COURT

Parties may pursue settlement conference with the court if:

- a) Both parties have named an opinion witness and have the report of the witness;
- OR
- b) One party has named an opinion witness and has the report of the witness and the other party has irrevocably elected to proceed without an opinion witness;
- OR
- c) Both parties have irrevocably elected to proceed without an opinion witness.

Failure to disclose opinion witness and report shall be deemed election not to use such opinion witness. (See C.C.R. 10.8 §2-115).

The last day to identify opinion witness and the report shall be the first working Tuesday after the 10th month following the Case Management Call.

Objector) _____ Small Claim
) _____ Regular Call
 PIN)
) 94 Obj. No.
 Address) Merged with cases:
) 95 Obj. No.
) 96 Obj. No.

SECTION 2-50 COVER SHEET

Assessor's Assessment Level _____ Equalization Factor _____

Tax Rate _____

	Assessed Value	Market Value	Taxes
Assessor			
Plaintiff			

Plaintiff Appraiser _____ \$ _____

Defendant Appraiser _____ \$ _____

Requested Refund: _____

Basis for relief:

Other Cases:

Case Number

Submitting Attorney
Phone Number

**Cover Sheet to be filled out by Plaintiff and Submitted with §2-50
Package for each tax year**

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION

)	
_____)	
Plaintiff,)	
vs.)	Valuation Objection No. _____
_____)	
Cook County Treasurer and)	
Ex Officio County Collector,)	
Defendant.)	

CASE MANAGEMENT CALL ORDER

This cause coming to be heard on the Court's Case Management Call, due notice having been given and the Court being advised in the premises,

IT IS HEREBY ORDERED:

1. This matter shall be set for the Trial Management Call on _____ at 9:30 a.m. without further notice.
[The first working Thursday of the fifth month following the Case Management Call.]
2. Compliance with all previously filed discovery and all future discovery, including depositions, shall be stayed until _____.
[First working Thursday of fifth month following the Case Management Call.]
3. Each party shall disclose the identity of all opinion witnesses, and shall produce written reports of such opinion witnesses to the opposing party, on or before _____.
[First working Tuesday of the tenth month following the Case Management Call.]
4. The cut-off date for initiating new discovery, including notices of deposition, shall be _____.
[First working Tuesday of the twelfth month following the Case Management Call.]

5. The cut-off date for responses to all discovery, including completion of all depositions, shall be _____
[First working Tuesday of fourteenth month following the Case Management Call.]
6. This matter shall be set for the trial assignment call on _____ at 2:00p.m. without further notice.
[The first working Tuesday of the fifteenth month following the Case Management Call.]
7. This case is merged with _____.

ENTER: _____

NAME
ADDRESS
CITY
PHONE NUMBER
ATTORNEY NUMBER

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION

_____)	
)	
Plaintiff,)	
vs.	)	Valuation Objection No.
_____)	
Cook County Treasurer and)	
Ex Officio County Collector,)	
Defendant.)	

CASE MANAGEMENT CALL ORDER
SMALL CLAIM

- 1.) This matter shall proceed as a Small Claims Case.
- 2.) This case is assigned to Judge _____.
- 3) Parties shall obtain a pre-trial conference date from the trial judge's clerk within 14 working days.
- 4). This case is merged for purposes of all further proceedings with the following cases _____
_____.

ENTER: _____

NAME
ADDRESS
CITY
PHONE NUMBER
ATTORNEY NUMBER

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION**

)	
_____)	
Plaintiff,)	
vs.	)	Valuation Objection No.
_____)	
Cook County Treasurer and)	
Ex Officio County Collector,)	
Defendant.)	

TRIAL MANAGEMENT CALL ORDER

This cause coming on to be heard on the Court's trial management call, due notice having been given and the Court being advised in the premises,

IT IS HEREBY ORDERED:

- ☐ That all previous orders are continued and that the matter set for the trial assignment call on _____ at 2:00 p.m.
- ☐ Case is assigned to Assistant State's Attorney _____.
- ☐ Case is assigned to Judge_____. Parties must obtain a court date from judge's clerk within 10 working days.

ENTER: _____

NAME
ADDRESS
CITY
PHONE NUMBER
ATTORNEY NUMBER

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION**

Plaintiff,)	
)	
vs.	)	Valuation Objection No.
)	
Cook County Treasurer and)	
Ex Officio County Collector,)	
Defendant.)	

TRIAL ASSIGNMENT CALL ORDER

This cause coming on to be heard on the Court's trial assignment call, due notice having been given and the Court being advised in the premises,

IT IS HEREBY ORDERED:

1. This matter shall be assigned to Judge _____.
2. The parties shall confer and submit a proposed final pre-trial order to the assigned trial judge on or before _____, * and shall contact the clerk for the assigned judge regarding dates for trial. (**First working Tuesday of the month following this order.*)
3. Plaintiff must forward proposed *Final Pre-Trial Order* to Defendant at least 14 days prior to due date of order.
4. Defendant must return *Final Pre-Trial Order* to Plaintiff at least 7 days prior to due date of order.
5. If the plaintiff fails to submit the Final Pretrial Order within 14 days prior to the due date of this order, the plaintiff will be subject to sanctions on motion of the defendant or on the courts own order. Such sanctions may include barring of evidence.
6. If the defendant fails to submit the Final Pretrial Order within 7 days prior to the due date of this order, the defendant will be subject to sanctions on motion of the plaintiff or on the courts own order. Such sanctions may include barring of evidence.

ENTER: _____

NAME
ADDRESS
CITY
PHONE NUMBER
ATTORNEY NUMBER

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION**

)	
Plaintiff,)	
vs.)	
	)	)Valuation Objection No.
Cook County Treasurer and)	
Ex Officio County Collector,)	
Defendant.)	

FINAL PRE-TRIAL ORDER

This cause coming on for a final pre-trial conference, and the parties being represented by their respective counsel,

THE COURT HEREBY ENTERS THE FOLLOWING FINDINGS AND ORDER:

1. The parties have entered into a stipulation of uncontested facts and uncontested matters of law, as follows:
[The parties are directed to narrow the factual and legal issues for trial by stipulation insofar as possible. Each of the following items, which will normally be uncontested or will have been resolved by the trial management order, must be stipulated unless a specific dispute as to that item has arisen:

Volume: _____ Township: _____

P.I.N.(s): _____

Location: _____

Description:

(1) Land: _____

(2) Improvement(s): _____

(3) Use (for subject tax year): _____

Current Assessment and Taxes:

(1) Classification: _____

(2) Total AV: _____

(3) Indicated FMV: _____

(4) Tax Rate: _____ Equalizer: _____

(5) Total Annual Taxes: _____

2. Plaintiff's claim is based on the following total fair market value, total assessed value, and total annual taxes for the subject property, and plaintiff seeks the following total tax refund:
- (1) FMV: _____
- (2) Total AV: _____
- (3) Total Annual Taxes: _____
- (4) Refund Claimed: _____
3. The contested issues of law and fact in this case are as follows:
[The parties are directed to make an agreed statement of contested issues insofar as possible in whole or in part. To the extent that agreement cannot be reached a separate statement by each party shall be included.]
4. The exhibits to be offered at trial by each party are as follows:
[Each party is to list all exhibits, including documents, charts, summaries or other items to be offered in evidence, and any demonstrative evidence. All exhibits are to be marked for identification, and are to be made available to the opposing party for inspection or copying, prior to trial; and copies thereof shall be furnished to the Court. Counsel are directed to stipulate to the authenticity of exhibits wherever possible, and no objection to authenticity shall be entertained by the court unless it has first been noted on the exhibit list which is made part of this order. Both sides are to submit memorandums as to the contested exhibits.]
5. Lists of all depositions, if any, or portions thereof, to be offered in evidence by each party are as follows:
[Each specific portion of any deposition to be offered in evidence shall be identified by the name of the deponent, date of the deposition, and the page(s) and line(s) of testimony to be offered. Any objections to admission of the deposition in evidence shall be noted on the list by the objecting party.]
6. The names and addresses of the witnesses who may be called by each party are as follows:
[Each party is to list all witnesses who may be called to testify, including opinion witnesses and excepting only rebuttal witnesses who are not identifiable prior to trial. If more than one opinion witness is listed for a party, the subject matter of each such witness's testimony shall be noted on the list.]
7. All discovery has been completed and, except for good cause shown, no further discovery shall be permitted.
[Further discovery will only be permitted by the court upon a showing of extraordinary circumstances, in which event this paragraph would be modified to set forth what discovery remains to be completed by each party.]

8. The order shall also provide for any other matters which would contribute to the efficient trial and deposition of the case.
9. Trial is set to commence at _____.m. on _____, without further notice. This order will control the course of the trial and may not be amended except by consent of the parties and the court, or by order of the court to prevent manifest injustice.
10. All exhibits, witness lists, and other materials as previously mentioned that may be used at trial are to be delivered to the judge five working days prior to the trial, unless one or both of the parties object. The purpose of this document production is to offer the judge the opportunity to view the exhibits prior to the start of the trial.

ENTER: _____

/S/ _____
Attorney for Plaintiff

/S/ _____
Assistant State's Attorney

NAME
ADDRESS
CITY
PHONE NUMBER
ATTORNEY NUMBER

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION**

)	
Plaintiff,)	
vs.		)Valuation Objection No.
)	
Cook County Treasurer and)	
Ex Officio County Collector,)	
Defendant.)	

AGREED JUDGMENT ORDER

THIS CAUSE coming on to be heard on the application of the Cook County Treasurer and Ex-Officio County Collector of Cook County, Illinois, Defendant, appearing by his/her attorney, State's Attorney of Cook County, Illinois, and on the objection of _____, Plaintiff, appearing by its attorney, _____, and both parties having agreed to settle this objection pursuant to 35 ILCS 200/23 et seq. Based upon the following:

- 1.) The 19_____assessed valuation of_____, before equalization, is excessive. The correct 19_____assessed valuation, before equalization, is _____.
- 2.) Applying the applicable equalization factor of _____and the applicable tax rate of _____to the correct assessed valuation of _____results in an equalized assessed valuation of _____and a correct tax of _____.

Applying the same equalization factor and tax rate to the excess assessed valuation in the amount of _____results in an equalized assessed valuation of _____and an excess payment of taxes in the amount of _____.

3.) The Defendant shall refund to the plaintiff the sum of _____
_____, plus statutory interest, constituting the excess amount of taxes paid under
protest for the year _____.

4.) The Defendant shall make appropriate notations of this order in the
proper real estate tax warrant book, and the County Clerk shall make appropriate
notations of this order in the proper property tax judgment, sale forfeiture and
redemption record.

5.) Pursuant to 35 ILCS 200/23 et seq. Of the Property Tax Code a
Memorandum of Settlement which supports this compromise is being filed with
the court as well as documents supporting the settlement.

ENTER: _____

APPROVED AS TO AMOUNT OF REFUND:

COOK COUNTY TREASURER AND
EX OFFICIO COUNTY COLLECTOR

APPROVED AS TO FORM:
STATE'S ATTORNEY OF COOK COUNTY
BY: _____

ADDRESS OF SUBJECT PROPERTY:

PERMANENT INDEX NUMBER:

NAME
ADDRESS
CITY
PHONE NUMBER
ATTORNEY NUMBER

EXPLANATION OF SMALL CLAIM PROCEDURES

Small claim procedures differ from those of the regular trial call in order to facilitate determinations in a timely and efficient manner.

- One can proceed on the small claim call if the claim does not exceed \$30,000 or \$50,000.
- Once the election to proceed as a small claim is made, it is irrevocable.
- By electing to proceed as a small claim, parties are guaranteed a trial date within 39 weeks of the filing of an election to proceed as a small claim.

Rule 10.6 Small Claims Proceedings for Real Estate Tax Objections

In order to facilitate the dispositions of Specific Objections, the following small claims procedures are established:

A. Small Claim Defined

The tax refund sought does not exceed \$30,000 (\$50,000 if the objector submits an MAI appraisal as evidence).

B. Maximum Refund

The amount of refund is strictly limited to the amount stated in Section A.

C. Election Irrevocable

The election to proceed as a small claim is irrevocable and must be initiated at the Case Management Call. Compliance with Section 2-50 of Circuit Court Rule 10.8 is a prerequisite to the election to proceed as a small claim.

D. Procedures:

1. Motion to Proceed:

- a. The Motion to Proceed as a small claim must be submitted in writing at the Case Management Call.
- b. A Section 2-50 cover sheet and a Pre-trial Memorandum for each tax year concerned shall accompany each Motion to Proceed. See appendix to this Rule for Court Approved Forms A and B.

2. Assignment of Trial Judge:

Trial Judge will be assigned to the small claim case at the Case Management Call.

3. Scheduling of Pre-trial Settlement:

The parties to the small claim must obtain a pretrial conference date from the trial judge's clerk within 14 days of the Case Management Call. Failure to schedule a pre-trial conference date within the specified time shall be cause for dismissal of the case for want of prosecution.

4. Pre-trial Settlement Conference:

The Court shall conduct a pretrial settlement conference with the parties within 84 days (12 weeks) of the Case Management Call. If the parties fail to settle the case, the trial judge shall enter an order setting the last date to disclose opinion witnesses (see section 6), setting the last date to complete discovery (see section 7), and setting the trial date (see section 7).

5. Discovery Only Pursuant to Court Order:

Except for the disclosure of opinion witnesses, discovery in proceedings pursuant to this rule shall proceed only by court order or by agreement of the parties

6. Opinion Witnesses:

a. Disclosure of Opinion Witnesses:

Both Parties must disclose the identity of their opinion witnesses, their conclusions, opinions, qualifications and reports within 147 days (21 weeks) of the Case Management Call. Failure to disclose by that date shall act as a bar in the case of the testimony of the witnesses and submission of any of their reports.

b. Duty to Supplement Opinion Disclosures:

A party has a duty to seasonably supplement or amend any prior disclosed information whenever new or additional information subsequently becomes known to that party.

7. Failure to Settle Case:

a. Trial Date:

The parties must complete all discovery within 210 days (30 weeks) of the Case Management Call. The trial date set by the court shall not be sooner than 273 days (39 weeks) after the Case Management Call.

b. Final Pre-Trial Order:

Both Parties must cooperate in preparing a final pre-trial order to be delivered to the trial judge 7 days in advance of trial. See Appendix to this Rule for Court Approved Form C.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION

_____)	
Plaintiff,)	
vs.	)	Valuation Objection No.
_____)	
Cook County Treasurer and)	
Ex Officio County Collector,)	
Defendant.)	

CASE MANAGEMENT CALL ORDER
SMALL CLAIM

- 1.) This matter shall proceed as a Small Claims Case.
- 2.) This case is assigned to Judge _____.
- 3) Parties shall obtain a pre-trial conference date from the trial judge's clerk within 14 working days.
- 4). This case is merged for purposes of all further proceedings with the following cases _____
_____.

ENTER: _____

NAME
ADDRESS
CITY
PHONE NUMBER
ATTORNEY NUMBER

Objector)		_____ Small Claim
)		_____ Regular Call
PIN)		
)	94 Obj. No.	
Address)	Merged with cases:	
)	95 Obj. No.	
)	96 Obj. No.	
)		

Assessor's Assessment Level _____ Equalization Factor _____

	Assessed Value	Market Value	Taxes
Assessor			
Plaintiff			

Defendant Appraiser _____ \$ _____

Basis for relief:

Case Number

**Cover sheet to be filled out by Plaintiff
and Submitted with 2-50 Package for each tax year**

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION**

<p>_____, Plaintiff,</p> <p>vs.</p> <p>_____, Cook County Treasurer and Ex Officio County Collector, Defendant.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Valuation Objection No.</p>
---	--	--------------------------------

SMALL CLAIMS PRETRIAL MEMORANDUM

Vol.	Permanent Index No.	Assessed Value	Level of Assessment	Class	FMV

Township: _____ Town Code: _____ Property Address: _____

Tax Rate: \$ _____ Equalization Factor: _____

TYPE OF PROPERTY

<p><u>Commercial/Industrial:</u> Sq. Ft. Land _____ Sq. Ft. Improvement _____</p>	<p><u>Multi-Tenant/Rental:</u> No. of Units _____ Sq. Ft. Land _____ Total Rooms _____ Sq. Ft. Improvement _____</p>
---	--

EVIDENCE

Appraisal:

Date _____ Appraiser _____ Final Value \$ _____

Cost Income Approach to Value \$ _____

Income Approach to Value \$ _____

Market Approach to Value \$ _____

Sale:

Amount of Sale \$ _____

Federal Tax Return/Statements _____ Years _____ - _____

Expenses: Most Recent Year _____ \$ _____

Proposed Cap Rate _____ Tax Load Factor _____ Total _____ %

TAXPAYER REQUEST: _____

Attorney(s) for Objector(s)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION

)	
Plaintiff,)	
vs.)	
)	
	)	Valuation Objection No.
)	
Cook County Treasurer and)	
Ex Officio County Collector,)	
Defendant.)	

SMALL CLAIMS FINAL PRE-TRIAL ORDER

This cause coming on for a final pre-trial conference, and the parties being represented by their respective counsel,

THE COURT HEREBY ENTERS THE FOLLOWING FINDINGS AND ORDER:

1. The parties have entered into a stipulation of uncontested facts and uncontested matters of law, as follows:
[The parties are directed to narrow the factual and legal issues for trial by stipulation insofar as possible. Each of the following items, which will normally be uncontested or will have been resolved by the trial management order, must be stipulated unless a specific dispute as to that item has arisen:

Volume: _____ Township: _____

P.I.N.(s): _____

Location: _____

Description: _____

(1) Land: _____

(2) Improvement(s): _____

(3) Use (for subject tax year): _____

Current Assessment and Taxes:

(1) Classification: _____

(2) Total AV: _____

(3) Indicated FMV: _____

(4) Tax Rate: _____ Equalizer: _____

(5) Total Annual Taxes: _____

2. Plaintiff's claim is based on the following total fair market value, total assessed value, and total annual taxes for the subject property, and plaintiff seeks the following total tax refund:
- (1) FMV: _____
 - (2) Total AV: _____
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[The parties are directed to make an agreed statement of contested issues insofar as possible in whole or in part. To the extent that agreement cannot be reached a separate statement by each party shall be included.]
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8. The order shall also provide for any other matters which would contribute to the efficient trial and deposition of the case.
9. Trial is set to commence at _____m. on _____, without further notice. This order will control the course of the trial and may not be amended except by consent of the parties and the court, or by order of the court to prevent manifest injustice.
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ENTER: _____

/S/ _____
Attorney for Plaintiff

/S/ _____
Assistant State's Attorney

NAME
ADDRESS
CITY
PHONE NUMBER
ATTORNEY NUMBER

522 PEOPLE EX REL. DEVINE V. MURPHY 181 Ill. 2d 522
(No. 82965.—Writ granted in part and denied in part.)

THE PEOPLE *ex rel.* RICHARD A. DEVINE, State's Attorney of Cook County, *et al.*, Petitioners, v. THE HONORABLE MICHAEL J. MURPHY, Judge of the Circuit Court of Cook County, *et al.*, Respondents.

Opinion filed March 19, 1998.

1. CONSTITUTIONAL LAW—*statutes are presumed constitutional and a challenger has the burden of clearly establishing invalidity.* Statutes are presumed constitutional and the party challenging the validity of a statute has the burden of clearly establishing that it is unconstitutional. (Page 527.)
2. CONSTITUTIONAL LAW—*statutes are construed, if possible, so as to uphold their constitutionality, with doubts resolved in favor of validity.* It is the duty of courts to construe acts of the legislature so as to uphold their constitutionality and validity if that can reasonably be done; and if construction of a statute is doubtful, the doubt will be resolved in favor of the validity of the law attacked. (Page 527.)
3. CONSTITUTIONAL LAW—*separation of powers does not contemplate rigid compartments or preclude one branch from exercising a power which could also be given to another.* The doctrine of separation of powers does not contemplate that there should be rigidly separated compartments of government or that one of the three branches of government may not exercise powers which could also be given to another branch. (Page 530.)
4. MANDAMUS—*mandamus is not available to compel discretionary acts.* The writ of mandamus is not available to compel discretionary acts. (Page 539.)
5. TAXES—*the legislature's constitutional power to provide for review of tax assessments in cases not involving fraud has been exercised in the 1995 legislation calling for circuit court review—separation of powers challenge rejected in mandamus action.* The 1995 legislation providing for circuit court review of tax assessments in cases not involving fraud and providing that objections "to assessments shall be heard de novo by the court" (35 ILCS 200/23—15 (West 1996)) does not violate the separation of powers doctrine, since it was enacted pursuant to the General Assembly's constitutional authority to enact legislation providing for such review (Ill. Const. 1970, art. VI, § 9), and since there is no undue

1998 PEOPLE EX REL. DEVINE V. MURPHY 523

infringement on the administrative function of tax assessment because, although new evidence may be presented to the circuit court, nevertheless there is a presumption that the assessment is correct and legal, and this presumption may be overcome only by clear and convincing evidence; and, in an original action for writ of *mandamus*, the supreme court directed respondent circuit court judges to vacate their orders holding the 1995 legislation unconstitutional, as well as their orders refusing settlements (35 ILCS 200/23—30 (West 1996)) on the basis of this purported statutory unconstitutionality. (Pp. 524-40.)

MILLER, J., joined by HEIPLE and NICKELS, JJ., dissenting. Original petition for writ of *mandamus* or for supervisory order.

Richard A. Devine, State's Attorney, of Chicago (Patricia M. Shymanski, Harry L. Brice, Whitney T. Carlisle, Randolph T. Kemmer and Dean M. Victor, Assistant State's Attorneys, and Mark R. Davis, Special Assistant State's Attorney, of counsel), for petitioners.

Lisa A. Hausten, of Sidley & Austin, of Chicago, for intervenor-petitioner CPC International Inc./Corn Products.

McCracken, Walsh, de LaVan & Hetler, of Chicago (Thomas J. McCracken, Sr., Thomas J. McCracken, Jr., and Thomas G. Moffitt, of counsel), for intervenor-petitioner Al London.

Leonard W. Golan (Patrick C. Doody and Gregory J. Lafakis, of Doody & Lafakis, Ltd., of counsel), all of Chicago, for intervenor-petitioner Lurie Co.

John J. Duffy, of Bates, Meckler, Bulger & Tilson, of Chicago (Thomas J. O'Brien, of counsel), for respondents.

Thomas J. McNulty and David S. Martin, of Keck, Mahin & Cate, and Theodore M. Swain, of Gould & Rat-

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ner, all of Chicago (Dennis Rendelman, of Springfield,
and Steven Pflaum, of counsel), for *amici curiae* Civic
Federation *et al.*

JUSTICE McMORROW delivered the opinion of the
court:

The primary issue presented in this original action
for a writ of *mandamus* is whether section 23—15 of the
Property Tax Code (35 ILCS 200/23—15 (West 1996)),
violates the separation of powers provision of the Il-
linois Constitution (Ill. Const. 1970, art. II, § 1). For the
reasons which follow, we hold that it does not.

BACKGROUND

In 1995, the General Assembly enacted a compre-
hensive revision of the tax objection provision of the Illinois
Property Tax Code, section 23—15. See 35 ILCS 200/
23—15 (West 1996). The principal modification of prior
law made by the revision of section 23—15 was the abo-
lition of the judicially created doctrine known as
constructive fraud. Under this doctrine, courts had been
prevented from granting direct relief from excessive
property tax assessments unless the assessments were
shown to be actually or constructively fraudulent. See
generally A. Ganz & D. Laswell, *Review of Real Estate
Assessments—Cook County (Chicago) v. Remainder of Il-
linois*, 11 J. Marshall J. of Prac. & Proc. 17, 37-60 (1977)
(reviewing the history of the doctrine of constructive
fraud).

Section 23—15 replaced the doctrine of constructive
fraud with a new statutory mechanism which permits
objections to property tax assessments to be addressed
directly in the circuit court. The assessments which the
court considers are those which have been reviewed and
corrected by the board of appeals or review. Under sec-
tion 23—15, the tax assessment adopted by the boards
is presumed to be correct and legal. However, this

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presumption may be rebutted by clear and convincing
evidence. The court is to hear the objection to the prop-
erty tax assessment *de novo* and determine whether the
assessment is incorrect or illegal. See 35 ILCS 200/23—
15(b)(2), (b)(3) (West 1996). At the same time that the
General Assembly revised section 23—15, it also made
minor revisions to section 23—30 of the Property Tax
Code. Section 23—30 authorizes the State's Attorney to
reach settlement agreements in tax objection cases. See
35 ILCS 200/23—30 (West 1996).

On February 6, 1997, Judge Michael J. Murphy *sua
sponte* issued a memorandum opinion in *In re Applica-
tion of Rosewell v. CPC International Inc./Corn Products*,
Nos. 91—1197, 92—2448, 93—3539, 94—4093, 95—1143
cons. (Cir. Ct. Cook Co.), in which he declared section
23—15 unconstitutional. In the memorandum opinion,
Judge Murphy noted that the assessment of property
taxes is a matter committed to the legislature and not
the courts. Citing to several cases involving the doctrine
of constructive fraud, Judge Murphy concluded that
under separation of powers principles, the courts, in the
absence of fraud or constructive fraud, have no power to
directly review property tax assessments. Accordingly,
Judge Murphy held that the legislature's attempt to
abolish the doctrine of constructive fraud violated the
separation of powers provision of the Illinois Constitu-
tion (Ill. Const. 1970, art. II, § 1).

In addition to ruling that section 23—15 was uncon-
stitutional, Judge Murphy also indicated in the memo-
randum opinion that he would not sign a settlement or-
der which had been negotiated pursuant to section 23—
30. Judge Murphy stated that, because he had ruled
section 23—15 unconstitutional, he could not sign the
settlement order absent some showing that the assess-
ment to be affected by the order was the product of fraud
or constructive fraud. Signing and approving a settle-

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ment order which did not establish fraud or constructive fraud, Judge Murphy explained, would require the judge to exceed the proper scope of judicial review and would violate the separation of powers doctrine.

Following the issuance of Judge Murphy's memorandum opinion, several additional orders declaring section 23—15 unconstitutional were entered in the circuit court of Cook County. In two property tax objection cases which were being tried under section 23—15, Judge Murphy repeated his ruling that section 23—15 was unconstitutional and, consequently, declared mistrials. In a third case, Judge Murphy refused to enter a settlement order which had been negotiated pursuant to section 23—30. In a separate case, Judge Curtis Heaton also refused to enter a settlement order which had been negotiated under section 23—30. In addition, Presiding Judge Francis Barth and Judge Murphy issued a public notice which provided, in part, that pending resolution of the constitutionality of section 23—15, "All regularly scheduled Calendar Calls, Scheduling Calls, Trial Management Calls, Trial Assignment Calls, and Trials in Tax Objection Cases are immediately suspended until further notice."

As a result of the orders entered in the circuit court declaring section 23—15 unconstitutional, petitioner, Richard A. Devine, State's Attorney of Cook County, filed a motion in this court seeking leave to file a petition for a writ of *mandamus*. We granted the motion. The petition for writ of *mandamus* requests this court to order the respondent judges of the circuit court of Cook County to (1) vacate their orders holding unconstitutional section 23—15; (2) vacate their orders refusing settlements in tax objection cases based on the unconstitutionality of section 23—15 and to approve such settlements where the State's Attorney has negotiated in good faith and has adequately represented the public interest

1998 PEOPLE EX REL. DEVINE V. MURPHY 527

in reaching the settlements; and (3) withdraw the public notice issued by Presiding Judge Barth and Judge Murphy suspending all tax objection cases.

We granted leave to several property tax objectors to join in the petition for *mandamus*. We also allowed the Civic Federation, the Taxpayers' Federation of Illinois, the Chicago Bar Association, and the Illinois State Bar Association to file a joint *amici curiae* brief in support of petitioners. 155 Ill. 2d R. 345(a).

ANALYSIS

I

Statutes are presumed constitutional and the party challenging the validity of a statute has the burden of clearly establishing that it is unconstitutional. *People v. Inghram*, 118 Ill. 2d 140, 146 (1987). "[I]t is our duty to construe acts of the legislature so as to uphold their constitutionality and validity if it can reasonably be done, and, further, that if their construction is doubtful, the doubt will be resolved in favor of the validity of the law attacked." [Citations.] *Inghram*, 118 Ill. 2d at 146. Section 23—15 provides, in relevant part:

"(2) The taxes, assessments, and levies that are the subject of the objection shall be presumed correct and legal, but the presumption shall be rebuttable. The plaintiff has the burden of proving any contested matter of fact by clear and convincing evidence.

(3) Objections to assessments shall be heard de novo by the court. The court shall grant relief in the cases in which the objector meets the burden of proof under this Section and shows an assessment to be incorrect or illegal. If an objection is made claiming incorrect valuation, the court shall consider the objection without regard to the correctness of any practice, procedure, or method of valuation followed by the assessor, board of appeals, or board of review in making or reviewing the assessment, and without regard to the intent or motivation of any assessing official. The doctrine known as constructive fraud is

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hereby abolished for purposes of all challenges to taxes, assessments, or levies." 35 ILCS 200/23—15(b)(2), (b)(3) (West 1996).

Respondents maintain that section 23—15 violates the separation of powers provision of the Illinois Constitution. In support of this proposition, respondents cite numerous decisions of this court discussing the doctrine of constructive fraud and the role of the judiciary in reviewing property tax assessments. See, e.g., *In re Application of the County Treasurer*, 131 Ill. 2d 541 (1989); *La Salle National Bank v. County of Cook*, 57 Ill. 2d 318 (1974); *People ex rel. Munson v. Morningside Heights, Inc.*, 45 Ill. 2d 338 (1970); *Spencer & Gardner v. People*, 68 Ill. 510 (1873). Respondents contend that these cases stand for the proposition that the separation of powers provision limits the standard of judicial review of property tax assessments solely to fraud and constructive fraud. We disagree.

Prior to the enactment of section 23—15, direct judicial review of property tax assessments was not provided for by statute. In the absence of a statutory remedy, the only authority which the courts could exercise to provide direct relief for tax objectors was the courts' inherent, equitable authority to correct a fraud. See, e.g., *White v. Board of Appeals*, 45 Ill. 2d 378, 380 (1970) ("[T]he courts in the absence of legislative authority have no authority, except in cases of fraud, to review or determine the value of property which has been assessed for purposes of taxation by appropriate administrative officers"). Separation of powers prevented the courts from creating a standard of review, other than fraud, to apply within the tax objection proceedings. To do so would have usurped the legislative power to say what the law shall be.

Because no standard for directly reviewing property tax assessments had been provided by the legislature, the cases cited by respondents deal solely with the

1998 PEOPLE EX REL. DEVINE V. MURPHY 529

nature and scope of the judicial remedy available in tax objection cases in the absence of a statutorily defined standard of review. The cases do not discuss the validity of any statute similar to section 23—15. The cases cited by respondents establish that, prior to the enactment of section 23—15, the courts could use only their equitable power against fraud to complement the available statutory remedies. However, the cases do not hold that the General Assembly itself was prevented from enacting a broader form of judicial review.

Section 9 of article VI of our constitution expressly provides that the circuit courts "shall have such power to review administrative action as provided by law." Ill. Const. 1970, art. VI, § 9. The phrase "as provided by law" is used "[w]hen our constitution intends that the legislature is to act in governing the activities of the court." *People v. Joseph*, 113 Ill. 2d 36, 43 (1986). The power of the legislature to broaden the right of judicial review of property tax assessments beyond fraud or constructive fraud is clearly warranted by the language of article VI, section 9. Accordingly, we hold that the legislature may provide for a direct standard of judicial review of property tax assessments other than fraud or constructive fraud.

Respondents maintain that even if the legislature may constitutionally provide for a standard of judicial review of property tax assessments other than fraud or constructive fraud, it may not adopt the standard set forth in section 23—15. Respondents specifically challenge the language in section 23—15 which provides that objections to property tax assessments "shall be heard de novo by the court." See 35 ILCS 200/23—15(b)(3) (West 1996). Respondents contend that by mandating that the tax objections "shall be heard de novo" from the board of appeals or review, the legislature has improperly granted the courts the same executive

authority possessed by those boards and, thus, violated the principle of separation of powers.

The separation of powers provision of the Illinois Constitution provides: "The legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another." Ill. Const. 1970, art. II, § 1. The doctrine of separation of powers "does not contemplate that there should be 'rigidly separated compartments'" of government. *McAlister v. Schick*, 147 Ill. 2d 84, 95 (1992). Nor does it "inexorably preclude one of the three branches of government from exercising powers which could also be given to another branch." *Inghram*, 118 Ill. 2d at 149.

In support of their contention that section 23—15 violates the separation of powers provision, respondents rely upon *West End Savings & Loan Ass'n v. Smith*, 16 Ill. 2d 523 (1959), and *Borreson v. Department of Public Welfare*, 368 Ill. 425 (1938). In *West End*, this court held unconstitutional a section of the Illinois Savings and Loan Act (Ill. Rev. Stat. 1957, ch. 32, par. 701 *et seq.*) which provided for judicial review of an administrative decision regarding whether a savings and loan association could move from one location to another. The statute provided that any person who objected to such a decision could "apply to the Circuit Court *** for an adjudication of the validity of the decision *** and the matter shall be tried de novo by the court." Ill. Rev. Stat. 1957, ch. 32, par. 860. See *Mensik v. Smith*, 18 Ill. 2d 572, 585 (1960). In holding that the statute violated the separation of powers provision, this court noted the general rule that "where authority has been conferred upon administrative agencies to perform functions of an executive nature, provisions for trial *de novo* in courts of law violate the separation-of-powers principle." *West End*, 16 Ill. 2d at 525. The court explained that this rule was based on the theory that when an administrative

agency is given authority to decide matters which are "not judicially cognizable," and a statute "vest[s] in courts a supervisory power which is not limited to a review of the administrative action but extends to a re-determination of factual issues, [the effect of the statute] is to grant, unlawfully, a power to exercise executive functions." *West End*, 16 Ill. 2d at 525. Applying these principles to the statute at issue, the *West End* court concluded that the determination of the appropriate locations of the savings and loan associations, and the appraisal of factors weighing on those decisions, was "executive in nature" and fell "outside that class to which judicial processes are limited." *West End*, 16 Ill. 2d at 526. Thus, the statute which provided for a *de novo* trial in the circuit court improperly vested the courts "with powers to determine and decide matters of an executive or legislative character," and, therefore, violated the separation of powers provision. *West End*, 16 Ill. 2d at 526.

In *Borreson*, this court held unconstitutional a statute which granted an applicant the right to "trial *de novo*" in the circuit court when, by administrative decision, the applicant was denied welfare benefits under the Old Age Assistance Act (Ill. Rev. Stat. 1937, ch. 23, par. 410 *et seq.*). The *Borreson* court emphasized that the administration of the program for assistance to the aged was "essentially an executive function," and further determined that "[w]hether assistance should be granted, modified, or denied, presents no question of law or fact for judicial determination." *Borreson*, 368 Ill. at 432. As in *West End*, the *Borreson* court concluded that because the statute at issue provided for trial *de novo*, the circuit court could "*independently* determine issues of fact or conduct and substitute its own judgment and discretion for the judgment of a ministerial body." (Emphasis added.) *Borreson*, 368 Ill. at 432. Therefore,

44 Ill. 229, 235 (1867) (upholding, on jurisdictional grounds, statute which provided for judicial review of property tax assessments, and noting that the statute was "not in conflict with any provision of the Constitution"). Indeed, the *West End* court itself noted the general distinction between policy decisions which are purely executive or legislative in nature, and the determination of an individual's property rights:

"Where the court is to determine from pleadings whether the order assailed is lawful and reasonable, and where the questions presented concern property rights of which the court has jurisdiction, there is no transgression of constitutional requirements. (*Investors Syndicate of America v. Hughes*, 378 Ill. 413.) Statutes providing for such procedure merely authorize the court to exercise what is already a part of its function." *West End*, 16 Ill. 2d at 526. Cf. *Murnigh v. Gainer*, 177 Ill. 2d 287, 307-08 (1997) (statute which compelled the judiciary to process blood collection demands for certain convicted sex offenders unconstitutionally imposed "nonjudicial" tasks upon the courts).

A second, and equally significant difference between the statutes at issue in *West End* and *Borreson*, and section 23—15, relates to the scope of the circuit court proceedings created by the statutes. The circuit court trials provided for in *West End* and *Borreson* were unconditional *de novo* proceedings, i.e., proceedings in which the matter at issue was to be tried "anew the same as if it had not been heard before and as if no decision had been previously rendered." [Citation.] *Creamer v. Police Pension Fund Board*, 69 Ill. App. 3d 792, 796 (1978). As respondents themselves observe, the *de novo* trials authorized by the statutes in *West End* and *Borreson* permitted the circuit court to "completely disregard the decision of the administrative agency" and to give the agency's decision "no deference." Because no deference was given to the administrative decisions, the

the statute violated the separation of powers provision. *Borreson*, 368 Ill. at 434. *West End* and *Borreson* thus establish that a statute violates the separation of powers provision when it gives the judiciary the responsibility to "independently and originally" perform a "nonjudicial" function. *Fields Jeep-Eagle, Inc. v. Chrysler Corp.*, 163 Ill. 2d 462, 472 (1994).

The constitutional defects which existed in the statutes reviewed in *West End* and *Borreson* are not present in section 23—15. First, unlike the substantive matters found "not judicially cognizable," in *West End* and *Borreson*, the administrative determination of an individual's property rights has long been held to be within the reviewing province of the courts. In *Rowand v. Little Vermilion Special Drainage District*, 254 Ill. 543 (1912), this court upheld a statute which allowed judicial review of what was "in effect, a valuation [of land], for assessment purposes" made by drainage commissioners. *Rowand*, 254 Ill. at 547. The court noted that "this court has sustained statutes allowing appeals from non-judicial boards and bodies where the subject matter involved some personal or property right which it is the province of the courts to determine and protect." *Rowand*, 254 Ill. at 547. The court also observed that "[i]t would be a reproach to our judicial system if there were no redress for possible wrongs that might be inflicted by an unequal and oppressive classification of lands in a drainage district for assessment purposes." *Rowand*, 254 Ill. at 548. See also *Investors Syndicate of America, Inc. v. Hughes*, 378 Ill. 413, 417-19 (1941); *In re Estate of Barker*, 63 Ill. 2d 113 (1976) (upholding a provision of the former Illinois inheritance tax act which granted judicial review in the circuit court from what was characterized as an administrative decision fixing the value of property for purposes of taxation); *Board of Supervisors v. Chicago, Burlington & Quincy R.R. Co.*,

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statutes in *West End* and *Borreson* unlawfully permitted the circuit court to exercise the entire executive function of the administrative agency.

Under section 23-15, however, considerable deference is given to the decisions made by the board of review or appeals. Section 23-15 expressly states that "[t]he taxes, assessments, and levies that are the subject of the objection shall be presumed correct and legal." 35 ILCS 200/23-15(b)(2) (West 1996). This presumption can only be overcome by "clear and convincing evidence." 35 ILCS 200/23-15(b)(2) (West 1996). Even if a tax objector can present to the circuit court a tax assessment which is equally as credible as the assessment which was adopted by the board, the board's assessment must be sustained. See Executive Summary of the Report of the Civic Federation Task Force on Reform of the Cook County Property Tax Appeals Process 5 (March 2, 1995) (noting that when "the outcome turns solely on the competing opinions of equally compelling witnesses *** the assessment would be sustained since such evidence would not constitute clear and convincing proof that the assessment is incorrect").¹ Thus, contrary to respondents' assertions, under section 23-15 the court does not make an "independent" or "original" tax assessment. Section 23-15 mandates that deference be given to the tax assessment adopted by the board of review or appeals. The boards themselves are not bound by any presumption that the assessment is correct and may adopt an assessment as justice requires. See 35 ILCS 200/16-55 (West 1994) ("the board [of review]

¹The Civic Federation describes itself as "an independent, non-partisan taxpayer watchdog and government research organization." The Report of the Civic Federation Task Force on Reform of the Cook County Property Tax Appeals Process was incorporated as part of the legislative history of section 23-15. See 89th Ill. Gen. Assem., Senate Proceedings, May 23, 1995, at 111 (statements of Senator O'Malley).

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shall review the assessment, and correct it, as appears to be just"; 35 ILCS 200/16-30 (West 1994); 35 ILCS 200/16-95 (West 1996). Accordingly, the court does not have the same discretionary authority as that given to the board of review or appeals.

The conclusion that section 23-15 does not give the circuit court the discretionary authority possessed by the assessing officials is not altered by the existence of the phrase "heard de novo" within the statute. The phrase "heard de novo" is used in section 23-15 to indicate that evidence may be presented in the circuit court and that the tax objection proceedings are not an appeal on the record from the board of appeals or review.² See Executive Summary of the Report of the Civic Federation Task Force on Reform of the Cook County Property Tax Appeals Process at 4 (March 2, 1995) ("As under existing law, tax objections will be tried to the court without a jury, and the court will hear the matter *de novo* rather than as an appeal from the action of the assessing officials"). Because section 23-15 unequivocally grants the property tax assessment adopted by the board a presumption of correctness, the use of the term "de novo" cannot mean, as it did in *West End* and *Borreson*, that the administrative decision is given no deference, or that the court is to make a completely independent assessment. The legislative his-

²Although we need not, and do not, rely upon this point in reaching our conclusion that section 23-15 comports with the separation of powers provision, we note that record review of property tax assessments may not be feasible. As petitioner argues: "[B]oards of appeals and review in Illinois are not presently bodies of record. To make them so given the pressures of the annual tax cycle would be impossible (e.g., the Cook County Board of Appeals hears from 60,000 to 90,000 complaints per year). *** [R]ecord review of the board of appeals is thus wholly impractical, and it was properly rejected as an alternative by the General Assembly."

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tory of section 23—15 supports the conclusion that the legislature did not intend for the circuit court to have complete discretion in considering the tax assessment:

"In resolving the questions of the standard of review and burden of proof in assessment challenges, the Task Force was required to balance the need to provide effective taxpayer relief against the need to avoid opening up the process so widely that the courts could potentially be called on to reassess any or all property in the county. The consensus on the Task Force was to provide for a standard of review permitting recovery upon proof of an incorrect or illegal assessment, but to require the taxpayer to meet a burden of proof by 'clear and convincing' evidence (the highest burden applied in civil litigation, but clearly not the criminal burden, 'beyond a reasonable doubt') in order to establish that such an incorrect or illegal assessment has occurred. This choice of balance was preferred over the alternative of choosing the lower burden of proof and then attempting the seemingly impossible task of defining an enhanced standard of review, in which the 'degree of incorrectness' would be in issue." Executive Summary of the Report of the Civic Federation Task Force on Reform of the Cook County Property Tax Appeals Process 5 (March 2, 1995).

Furthermore, the fact that additional evidence may be presented in the circuit court does not, in itself, render the statute constitutionally infirm. See *Illinois Hospital Service, Inc. v. Gerber*, 18 Ill. 2d 531, 534 (1960); *Illinois Bell Telephone Co. v. Fox*, 402 Ill. 617, 627 (1949). See also *Rowand*, 254 Ill. at 545 (upholding, though not directly addressing, a provision of a statute which permitted a jury, when reviewing what was effectively a property tax assessment, to "hear allegations and testimony in opposition to and in support of the same," and to "correct" the assessment if "too high or too low." Ill. Rev. Stat. 1911, ch. 42, par. 99).

This court has explained that "[a] branch of the judiciary does not exercise executive or administrative power unless there devolves upon the court the same

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power to exercise discretion as has been committed to the administrative agency. (*Borreson v. Department of Public Welfare*, 368 Ill. 425.)" *Illinois Hospital Service*, 18 Ill. 2d at 534, quoting *Illinois Bell Telephone*, 402 Ill. at 626-27. Given the presumption of correctness which is afforded the property tax assessment under section 23—15, it cannot be said that the statute grants the circuit court the same powers of discretion that have been committed to the board of appeals or review.

In addition, section 23—15 does not impose any duty or power on the courts to classify properties for assessment, to inspect properties, or to set assessment policies. In sum, none of the myriad executive or administrative activities which are carried out by assessing officials are conferred on the courts by section 23—15. The only power granted to the courts is the power to consider a matter which falls within the reviewing province of the courts, and to do so in a way that gives considerable deference to the administrative decision at issue. Therefore, in light of the prior precedents of this court, and the language of section 23—15 itself, we conclude that section 23—15 does not violate the separation of powers provision. Because we have determined that section 23—15 is constitutional, we grant that portion of the petition for writ of *mandamus* which requests this court to order the respondents to vacate their orders holding section 23—15 unconstitutional.

II

Respondents seek this court's guidance as to the standards to be applied under the settlement provision of the Property Tax Code, section 23—30. See 35 ILCS 200/23—30 (West 1996). Respondents express concern that the statute prevents the trial judge from exercising any discretion as to the contents of the agreed orders. Section 23—30 provides:

"Following the filing of an objection under Section 23—

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10, the court may hold a conference with the objector and the State's Attorney. Compromise agreements on tax objections reached by conference shall be filed with the court, and the parties shall prepare an order covering the settlement and submit the order to the court for entry." 35 ILCS 200/23-30 (West 1996).

The trial court's role in the settlement proceedings under section 23-30 is a limited one. The State's Attorney has express authority under section 23-30 to compromise tax objections, as well as the inherent executive authority to compromise tax matters generally. *In re Application of the County Collector for Delinquent Taxes, for at Least Five Years Prior to 1987*, 155 Ill. 2d 520, 527-31 (1993). The State's Attorney's compromise and settlement of a tax objection under section 23-30 cannot be impeached "on the grounds that a better result should have been reached, or for any other reason short of fraud or bad faith." *People ex rel. Thompson v. Anderson*, 119 Ill. App. 3d 932, 940 (1983). Similarly, agreed orders are generally not subject to appeal or attack except where the order has resulted from "fraudulent misrepresentation, coercion, incompetence of one of the parties, gross disparity in the position or capacity of the parties, or newly discovered evidence." *In re Haber*, 99 Ill. App. 3d 306, 309 (1981); *Thompson v. IFA, Inc.*, 181 Ill. App. 3d 293, 296-98 (1989). Given these factors, the merits of the settlement itself are generally not subject to examination by the trial court.

However, the trial court must exercise its discretion in considering a settlement with respect to certain important issues. Specifically, the trial court must consider whether the settlement was negotiated by fraud or in bad faith (see, e.g., *Anderson*, 119 Ill. App. 3d at 940) and whether the State's Attorney has adequately represented the public interest in reaching the settlement (see, e.g., *Channahon Park District v. Bosworth*, 145 Ill. App. 3d 820, 825 (1986)). In exercising its discre-

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tion, the trial court may need to examine the terms of the settlement. However, the purpose of this examination will not be to judge the merits of the agreement, but rather to determine whether fraud or inadequate representation has occurred.

In their petition for a writ of *mandamus*, petitioners request that respondents be ordered to vacate their orders refusing settlements in tax objection cases based on the unconstitutionality of section 23-15, and compelled to enter settlement orders if the State's Attorney has negotiated in good faith and has adequately represented the public interest. We note that in the tax objection cases at issue, the circuit court has not yet expressly considered whether the State's Attorney has satisfied these conditions. In addition, petitioners acknowledge that the determination of whether the State's Attorney has negotiated in good faith and has adequately represented the public interest is left to the discretion of the trial court. It is well settled that *mandamus* is not available to compel discretionary acts. See, e.g., *Chicago Bar Ass'n v. Illinois State Board of Elections*, 161 Ill. 2d 502, 507 (1994). Accordingly, with respect to section 23-30, we grant only that portion of the petition for writ of *mandamus* which requests this court to order the respondents to vacate their orders refusing settlements in tax objection cases based on the unconstitutionality of section 23-15.

Petitioners also request that respondents be ordered to withdraw the public notice issued by Presiding Judge Barth and Judge Murphy suspending all tax objection cases. The suspension involves internal administrative functions of the circuit court. Having determined that section 23-15 is constitutional, we assume that the circuit court will proceed in tax objection cases under the dictates of sections 23-15 and 23-30.

CONCLUSION

For the foregoing reasons the petition for writ of

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mandamus is granted in part and denied in part. The respondents are ordered to vacate their orders which hold section 23—15 unconstitutional, and vacate their orders refusing settlements in tax objection cases based on the unconstitutionality of section 23—15.
Writ granted in part and denied in part.

JUSTICE MILLER, dissenting:

I agree with the majority that the legislature may provide by law for the administrative review of property tax assessments in cases other than those involving fraud. Unlike the majority, however, I believe that section 23—15 of the Property Tax Code (35 ILCS 200/23—15 (West 1996)) violates the separation of powers provision of the Illinois Constitution (Ill. Const. 1970, art. II, § 1) by delegating to the courts the authority to set property tax assessments under the guise of administrative review.

Section 23—15 provides that property tax objections “shall be heard de novo by the court” (35 ILCS 200/23—15(b)(3) (West 1996)) and that the plaintiff (tax objector) “has the burden of proving any contested matter of fact by clear and convincing evidence” (35 ILCS 200/23—15(b)(2) (West 1996)). Under the statute, a court conducts what is in effect a *de novo* proceeding in which evidence is presented and factual findings are made. After considering the evidence and making findings of fact, the “court shall grant relief in the cases in which the objector meets the burden of proof under this Section and shows an assessment to be incorrect or illegal.” 35 ILCS 200/23—15(b)(3) (West 1996).

Thus, once a court has determined that a tax assessment is incorrect or illegal, the court is directed to grant relief. Section 23—15 then provides that a successful objector is entitled to a court-ordered tax refund. See 35 ILCS 200/23—15(c) (West 1996). It is apparent that before ordering a refund pursuant to section 23—15(c),

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a judge must first set a property tax assessment so that the refund can be calculated. Therefore, instead of providing for the administrative review of a property tax assessment, section 23—15 provides for the judicial determination of that assessment.

As noted by the majority (181 Ill. 2d at 536-37), “[a] branch of the judiciary does not exercise executive or administrative power unless there devolves upon the court the same power to exercise discretion as has been committed to the administrative agency.” *Illinois Bell Telephone Co. v. Fox*, 402 Ill. 2d 617, 626-27 (1949). By providing for the *de novo* judicial determination of property tax assessments, section 23—15 authorizes the courts to exercise the same powers of discretion as those exercised by local assessment officers. In doing so, section 23—15 violates the separation of powers provision of the Illinois Constitution. Accordingly, I respectfully dissent.

JUSTICES HEIPLE and NICKELS join in this dissent.

(No. 82979.—Appellate court judgment reversed; circuit court judgment affirmed in part and reversed in part.)

THE PEOPLE OF THE STATE OF ILLINOIS, Appellee, v. JOEY HICKS, Appellant.

Opinion filed March 26, 1998.

1. CRIMINAL LAW—imposition of an unauthorized sentence affects substantial rights. The imposition of an unauthorized sentence affects substantial rights. (Page 545.)

Case Study
Multi-Unit Apartment Building

Frederick R. Dempsey

CASE STUDY

Multi-Unit Apartment Building

By Frederick R. Dempsey

Your client, Help-U-Rent Management Co., has retained you to challenge the 2000 triennial reassessment of a 21-unit apartment building it manages in Jefferson Park. The owner is aware of condo conversions in the neighborhood and she fears that an appraisal of the building would indicate a fair market value that does not reflect the building's income potential. The owner perceives herself to be a landlord and not a developer, and does not intend to sell the property.

Your review of the Notice of Proposed Assessed Valuation [Exhibit A] reveals the previous assessed valuation (AV) to be 136,918 and a proposed AV of 246,409 – nearly an 80% increase. At the statutory assessment level of 33%, the imputed market value of the building has jumped from \$414,903 to \$746,694. You order a copy of the Assessor's Printout [Exhibit B], which is available under the Freedom of Information Act. The deadline for filing a complaint is near and no documentation on the property has been supplied by either the management company or the owner. To meet the Assessor's deadline, you file a 2000 Real Estate Assessed Valuation Appeal along with an Owner Lessee Verification Form and a letter requesting additional time to submit supplemental information. [Exhibit C]. Thereafter, you receive an

acknowledgment letter from the Assessor assigning an appeal number. [Exhibit D] After several calls to the client inquiring about the income data on the property, you receive a "no change" letter from the Chief Deputy Assessor affirming the original assessment due to the lack of information having been submitted. [Exhibit E]

Finally, you receive the prior three years of income and expense data from the client in the form of audited financial statements by a reputable certified public accountant [Samples of these exhibits have not been included]. After analyzing the history of the net cash flow and selecting an appropriate capitalization rate, you prepare an Income Analysis Schedule. Based on your economic analysis, you prepare for filing with the Assessor's Office a Request for Re-Review, including the appropriate forms such as a Document Schedule, Authenticity Affidavit, Property Summary Sheet, Income and Expense Affidavit, and your own Income Analysis Schedule (or comparable analytical tool) [Exhibit F]. Prior to filing, review the Assessor's current General Rules for Filing Assessed Valuation Appeals for new forms or other required documentation.

Within several weeks, you receive a letter from the Assessor happily informing you that for year 2000 the AV has been reduced from 246,409 to 187,387 [Exhibit G] The imputed market value of the property is now \$567,839. Your client is not pleased and instructs you to file with the Board of Review.

When Jefferson Township opens at the Board of Review for valuation complaints, you prepare and file a 2000 Real Estate Assessed Valuation Complaint. [Exhibit H] Next, the Board will send you a notice of the date your complaint is scheduled for hearing. [Exhibit I] If you do not want an oral argument, you may submit the documentation in support of the complaint in advance of the hearing. On the hearing date you can still elect to waive oral argument, but you choose to step up before the hearing officer for a brief presentation (in downstate counties the hearing is more in the manner of a formal proceeding). Immediately prior to the hearing, you will have submitted your brief and documentation [Exhibit J] to the clerk who then prepares the file for the hearing officer. You have brought an extra copy from which to refer during your hearing. Time is of the essence, and you will have merely a few minutes to make the most salient points.

Within a week to ten days of the hearing, you receive from the Board of Review a letter informing you of their decision to further reduce the assessed valuation to 162,274. [Exhibit K] The imputed market value is now \$491,739. You have 30 days from the postmark date/personal service of the Board of Review's decision, or 30 days from the date that the Board of Review transmits its final action to the County Assessor (35 ILCS 200/16-125), to file with the Property Tax Appeal Board (PTAB). You may elect this remedy to the exclusion of filing a Specific Tax Objection in Circuit Court within 75 days

after the first penalty date of the final installment of taxes for the year in question. (35 ILCS 200/23-10).

The owner is not satisfied and the management company directs you to obtain a preliminary appraisal from an established member of the Appraisal Institute (MAI). The owner's fears of a high market value are unfounded, and the preliminary appraisal estimates a fair market value of \$450,000. [Exhibit L]

The difference in market value between the appraisal and the imputed market value of the assessment is \$41,739, or 8.49%. The difference in taxes, based on the then last known equalization factor of 2.2505 and tax rate of 8.536%, is \$2,646.

With few exceptions, the Assistant State's Attorneys who defend cases at the PTAB and in Circuit Court will not offer to settle cases where the disputed market value is less than ten percent. Therefore, you will have to prevail in a contested hearing in order to achieve a \$2,646 tax saving. The cost of the appraisal alone is \$2,500, and the owner chooses not to proceed.

From the owner's perspective the following has occurred: 1) Based on the last known equalization factor and tax rate, her taxes will increase from \$26,302 to \$31,173 (\$4,871); 2) She owes your firm 40% of the first year's *tax savings* of \$16,163, or \$6,465 (under the proposed 2000 AV of 246,409 the taxes would have been \$47,336); and, she might have saved an additional \$2,646 per year if only you had convinced her to get an appraisal.

####

James M. Houlihan
Cook County Assessor
118 N. Clark Street (Rm. 301)
Chicago IL 60602-1351

11/10/2000

FIRST CLASS MAIL
US POSTAGE
PAID
CHICAGO IL
PERMIT NO 6023

APPEAL DEADLINE EXTENDED TO: 01/02/2001

NOTICE OF PROPOSED ASSESSED VALUATION

See reverse side for further information regarding this notice and your right to appeal.
If there has been a change in your assessed valuation it is due to:

TOWNSHIP REASSESSMENT



TOWNSHIP JEFFERSON

TO: JOHN Q. SMITH

PROPERTY CLASSIFICATION 3-15

P.O. BOX 0000

PERMANENT INDEX NUMBER

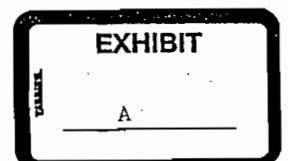
NORTHBROOK, IL 60015

10-10-000-010-0000

TOTAL ASSESSED VALUATION

CURRENT (2000) 246,409

PREVIOUS (1999) 136,918



332 10-10-000-010-000 JEFFERSON 71001 042 13040
 LOCATION 3000 W PARADISE LANE CHICAGO
 TAXPAYER HELP-U-RENT MANAGEMENT CO.
 ADDRESS P.O. BOX 0000
 CITY-ST ZIP NORTHBROOK IL 60065 LAST TRI YEAR 1997
 ASSESSMENT VALUATIONS

	1998	1999	2000 PROPOSED
LAND	35,640	35,640	46,777
IMPROVEMENTS	101,278	101,278	199,632
TOTAL	136,918	136,918	246,409
CLASS			3-15

 LAND SQ FEET 16,875 IRREGULAR LOT NO
 HOMEOWNERS EXEMPTION 1999
 SENIOR EXEMPTION 1999 NO
 CERTIFICATE OF ERROR 1999 NO
 DISABLED VETERANS EXEMPTION 1998 NO

*
 --LAND DESCRIPTION-- --IMPROVED LOT-- RECORD 001

LAND MEASUREMENT	UNIT PRICE	LAND FACTOR	CORNER FACTOR(S)
135 FRONT FEET / 125.00 DEPTH	1,050.00	1.000	

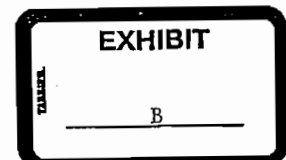
CLASS	LEVEL OF ASSESSMENT	ADJUSTMENT FACTOR	ASSESSED VALUE
3-00	33.0%		46,777

*
 --IMPROVEMENT DESCRIPTION-- RECORD 002

CLASS	DEPRECIATED COST	C.D.U.
3-15	604,947	AV

AGE	LEVEL OF ASSESSMENT	PRORATION FACTOR	RELATED PARCEL	ASSESSED VALUE
052	33.0%			199,632

FREEDOM OF INFORMATION NUMBER 0021100



APPEAL YEAR

2000



James M. Houlihan
Cook County Assessor

Cook County Assessor's Office

118 North Clark Street Chicago, IL 60602

Phone: 312.603.7541 Website: www.cookcountyassessor.com

APPEAL NUMBER

REAL ESTATE ASSESSED VALUATION APPEAL

TYPE OR PRINT ALL INFORMATION

NAME OF OWNER/LESSEE Help-U-Rent Management Co. PHONE (during day) (312) 555-3003

OWNER/LESSEE ADDRESS P.O. Box 0000 CITY & ZIP CODE Northbrook, 60065 MAJOR CLASS 3-15

PROPERTY ADDRESS 3000 W. Paradise Lane CITY & ZIP CODE Chicago, 60625

TOWNSHIP Jefferson PERMANENT INDEX NUMBER

1	0	1	0	0	0	0	0	0	0
---	---	---	---	---	---	---	---	---	---

If multi-parcel complaint, indicate additional numbers here: N/A

PURCHASE PRICE N/A PURCHASE DATE N/A ESTIMATE OF CURRENT VALUE to be submitted

The assessment on the property described above is inaccurate based on the following facts:

The proposed 2000 assessment is excessive.

Brief and supporting documentation to be submitted.

Through my signature below I affirm that I am the owner/lessee or appointed representative and that all information on this form is true and accurate to the best of my knowledge.

SIGNATURE OF OWNER/LESSEE OR REPRESENTATIVE 9/5/01 RECEIVED BY (ASSESSOR STAFF) DATE

As appointed representative for the owner/lessee of the property described above, (1) I affirm that I read the Cook County Assessor's rules for filing appeals: (2) that I have knowledge of the matters covered in this appeal.

Frederick R. Dempsey and
Theodore M. Swain
Gould & Ratner

312-236-3003

NAME (Please Print) PHONE NUMBER

222 N. LaSalle Street, Suite 800, Chicago, IL 60601

ADDRESS CITY & ZIP CODE

FOR OFFICE USE ONLY

60

Representative
Code

REASON CODE

AV

EXHIBIT

C



James M. Houlihan
Cook County Assessor

Cook County Assessor's Office
118 North Clark Street Chicago, IL 60602
Phone: 312.603.5300 Fax: 312.603.3352
Website: www.cookcountyassessor.com

OWNER LESSEE VERIFICATION FORM

Township: Jefferson

Subject Property PIN(s):

10-10-000-010-0000 - - - - - - - - - - - -
- - - - - - - - - - - -

(Attach separate sheet for additional PIN's)

I John Q. Smith being first duly sworn on oath state

1. that I am

- A. ☐ an owner of the property described above or
B. ☐ a lessee of the property described above or
C. ☒ a duly authorized officer / agent of the Management Company
corporation / partnership which owns the property described above;

2. at the above property

- A. ☒ has not been purchased within the last 5 years;
B. ☐ has been purchased within the last 5 years;

If sold:

Purchase Price: _____ Date of purchase: ____ / ____ / ____

3. that for the assessment year 2000 I have authorized

Gould & Ratner, by Theodore M. Swain & Frederick R. Dempsey

whose name appears on the appeal form to represent me before the Assessor relative to the assessment of the above property.

Subscribed and Sworn to, before me this

19th day of

December, 2000

JOI PUBLIC

SIGNATURE OF AFFIANT

COOK COUNTY ASSESSOR'S OFFICES

DOWNTOWN
118 N. Clark St. Rm. 301
(312) 443-7550
TDD (312) 603-6181

SKOKIE
5600 Old Orchard Rd.
Rm. 149
(847) 470-7237

MAYWOOD
1500 Maybrook Square
Rm. 082
(708) 845-6012

BRIDGEVIEW
10200 76th Ave.
Rm. 237
(708) 874-2441

ROLLING MEADOWS
2121 Euclid Ave.
Rm. 237
(847) 818-2344

MARKHAM
16501 Kedzie Ave.
Rm. 237
(708) 714-2100

GOULD & RATNER

FREDERICK R. DEMPSEY
312/899-1685
fdempsey@gouldratner.com

September 5, 2001

HAND DELIVERED

Hon. James M. Houlihan
Assessor of Cook County
320 County Building
118 N. Clark Street
Chicago, IL 60602

Rc: 2000 Real Estate Assessed Valuation Complaint
Jefferson Township; Docket No. _____
Volume: 602
P.I.N.: 10-10-000-010-0000
Property: 3000 W. Paradise Lane
Chicago, Illinois
Taxpayer: Help-U-Rent Management Co.

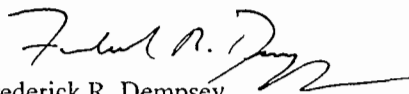
Dear Mr. Houlihan:

Gould & Ratner represents Help-U-Rent Management Co., the managing agent of the subject property, regarding real estate tax matters. We are in the process of completing our analysis and evaluation of the 2000 assessments. We will submit supplemental information to the Assessor's Office immediately upon completing our analysis. In the interim, we request that this complaint be filed and issued a 2000 docket number.

If you or your staff have any questions regarding the subject property, please telephone us.

Very truly yours,

GOULD & RATNER


Frederick R. Dempsey

FRD/md



222 North LaSalle Street, Eighth Floor, Chicago, Illinois 60601
Telephone 312/236-3003 Facsimile 312/236-3241 www.gouldratner.com

#127190 v1 - A/O-Seminar Case Study/Extension Letter/



JAMES M. HOULIHAN
Cook County Assessor

118 North Clark Street Chicago, IL 60602
Phone: 312.603.5300 Fax: 312.603.3352
Website: www.cookcountyassessor.com

GOULD & RATNER
ATTN: FREDERICK R. DEMPSEY – SUITE 800
222 N. LASALLE ST.
CHICAGO IL 60601

01/05/01

2000 Assessment Appeal

Township: JEFFERSON

Appeal Number: 0000000

Property Index Number(s):
10-10-000-010-000

Please accept this letter acknowledging the receipt of your Assessment Appeal recently filed with our office. Your Appeal has been assigned the number above, which should be used in any future inquiries you may have on this issue.

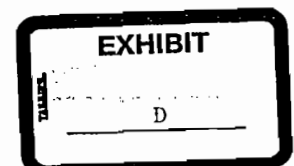
It is your right as a property owner, or as their authorized representative, to file an Assessment Appeal. This is an important part of the process in arriving at fair and uniform assessments.

Our staff will examine your Appeal carefully and will notify you by mail when our analysis is completed.

We are pleased to be of service to you in this manner. If you have any further questions at this time, please call an Industrial/Commercial Hearing Officer at (312) 603-7541.

Sincerely,

James M. Houlihan
Cook County Assessor



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Rm. 237
(847) 818-2444

MARKHAM
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Rm. 237
(708) 210-4100



James M. Houlihan
Cook County Assessor

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118 North Clark Street Chicago, IL 60602
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Website: www.cookcountyassessor.com

GOULD & RATNER
ATTN: FREDERICK R. DEMPSEY – SUITE 800
222 N. LASALLE ST.
CHICAGO IL 60601

02/14/01

2000 Assessment Appeal

Township: JEFFERSON

Appeal Number: 0000000

Property Index Number(s):
10-10-000-010-000

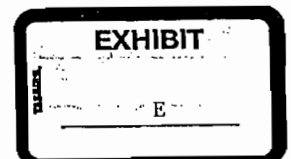
Our Appeals Department has analyzed your Assessment Appeal. Regrettably, our analysis indicates the assessed valuation should remain as originally proposed. This is due to lack of data having been submitted for our review.

If you have any questions regarding our decision, please contact one of our Hearing Officers at (312) 603-7541 for assistance.

You also have an opportunity for further appeal by filing with the Cook County Board of Review. Detailed information is available by contacting the Board of Review's Office located in Room 601 of the County Building, 118 North Clark Street, Chicago 60602, (312) 603-5542.

Yours very truly,

M. Veronica Lynch
Chief Deputy Assessor



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James M. Houlihan
Cook County Assessor

Cook County Assessor's Office
118 North Clark Street Chicago, IL 60602
Phone: 312.603.5300 Fax: 312.603.3352
Website: www.cookcountyassessor.com

DOCUMENT SCHEDULE

Property Address: 3000 W. Paradise Lane Chicago, Illinois

Township: Jefferson

Subject Property PIN(s):

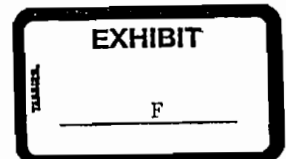
10 10 000 010 0000 - - - - - - - - - - - -
- - - - - - - - - - - - - - - -

(Attach separate sheet for additional PIN's)

- ☒ 1. Owner / Lessee Verification Form
- ☒ 2. Property Summary Sheet
- ☐ 3. Sales Questionnaire
- ☒ 4. Narrative Brief
- ☐ 5. Appraisal
- ☐ 6. Purchase Contract
- ☐ 7. Closing Statement
- ☐ 8. Real Estate Transfer Declaration
- ☒ 9. Income and Expense Statements 1997 1998 1999
- ☒ 10. Income and Expense Affidavit
- ☐ 11. Rent Roll
- ☐ 12. Lease(s)
- ☐ 13. Vacancy Level Affidavit
- ☐ 14. Demolition Affidavit
- ☐ 15. Demolition Permit
- ☐ 16. Demolition Bill

Other Documents:

- ☐ 17. _____
- ☐ 18. _____
- ☐ 19. _____
- ☐ 20. _____



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James M. Houlihan
Cook County Assessor

COOK COUNTY ASSESSOR'S OFFICE
118 North Clark Street Chicago, IL 60602
Phone: 312.603.5300 Fax: 312.603.3352
Website: www.cookcountyassessor.com

PROPERTY SUMMARY SHEET

APARTMENTS
STORES WITH APARTMENTS
(OVER 6 UNITS)

Property Address: 3000 W. Paradise Lane Chicago, Illinois
Township: Jefferson
Subject Property PIN(s):
10 10 000 010 0000 2000 Proposed AV: 246,409
- - - - 1999 Total AV: 136,918
- - - - Property Use: Apartment Building
- - - - Owner Occupancy: -0-

(Attach separate sheet for additional PIN's)

Appraisal Value: N/A As of: / /
Purchase Price (within past 5 years): Prior As of: / /

Apartment SF _____ Land SF: 16,875 Age: 52
Commercial SF: -0- Number of Commercial Units -0- Stories: _____
Gross Building SF: _____

	Number of Apartments	Number of rooms	Rent per Apartment	
			Low	High
Studios	_____	_____	_____	_____
One Bedrooms	_____	_____	_____	_____
Two Bedrooms:	_____	_____	_____	_____
Three Bedrooms:	_____	_____	_____	_____
Bedrooms:	_____	_____	_____	_____
Total:	_____	_____	_____	_____

ACTUAL INCOME

Year:	1997	1998	1999
Apartment Income:	<u>152,326</u>	<u>159,263</u>	<u>157,963</u>
Commercial Income:	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Total Income:	<u>152,326</u>	<u>159,263</u>	<u>157,963</u>

SIGNATURE: *Frank R. Jones* DATE: 9/5/01
OWNER: ☐ REPRESENTATIVE ☒

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James M. Houlihan
Cook County Assessor

COOK COUNTY ASSESSOR'S OFFICE
118 North Clark Street Chicago, IL 60602
Phone: 312.603.5300 Fax: 312.603.3352
Website: www.cookcountyassessor.com

INCOME AND EXPENSE STATEMENTS AFFIDAVIT

Property Address: 3000 W. Paradise Lane Chicago, Illinois

Township: Jefferson

Subject Property PIN(s):

10-10 -000 -010 -0000 - - - - - - - - - - - - - - -
- - - - - - - - - - - - - - - - - - - -

(Attach separate sheet for additional PIN's)

I, John Q. Smith, being first duly sworn on oath state as follows:

1. that I am the Property Manager of the property described above .

2. that in said capacity I have sufficient knowledge of the operations of the above property to execute this affidavit;

3. that the attached income and expense statements accurately reflect the results of the operations of the above .

property for the period 1997 to 1999 ;

4. that for the time period cited above there

A. ☐ was owner occupancy in whole or in part of the above property; or

B. ☒ was not owner occupancy in whole or in part of the above property.

Subscribed and Sworn to, before me this

19th day of

December, 20 00

NOTARY PUBLIC

SIGNATURE OF AFFIANT

COOK COUNTY ASSESSOR'S OFFICES

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Rm. 237
(708) 210-4100

GOULD & RATNER

FREDERICK R. DEMPSEY
312/899-1685
fdempsey@gouldratner.com

September 5, 2001

HAND DELIVERED

Hon. James M. Houlihan
Assessor of Cook County
c/o Mr. Thomas Reed
320 County Building
118 N. Clark Street
Chicago, IL 60602

Re: 2000 Real Estate Assessed Valuation Complaint
Jefferson Township; Docket No. 0000000
Volume: 602
P.I.N.: 10-10-000-010-0000
Property: 3000 W. Paradise Lane
Chicago, Illinois 60600
Taxpayer: Help-U-Rent Management Co.
1999 Assessed Valuation: 136,918
Proposed Assessed Valuation 246,409
Requested Assessed Valuation: 132,955

REQUEST FOR RE-REVIEW

Dear Mr. Reed:

Gould & Ratner represents the Help-U-Rent Management Co. on property tax matters, and we respectfully request consideration of the enclosed documentation on re-review.

The above-described property consists of approximately 16,875 square feet of land located at 3000 W. Paradise Lane, Chicago, Illinois. The site is improved with an approximately 52-year-old apartment building containing 21 apartment units.

#127008 v1 - A/O-Seminar Case Study/Apartment Building/6/20/2001



222 North LaSalle Street, Eighth Floor, Chicago, Illinois 60601
Telephone 312/236-3003 Facsimile 312/236-3241 www.gouldratner.com

The subject property was reassessed as part of the 2000 triennial reassessment of property located in Jefferson Township. The notice of proposed assessed valuation for the subject property is \$246,409, which at the 33% level of assessment imputes a full value of \$746,694. Based on an analysis of the income and operating expenses relating to the property, we believe that the proposed assessment is excessive.

Exhibit No. 1, attached hereto, consists of the owner's audited Statement of Operations for the years 1997, 1998, 1999, prepared by Kash & Kerrey, LLC, Certified Public Accountants. Exhibit No. 2 is an Income Analysis Schedule (1997 through 1999).

In 1999, the property generated a gross income in the amount of \$157,963. Deduction of allowable operating expenses in the amount of \$102,621 (excluding real estate taxes, debt service, and depreciation) results in a net income from the property of \$55,342, more than 10% less than the 3-year average.

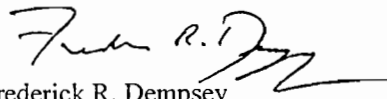
In our 3-Year Average Income Analysis, we applied a standard Income Approach to value using the average actual gross income of \$156,517 and operating expenses of \$94,713, which results in a 3-year average net income of \$61,804. We applied a low capitalization rate of 9% and a tax load of 6.34% (for a total 15.3% loaded cap rate) to the net income, which indicates a market value of \$402,894. An even lower cap rate would not be credible.

Based on this evidence and the application of the 33% level of assessment, we request that the proposed 2000 assessment be reduced to reflect a fair market value no greater than the capitalized value of \$402,894, or a revised assessment of \$132,955. This figure is more favorable to the Assessor than the indicated value based on net income for 1999. In fact, net income declined for each year of the 1997 triennial.

If you have any questions regarding the assessment complaint or the subject property, please do not hesitate to contact us.

Respectfully submitted,

GOULD & RATNER


Frederick R. Dempsey

FRD/md
Enclosure

cc: Theodore M. Swain

INCOME ANALYSIS SCHED (1997 THROUGH 1999)

CLIENT: "ELP-U-RENT MANAGEMENT CO.
PROPERTY ADDRESS: 3000 W. PARADISE LANE, CHICAGO, IL

VOLUME: 602 TOWNSHIP: JEFFERSON
P.I.N.: 10-10-000-010-0000

YEAR	1999		% OF GROSS	PER UNIT	LAST YEAR (1998)	% OF GROSS	YEAR BEFORE LAST (1997)	% OF GROSS
NO. UNITS	21	GROSS INCOME	100.00	\$7,522	\$159,263	100.00	\$152,326	100.00
LAND AREA		OPERATING EXPENSES						
LAND : BLDG 1 to		PAYROLL	14.95	\$1,124	\$21,196	13.31	\$19,910	13.07
CAP RATE	.09	FUEL FOR HEAT	8.19	\$616	\$14,834	9.31	\$15,652	10.28
LEVEL OF AV	.33	ELECTRICITY	1.30	\$98	\$2,312	1.45	\$1,971	1.29
STATE MULTIPLIER	2.2505	WATER & SEWER	3.52	\$265	\$6,151	3.86	\$5,133	3.37
TAX RATE	.08536	SERVICE CONTRACTS	6.66	\$501	\$8,762	5.50	\$6,928	4.55
TAX LOAD	0.0634	REPAIRS	13.03	\$980	\$17,546	11.02	\$9,020	5.92
LOADED CAP	0.1534	RESERVES	4.00	\$301	\$6,371	4.00	\$6,093	4.00
		INSURANCE	3.23	\$243	\$6,068	3.81	\$6,075	3.99
		ADVERTISING	0.14	\$10	\$489	0.31	\$396	0.26
		OTHER ADM.	3.46	\$261	\$4,269	2.68	\$3,263	2.14
		MANAGEMENT FEE	6.49	\$488	\$9,635	6.05	\$9,445	6.20
		TOTAL EXPENSES	64.97	\$4,887	\$97,633	61.30	\$83,886	55.07
		NET INCOME	35.03	\$2,635	\$61,630	38.70	\$68,440	44.93
CAPITALIZED INCOME VALUE				\$17,179	\$401,760		\$446,154	
IMPUTED FULL VALUE				\$35,557		3 YEAR AVERAGE INCOME ANALYSIS		
		ASSESSMENT			GROSS	EXPENSES	NET	
PRIOR		\$136,918	16.64	\$1,252	\$156,517	\$94,713.33	\$61,804.00	
PROPOSED		\$246,409	29.95	\$2,253		CAPITALIZED VALUE	NET AS % OF GROSS	
INDICATED		\$119,054	14.47	\$1,088		\$402,894.39		
					TAX EST.	\$25,523.09	39.49	



James M. Houlihan
Cook County Assessor

Cook County Assessor's Office
118 North Clark Street Chicago, IL 60602
Phone: 312.603.5300 Fax: 312.603.3352
Website: www.cookcountyassessor.com

GOULD & RATNER
ATTN: FREDERICK R. DEMPSEY – SUITE 800
222 N. LASALLE ST.
CHICAGO IL 60601

04/02/01

2000 Assessment Appeal

Township: JEFFERSON

Appeal Number: 0000000

Property Index Number(s):
10-10-000-010-000

We are happy to inform you that our staff has again reviewed your Assessment Appeal and determined that your assessed valuation should be reduced as shown below. This is as a result of an income, market or cost analysis.

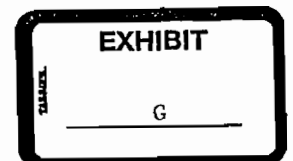
The goal of our office to provide uniform and equitable assessments for all property owners in Cook County. An efficient and fair Appeal process is an important tool in achieving that goal. This reduction will be first reflected on the second installment of your 200 real estate tax bill payable in 2001.

You also have an opportunity for further appeal by filing with the Cook County Board of Review. Detailed information is available by contacting the Board of Review's Office located in Room 601 of the County Building, 118 North Clark Street, Chicago 60602, (312) 603-5542.

We are pleased to have been of service to you.

Sincerely,

James M. Houlihan
Cook County Assessor



*** For PINS with no change in assessed value, PRIOR ASSESSED VALUE and CURRENT ASSESSED VALUE are left blank.

ORIGINAL CLASS	PROPERTY INDEX NUMBER	1999 PRIOR ASSESSED VALUE	PROPOSED 2000 ASSESSED VALUE	2000 CURRENT AV
315	10-10-000-010-0000	136,918	246,409	187,387

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2000 REAL ESTATE ASSESSED VALUATION COMPLAINT **THE BOARD OF REVIEW OF COOK COUNTY**

BOARD OF REVIEW ORIGINAL
DO NOT LIST COMPARABLES BELOW

TYPE OR PRINT ALL INFORMATION. COMPLY WITH BOARD RULES AND REGULATIONS IN FILLING OUT THIS FORM.

Name of Appellant Help-U-Rent Management Co.

Address of Appellant P.O. Box 000

City Northbrook State Illinois Zip 60065

Phone No. (312) 555-3003 Fax No. (312) 555-3004

STATUS OF APPELLANT

☒ Owner ☐ Former Owner Liable for Tax ☐ Tenant Liable for Tax ☐ Taxing Body Alleging Underassessment

☐ Beneficiary of Trust ☐ Executor ☐ Other (Explain) _____

LOCATION AND IDENTIFICATION OF REAL ESTATE

Address 3000 West Paradise Lane City Chicago Township Jefferson

Description of Property: ☐ Single Family ☐ 6 Apts. or Less ☒ Over 6 Apts. ☐ Coop
☐ Commercial ☐ Industrial ☐ Not-For-Profit ☐ Other
☐ Mixed Use ☐ Vacant Land ☐ Condo

If purchased on or after January 1, 1997. Year Purchased _____ Prior Purchase Price \$ _____
 If purchased prior to January 1, 1997, insert "prior".

The undersigned Appellant states that the above described real estate is OVERASSESSED by the Assessor of Cook County for the year 2000.

Was an Appeal made to PTAB for 1999? _____ Yes _____ No
 Was an Appeal made to the Assessor for 2000? _____ Yes _____ No
 Was an Appeal made to the Board of Review for 1999? _____ Yes _____ No
 The undersigned states that he has read the above complaint, has personal knowledge of the contents thereof, and the same is true in substance and in fact, and further so certifies under the penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure.

Signature of Appellant, or Attorney

ATTORNEYS ONLY

ATTORNEY'S CERTIFICATION: I, Theodore M. Swain/Frederick R. Dempsey Gould & Ratner FIRM
 ATTORNEY'S NAME (PRINTED OR TYPED)

222 N. LaSalle St., #800, Chicago, 60601 (312) 236-3003, certify that I have obtained
 FIRM ADDRESS CITY ZIP PHONE
 from John Q. Smith APPELLANT TITLE OR POSITION (1) explicit
 authorization to file this 2000 assessment complaint and (2) the Appellant's assurance that I am the only attorney so authorized.
 (312) 236-3241 1122

Attorney Fax No.

Signature of Attorney

Board Code No.

NOTICE TO APPELLANT: You will be notified by mail of the time and place of your hearing. You must be prepared at that time to present any evidence you have in support of your claim. Please see the Rules of the Board which govern all appeals.

JOSEPH BERRIOS COMMISSIONER
 MAUREEN J. PHY COMMISSIONER
 ROBERT SHAW COMMISSIONER

*B.R. Form R.E. No. 1

EXHIBIT

H



COOK COUNTY BOARD OF REVIEW

118 NORTH CLARK STREET
ROOM 601 COUNTY BUILDING
CHICAGO, ILLINOIS 60602
TEL: (312) 603-5542
FAX: (312) 603-3479

COMMISSIONER

MAUREEN MURPHY
COMMISSIONER

ROBERT SHAW
CHAIRMAN

05-29-01

Dear Taxpayer,

Your hearing on the assessment complaint listed below will be held at:

Time: 9:00 Date: 06-06-01

Place: Room 601, County Building, 118 N. Clark, Chicago, IL 60602

You or your attorney must attend this hearing. Failure to attend will result in dismissal of the complaint. However, you may, if you prefer, file your documents and evidence prior to the hearing. Kindly consult Rule 14 of the Official Rules of the Board of Review in this regard.

If the description of your residential property is printed with this notice, please check carefully for errors. If there are any, please bring to your hearing any evidence you may have of the correct information. You will be asked at the hearing to attest to the correctness of any changes you make in the official record. Not all errors result in assessment changes.

Please bring at least one photograph of your property's exterior. You are also encouraged to bring photographs of any other properties you wish to compare to yours.

Please check the following list of complaint and property numbers. If the list contains a property number on which you have not filed a complaint, call 312-603-5542.

YOU MUST BRING THIS NOTICE WITH YOU

Thank You,

JOSEPH BERRIOS
Commissioner

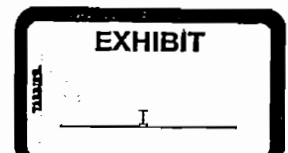
MAUREEN MURPHY
Commissioner

ROBERT SHAW
Commissioner

COMPLAINT		PROPERTY NUMBER
00000-000	A	10-10-000-010-000

GOULD & RATNER
FREDERICK R DEMPSEY
222 N LASALLE 8TH FLOOR
CHICAGO IL 60601

1 PROPERTIES
1 QUESTIONNAIRES



COMPLAINT NO. #####-###TOWNSHIP Jefferson

NAME OF APPELLANT Help-U-Rent Management Co.	ADDRESS OF PROPERTY 3000 W. Paradise Lane
DOCUMENTS SUBMITTED:	City <u>Chicago</u> Zip <u>60625</u>
1. SUMMARY SHEET <input checked="" type="checkbox"/>	Was an appeal made to the Assessor for 2000? _____
2. BRIEF <input checked="" type="checkbox"/>	Have all documents filed with the Assessor been filed before the Board? <u>Yes</u>
3. ORIGINAL PHOTOS _____	If documents are being filed with this Board that were not filed with the Assessor, list them below: _____
4. VACANCY-OCCUPANCY AFFIDAVIT (BOARD FORM) _____	_____
5. TAX RETURNS (YRS. 1997, 1998, 1999) _____	_____
6. AUTHENTICITY AFFIDAVIT — SHORT FORM (BOARD FORM) <input checked="" type="checkbox"/>	Has the Board granted a reduction on this parcel in the past 3 years? <u>Yes, 1998</u>
7. AUTHENTICITY AFFIDAVIT — LONG FORM (BOARD FORM) _____	_____
8. GENERAL AFFIDAVIT (BOARD FORM) _____	<u>0</u> PERCENT OF THE PROPERTY IS OWNER OCCUPIED.
9. AFFIDAVIT (OTHER) _____	IS ANY PORTION OF SUBJECT PROPERTY UNDER A NON-ARM'S LENGTH LEASE? IF SO, WHAT PERCENT? <u>N/A</u>
10. APPRAISAL _____	INSTRUCTIONS:
11. APPRAISAL INDEX (BOARD FORM) _____	1. Place a (✓) after each document filed.
12. SALES CONTRACT _____	2. Draw a line through each listed document(s) that is not filed.
13. CLOSING STATEMENT _____	
14. DEED _____	
15. TRANSFER DECLARATION _____	
16. INCOME & EXPENSE STATEMENT(S) <input checked="" type="checkbox"/>	
17. RENT ROLL(S) _____	
18. LEASE(S) _____	
19. COMPARABLE PROPERTIES AND PHOTOGRAPHS _____	
20. ADDITIONAL DOCUMENTS: _____	
3 Year Income Analysis Schedule _____	

BASIS OF COMPLAINT:

Attorney's Signature

Theodore M. Swain/Frederick R. Dempsey

Print Attorney's Name

1122

Attorney's Board of Review Code No.

1. RESTORATION	<input type="checkbox"/>
2. RECENT PURCHASE	<input type="checkbox"/>
3. LACK OF UNIFORMITY	<input type="checkbox"/>
4. VACANCY	<input type="checkbox"/>
5. DEMOLITION/DAMAGE	<input type="checkbox"/>
6. INCOME APPROACH	<input checked="" type="checkbox"/>
7. MARKET APPROACH	<input type="checkbox"/>
8. CLASSIFICATION	<input type="checkbox"/>
9. OTHER <input type="checkbox"/> EXPLAIN: _____	

ABOVE DOCUMENT(S) RECEIVED BY BOARD:
Date: _____

By _____

EXHIBIT

J

COOK COUNTY BOARD OF REVIEW

STATE OF ILLINOIS)
) SS.
JNTY OF COOK)

AUTHENTICITY AFFIDAVIT
(Short Form)

Complaint No. #####-###

I, Frederick R. Dempsey, being first duly sworn, state that
I have personal knowledge of the fact that each of the following documents:

1. Statement of Operations for the years 1997, 1998, 1999, prepared by

Kash & Kerry, LLC, Certified Public Accountants

2. Income Analysis Schedule (1997 through 1999)

is a true, correct and complete copy of the original it purports to be and that where any of such documents must be filed
with a government department or agency, they were in fact filed.

Further affiant sayeth not.

Frederick R. Dempsey
Affiant

SUBSCRIBED AND SWORN TO BEFORE ME this

19th day of December, 2000

Notary Public or Board Deputy

B.R. FORM#A30B

APARTMENT BUILDINGS MORE THAN 6 UNITS AND/OR STORE(S) WITH APARTMENT(S)

COMPLAINT NO. 00000-000

Current Assessed Valuation, All Parcels 187,387 1999 Assessed Valuation 136,918

Taxpayer's Request 132,955

Was appeal made to Assessor? Yes ☒ No ☐ Amount of Assessor's reduction: 59,022

Owner occupied YES ☐ NO ☒ % owner occupied: _____

APPRAISAL

Fair Market Value _____ as of _____ Date of Inspection _____

Taxes 25,480 Year 1999 Percent of total income 16.13

Are tenants required to pay any share of taxes? Yes ☐ No ☒ If yes, _____ % and \$ _____

TOTAL ANNUAL GROSS POTENTIAL INCOME, ALL SOURCES

ECONOMIC ANALYSIS Actual Gross Income 157,963 % of Occupancy _____
(Include all tenant contributions and government subsidies. If government subsidies are received and the taxpayer has been required to file H.U.D. 92410 or I.R.S. 8586, 8609 and 8609 Schedule A, then attach copies to this summary sheet)

RENTAL INCOME

No. of Rooms/ Unit	No. of Units	Rent/ Room/ Month	Rent/ Unit/ Month	Total Rent Per Year
	21			

Are any apartments furnished, and if so, how many? No

Rental Value of any owner occupied space -0-

Total Units _____

Commercial space: -0- sq. ft. x -0- annual rent/sq. ft. = _____ Commercial income

Total Units _____

Other Income: -0- Source _____ Annual income _____

ACTUAL ANNUAL EXPENSES (exclude property taxes, debt service, and depreciation)

Item	Amount Paid by Owner	Check if Paid by Apartment Tenant	Check if Paid by Commercial Space Tenant
Payroll, e.g., janitor, manager	23,609		
Gas for heat	12,939		
Gas for appliances	-		
Electric for heat	-		
Electric for appliances	2,054		
Water & Sewer	5,555		
Contractual services, e.g., exterminator, trash removal, security	10,516		
Repairs & Maintenance	20,584		
Replacement reserve	6,319		
Insurance premiums	5,109		
Vacancy & collection loss	-		
Other	10,463		
TOTAL ANNUAL EXPENSES	102,463		
Explain: _____			
Expenses as percent of income _____			

ANNUAL NET INCOME (total inc. - total exp.) 55,342

Suggested capitalization rate (excluding property taxes) 9% Tax load 6.34% Total 15.3%

PURCHASE (on or after January 1, 1997)

CONSTRUCTION (on or after January 1, 1997)

Price _____ Date _____ Prior _____ Cost _____ Date _____

If value of property was affected by catastrophe or demolition, describe event.

N/A

Is building in housing court or under citation for code violations? Yes ☐ No ☒ If yes, explain.

Signature: Owner ☐ or Attorney ☒ Reviewed by: _____

B.O.R. FORM #16A

GOULD & RATNER

FREDERICK R. DEMPSEY
312/899-1685
fdempsey@gouldratner.com

September 5, 2001

SUBMITTED AT HEARING

The Honorable Commissioners of the
Cook County Board of Review,
Chair Joseph Berrios, and
Maureen Murphy and Robert Shaw
Room 601, County Building
118 North Clark Street
Chicago, Illinois

Re: 2000 Real Estate Assessed Valuation Complaint
Jefferson Township; Docket No. 0000000
Volume: 602
P.I.N.: 10-10-000-010-0000
Property: 3000 W. Paradise Lane
Chicago, Illinois 60600
Taxpayer: Help-U-Rent Management Co.
1999 Assessed Valuation: 136,918
Proposed Assessed Valuation 187,387
Requested Assessed Valuation: 132,955

Dear Commissioners:

The above-described property consists of approximately 16,875 square feet of land located at 3000 W. Paradise Lane, Chicago, Illinois. The site is improved with an approximately 52-year-old apartment building containing 21 apartment units.

The subject property was reassessed as part of the 2000 triennial reassessment of property located in Jefferson Township. The notice of proposed assessed valuation for the subject property is \$187,387, which at the 33% level of assessment imputes a full value of \$567,839.

#126912 v1 - Seminar Case Study/Apartment Building/6/20/2001



222 North LaSalle Street, Eighth Floor, Chicago, Illinois 60601
Telephone 312/236-3003 Facsimile 312/236-3241 www.gouldratner.com

Based on an analysis of the income and operating expenses relating to the property, we believe that the proposed assessment is excessive.

Exhibit No. 1, attached hereto, consists of the owner's audited Statement of Operations for the years 1997, 1998, 1999 and 2000, prepared by Kash & Kerrey, LLC, certified public accountants. Exhibit No. 2 is an Income Analysis Schedule (1997 through 1999).

In 1999, the property generated a gross income in the amount of \$157,963. Deduction of allowable operating expenses in the amount of \$102,621 (excluding real estate taxes, debt service, and depreciation) results in a net income from the property of \$55,342, more than 10% less than the 3-year average.

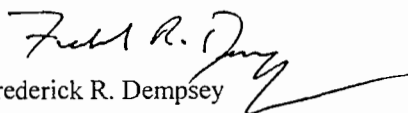
In our 3-Year Average Income Analysis, we applied a standard Income Approach to value using the average actual gross income of \$156,517 and operating expenses of \$94,713, which results in a 3-year average net income of \$61,804. We applied a *low capitalization rate of 9%* and a tax load of 6.34% (for a total 15.3% loaded cap rate) to the net income, which indicates a market value of \$402,894. A capitalization rate of 9% is low even for a Loop office building, and to require an even lower rate would not be credible.

Based on this evidence and the application of the 33% level of assessment, we request that the proposed 2000 assessment be reduced to reflect a fair market value no greater than the capitalized value of \$402,894, or a revised assessment of \$132,955. This figure is more favorable to the Assessor than the indicated value based on net income for 1999. In fact, net income declined for each year of the 1997 triennial, and for the year 2000.

If you have any questions regarding the assessment complaint or the subject property, please do not hesitate to contact us.

Respectfully submitted,

GOULD & RATNER


Frederick R. Dempsey

FRD/md
Enclosure

cc: Theodore M. Swain

YEAR	1999			% OF GROSS	PER UNIT	LAST YEAR (1998)	% OF GROSS	YEAR BEFORE LAST (1997)	% OF GROSS
NO. UNITS	21	GROSS INCOME	\$157,963	100.00	\$7,522	\$159,263	100.00	\$152,326	100.00
LAND AREA		OPERATING EXPENSES							
LAND : BLDG 1 to		PAYROLL	\$23,609	14.95	\$1,124	\$21,196	13.31	\$19,910	13.07
CAP RATE	.09	FUEL FOR HEAT	\$12,939	8.19	\$616	\$14,834	9.31	\$15,652	10.28
LEVEL OF AV	.33	ELECTRICITY	\$2,054	1.30	\$98	\$2,312	1.45	\$1,971	1.29
STATE MULTIPLIER	2.2505	WATER & SEWER	\$5,555	3.52	\$265	\$6,151	3.86	\$5,133	3.37
TAX RATE	.08536	SERVICE CONTRACTS	\$10,516	6.66	\$501	\$8,762	5.50	\$6,928	4.55
TAX LOAD	0.0634	REPAIRS	\$20,584	13.03	\$980	\$17,546	11.02	\$9,020	5.92
LOADED CAP	0.1534	RESERVES	\$6,319	4.00	\$301	\$6,371	4.00	\$6,093	4.00
		INSURANCE	\$5,109	3.23	\$243	\$6,068	3.81	\$6,075	3.99
		ADVERTISING	\$218	0.14	\$10	\$489	0.31	\$396	0.26
		OTHER ADM.	\$5,473	3.46	\$261	\$4,269	2.68	\$3,263	2.14
		MANAGEMENT FEE	\$10,245	6.49	\$488	\$9,635	6.05	\$9,445	6.20
		TOTAL EXPENSES	\$102,621	64.97	\$4,887	\$97,633	61.30	\$83,886	55.07
		NET INCOME	\$55,342	35.03	\$2,635	\$61,630	38.70	\$68,440	44.93
CAPITALIZED INCOME VALUE			\$360,769		\$17,179	\$401,760		\$446,154	
IMPUTED FULL VALUE			\$567,839		\$27,040				
		ASSESSMENT	ESTIMATED TAX						
PRIOR		\$136,918	\$26,284	16.64	\$1,252	\$156,517	\$94,713.33	\$61,804.00	
PROPOSED		\$187,387	\$35,972	22.77	\$1,713		CAPITALIZED VALUE	NET AS % OF GROSS	
INDICATED		\$119,054	\$22,855	14.47	\$1,088	TAX EST.	\$402,894.39	\$25,523.09	39.49



COOK COUNTY BOARD OF REVIEW

118 NORTH CLARK STREET
ROOM 601 COUNTY BUILDING
CHICAGO, ILLINOIS 60602
TEL: (312) 603-5542
FAX: (312) 603-3479

COMMISSIONER

MAUREEN MURPHY
COMMISSIONER

ROBERT SHAW
CHAIRMAN

6/16/2001

CLASS: 03-15
B/R COMPLAINT TYPE: A

Dear Complainant,

After consideration of any evidence or facts submitted and pursuant to their powers and authority under the Illinois Property Tax Code, Joseph Berrios, Maureen Murphy and Robert Shaw, Commissioners of the Board of Review of Cook County, are pleased to inform you that as a result of the hearing on your complaint they have directed the Assessor to reduce the assessed value of your property as shown below.

PROPERTY NUMBER	BOARD COMPLAINT	2000 ASSESSED VALUATIONS		CHANGE
		ASSESSOR ORIGINAL	BOARD OF APPEALS FINAL	
10-10-000-010-000	00000-000	187,387	162,274	25,113-

This reduced final Board 2000 valuation will be equalized by the Illinois Department of Revenue, as provided by law.

If you are dissatisfied with your 2000 real estate assessment, you have the following option:

1. You may appeal this decision to the Property Tax Appeal Board at 9511 West Harrison Street, Suite 171, DES PLAINES, IL 60016-1523, by filing a petition for your review with the Illinois Property Tax Appeal Board within 30 days after the date of this notice or within 30 days after the date the Board of Review transmits to the County Assessor pursuant to Sec 16-125 (35 ILCS 200/16-125) its final action on the township in which your property is located, whichever is later.
-- OR --
2. You may file a tax objection complaint in the Circuit Court of Cook County, Illinois. If you choose this option, please consult the laws concerning the procedure for proceeding in court.

In addition, you may file a new complaint at the board of Review next year for 2001 with any new evidence.

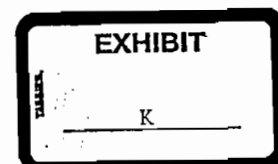
Sincerely,

Joseph Berrios
Commissioner

Maureen Murphy
Commissioner

Robert Shaw
Commissioner

GOULD & RATNER
FREDERICK R DEMPSEY
222 N LASALLE 8TH FLOOR
CHICAGO IL 60601



FBA:

Real Estate Group, Ltd.
APPRAISERS & CONSULTANTS

July 5, 2001

Mr. Frederick R. Dempsey
Gould and Ratner
222 North LaSalle Street, 8th Floor
Chicago, Illinois 60601

Re: 21 Unit Apartment Building
2925 West Summerdale
Chicago, Illinois

Permanent Index Number: 13-12-115-043?

Dear Mr. Dempsey:

Pursuant to your request, we have prepared a limited appraisal restricted use report for the above referenced property. The purpose of this appraisal assignment is to estimate market value as defined by the Uniform Standards of Professional Appraisal Practice (USPAP), the Standards of Professional Appraisal Practice of the Appraisal Institute, Standard Rule 1-2(b). The interest valued is the Fee Simple Estate. The intended use of this appraisal is for the sole purpose of assisting the client in connection with the estimate of market value of the subject property for possible finance of the subject property. The effective date is as of January 1, 2000.

The subject property consists of a 21 unit, masonry apartment building, built in approximately 1950. The improvements are situated on an interior rectangularly shaped site containing approximately 16,900 square feet.

The highest and best use of the subject property is as an apartment type facility that is presently constructed on the site.

Market Value, as defined by the Uniform Standards of Professional Appraisal Practice (USPAP) and the Standards of Professional Appraisal Practice of the Appraisal Institute, and used in this analysis, is:

"The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."



Real Estate Group, Ltd.
APPRAISERS & CONSULTANTS

Gould and Ratner
July 5, 2001
Page 2

We have analyzed current market sales data available to us. For purposes of this limited appraisal and with prior consent of the client, we have not utilized the Cost Approach to value. Although this approach would generally be considered meaningful in appraising a property of this type, the Appraiser believes the primary approaches to value are the Sales Comparison Approach and the Income Approach. The appraisal process therefore involved departure from Standards Rule 1-4 (b) I, ii, iv, v, and vi.

This limited appraisal restricted use report sets forth only the Appraiser's conclusions and is not to be construed as a complete appraisal assignment, which requires full documentation and verification of the data. Supporting documentation is retained in the appraisal work files. This limited appraisal is subject to the assumptions and limiting conditions that are attached and made part of this report.

It is our opinion, the Market Value of the Fee Simple Estate of the subject property, as of January 1, 2000, was \$450,000.

Our fee for a complete appraisal will be \$2,500. Please indicate your acceptance for a complete appraisal with your signature on the enclosed copy of this letter.

Respectfully submitted,

ss/kp(01-091)

ACCEPTED BY _____

DATE _____

Case Study
Owner-Occupied Residence

Frederick R. Dempsey

CASE STUDY

Owner-Occupied Residence

By Frederick R. Dempsey

On the morning of the day that the Assessor is closing for the filing of complaints for New Trier township, a partner at your firm patches you into a three-way conference call with Bill Mhee, a significant client of the firm. The triennial reassessment of New Trier township was in 1999, but having recently paid the second installment of 1999 real estate taxes, the client now realizes that he had better do something to reduce his tax burden for year 2000. Other than the Property Index Number (PIN) and address, no useful information is provided except negative answers to routine questions about catastrophic damage, demolition, new construction, etc. There are no unusual circumstances about the house. Upon inquiry, the client estimates the fair market value of his home to be about \$1,500,000. Your partner assures Mr. Mhee that you will help him.

There is no need to order a copy of the Assessor's Printout for the property, because – starting with year 2000 - that information is available for Class 2 residential property on the Assessor's Website at: www.cookcountyassessor.com. After pulling up on your computer screen the Residential Search Results for the subject property's PIN [see attachment to Exhibit A], you call back the client to verify essential information such as age, construction, number of rooms, etc. You note that the Assessed Value (AV) of the property, 134,898, imputes a fair market value of \$843,113, at the statutory

assessment level of 16%. The client, who paid \$25,347 in real estate taxes in 1999 ($AV\ 134,898 \times \text{equalization factor } 2.2505 \times \text{tax rate } 8.349\%$), does not feel that his taxes could easily be double their current level. Nevertheless, the Illinois Department of Revenue's Study of Assessment Ratios, adjusted through 1999, indicates that Cook County's major Class 2 was actually assessed at a 3-year average of only 9.88% of market value, rather than the statutory level of 16%. [Exhibit B] If Mr. Mhee is accurate in his estimate of market value of \$1,500,000, then at the effective assessment level of 9.88% for Class 2 property, his AV would be 148,200, instead of 134,898. That difference in AV, in 1999, would have resulted in an additional \$2,499 in real estate taxes for Mr. Mhee, who is clearly under-assessed.

You can still help your client if properties comparable to his own are under-assessed even more severely than he is. The Illinois Constitution states, "Taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill.Const.Art.IX, §4(a). Look at the Residential Search Request for the subject property and begin by noting its regression class, which in this case is 2-06. The Assessor's Definitions of the Codes for Classification of Real Property defines Class 2-06 as "Two or more story residence, over 62 years, 2,201 to 4,999 Sq. Ft." Also, note the subject's Neighborhood Code, which in this case is 22. You are not interested in land values, so only calculate the imputed market value per square foot of improvement. Prepare a spreadsheet, such as the 2000 Real Estate Tax Analysis form attached to Exhibit A. Mr. Mhee's improvements are assessed at \$155.29 per square foot. Calculate the market value per square foot of improvement of other 2-06 residences in

neighborhood 22 and list on the spreadsheet those that are significantly less than \$155.29 per square foot. You were able to identify eight comparable residences with an average value per square foot improvement of \$108.93, ranging from a low of \$102.84 to a high of \$119.23. It appears to be the case now that your client is clearly over-assessed.

Using the Residential Assessed Valuation Appeal form provided by the Assessor's Office, you include for filing the following: Owner/Lessee Verification Form, Document Schedule, Brief, 2000 Real Estate Tax Analysis (or similar analytical tool), and copies of the relevant Residential Search Results (optional). [Exhibit A] Thereafter, you receive an acknowledgment letter from the Assessor assigning an appeal number. [Exhibit C] Nearly three weeks after the first letter from the Assessor, you receive a "no change" letter from the Chief Deputy Assessor affirming the original assessment due to the property's uniformity with comparable properties. [Exhibit D]

When New Trier Township opens at the Board of Review for valuation complaints, you prepare and file a 2000 Real Estate Assessed Valuation Complaint. [Exhibit E] You will include a Review Log, Brief, Single Family Home and 6 Or Less Apartments Affidavit, Authenticity Affidavit, and supporting documentation, such as the 2000 Real Estate Tax Analysis spreadsheet and Residential Search Results. Next, the Board will send you a notice of the date your complaint is scheduled for hearing. [Exhibit F] If you do not want an oral argument, you may submit the documentation in support of the complaint in advance of the hearing. On the hearing date you can still elect to waive oral argument, but you choose to step up before the hearing officer for a brief presentation (in downstate counties the hearing is more in the manner of a formal

proceeding). Immediately prior to the hearing, you will have submitted your brief and documentation [Exhibit G] to the clerk who then prepares the file for the hearing officer. You have brought an extra copy from which to refer during your hearing. Time is of the essence, and you will have merely a few minutes to make the most salient points. At the hearing, the hearing officer asks if you have included a photograph of the subject premises. You have not, so she fills out a sheet with the complaint number and a note to send photographs to her attention. [Exhibit H] Generally, you have two days to submit supplemental data. Take one or more photographs of the improvements and submit with a cover letter within the allotted time. [Exhibit I]

Within a week to ten days of the hearing, you receive from the Board of Review a letter informing you of their decision to reduce the assessed valuation by 9,649, to 125,249. [Exhibit J] The imputed market value is now \$782,806. You have 30 days from the postmark date/personal service of the Board of Review's decision, or 30 days from the date that the Board of Review transmits its final action to the County Assessor (35 ILCS 200/16-125), to file with the Property Tax Appeal Board (PTAB). You may elect this remedy to the exclusion of filing a Specific Tax Objection in Circuit Court within 75 days after the first penalty date of the final installment of taxes for the year in question. (35 ILCS 200/23-10). As a general rule, without photographs and reliable data, you will be hard pressed to prove the comparable characteristics of the properties you have selected for comparison.

The difference in taxes, for Bill Mhee, based on the then last known equalization factor of 2.2505 and tax rate of 8.315%, is a saving of \$1,805.62 for each of the remaining two years of the triennial.

####

RESIDENTIAL ASSESSED VALUATION APPEAL (Business with Apartments Above 6 units or less below 20,000 square feet)

APPEAL YEAR

James M. Houlihan

Cook County Assessor's Office
118 North Clark Street Chicago, IL 60602
Phone: 312-443-7550 Website: www.cookcountyassessor.com

APPEAL NUMBER

2000

TYPE OR PRINT ALL INFORMATION

NAME OF OWNER/LESSEE Bill Mhee PHONE (daytime) (312) 899-1685
OWNER/LESSEE ADDRESS 400 Elderberry Lane CITY & ZIP CODE Winnetka, 60093
PROPERTY ADDRESS 400 Elderberry Lane CITY & ZIP CODE Winnetka, 60093
TOWNSHIP New Trier PROPERTY INDEX NUMBER (PIN) 01 01 100 001 0000

IF MULTI-PARCEL APPEAL, INDICATE ADDITIONAL NUMBER(S) HERE:

IF YOU WISH ONLY TO CHANGE YOUR PROPERTY CHARACTERISTICS, COMPLETE THE REVERSE SIDE OF THIS FORM & SIGN BELOW

1. ☒ CHECK THIS BOX IF YOU WISH TO FILE AN APPEAL AND COMPLETE THE FOLLOWING STEPS:

2. CHECK APPROPRIATE REASON(S) FOR APPEAL

- ☒ Lack of Uniformity ☐ Other _____
- ☐ Overvaluation _____
- ☐ Property Description Error (Update Property Characteristics On Reverse Side Of Form) _____
3. COMPARABLE PROPERTIES (optional)

Through my signature below, I affirm that I am the owner/lessee or appointed representative and that all information is true and accurate to the best of my knowledge.

Signature of Owner/Lessee or Representative *Frederick R. Dempsey* Date Sept. 5, 2001 Received by (Assessor Staff) _____ Date _____

As appointed representative for the owner/lessee of the property described above, I affirm: (1) that I have read the Cook County Assessor's Rules for Filing Appeals; and (2) that I have knowledge of the matters covered in this appeal.

Frederick R. Dempsey and Theodore M. Swain
Gould & Ratner

60

Name (Please Print) Phone Number (312) 236-3003

222 N. LaSalle Street, Suite 800, Chicago, IL 60601
Address City Zip Code

FOR OFFICE USE ONLY

REASON CODE

AV

Form 4817 Rev 2000





James M. Houlihan
Cook County Assessor

Cook County Assessor's Office
118 North Clark Street Chicago, IL 60602
Phone: 312.603.5300 Fax: 312.603.3352
Website: www.cookcountyassessor.com

OWNER LESSEE VERIFICATION FORM

Township: **New Trier**

Subject Property PIN(s)

01-01-100-001-0000

(Attach separate sheet for additional PIN's)

I **Bill Mhee** being first duly sworn on oath state

1. that I am

A. ☒ an owner of the property described above or

B. ☐ a lessee of the property described above or

C. ☐ a duly authorized officer / agent of the

corporation / partnership which owns the property described above;

1. that the above property

A. ☒ has not been purchased within the last 5 years;

B. ☐ has been purchased within the last 5 years;

If sold:

Purchase Price: _____

Date of Purchase: 1/1

3. that for the assessment year 2001 I have authorized

Gould & Ratner, by Theodore M. Swain and Frederick R. Dempsey

whose name appears on the appeal form to represent me before the Assessor relative to the assessment of the above property.

Subscribed and Sworn to, before me this

_____ day of

_____, 20____

RESET FORM

Bill Mhee

NOTARY PUBLIC

SIGNATURE OF AFFIANT

DOWNTOWN
118 N. Clark St. Rm. 301
(312)443-7550
TDD (312)603-6181

SKOKIE
5600 Old Orchard Rd.
Rm. 149
(847)470-7237

MAYWOOD
1500 Maybrook Square
Rm. 082
(708)865-6032

BRIDGEVIEW
10200 76th Ave.
Rm. 237
(708)974-6451

ROLLING MEADOWS
2121 Euclid Ave.
Rm. 237
(847)818-2444

MARKHAM
16501 Kedzie Ave.
Rm. 237
(708)210-4100

COOK COUNTY BOARD OF REVIEW

STATE OF ILLINOIS)
)
COUNTY OF COOK) SS.

AUTHENTICITY AFFIDAVIT
(Short Form)

Complaint No. 31340-001

I, Frederick R. Dempsey, being first duly sworn, state that
I have personal knowledge of the fact that each of the following documents:
Cook County Assessor's Office Residential Search Results

is a true, correct and complete copy of the original it purports to be and that where any of such documents must be filed
with a government department or agency, they were in fact filed.

Further affiant sayeth not.

Frederick R. Dempsey
Affiant

SUBSCRIBED AND SWORN TO BEFORE ME this
_____ day of _____, _____.

Notary Public or Board Deputy

GOULD & RATNER

FREDERICK R. DEMPSEY
312/899-1685
fdempsey@gouldratner.com

September 5, 2001

HAND DELIVERED

Mr. James M. Houlihan
Assessor of Cook County
320 County Building
118 N. Clark Street
Chicago, IL 60602

Re: 2000 Real Estate Assessed Valuation Complaint
New Trier Township
P.I.N.: 01-01-100-001-0000
Property: 400 Elderberry Lane
Winnetka, Illinois
Proposed Assessment: \$134,898
Requested Assessment: \$102,169

BRIEF

Dear Mr. Houlihan:

Gould & Ratner represent the homeowner of the subject property, which consists of a two-story single family stucco residence with an unfinished basement and three baths. The improvements are located on a site that has a total land area of 25,273 square feet. This property, while on a slightly larger lot, is typical of residences throughout its neighborhood, and has a two car detached garage.

I. The Proposed 2000 Triennial Assessment

The proposed 2000 assessment is \$134,898. Based on the 16% level of assessment applicable to Class 2 residential property, the full value imputed from the assessment is \$843,113 (\$191.09/sf of improvement plus land value, or \$155.29/sf of just improvement value). We believe the proposed assessment is excessive based on the proposed assessments of comparable residential properties in the neighborhood.



222 North LaSalle Street, Eighth Floor, Chicago, Illinois 60601 #130092 v1 - A/O-Seminar Case Study/Residential Brief/7/19/2001
Telephone 312/236-3003 Facsimile 312/236-3241 www.gouldratner.com

II. Subject Property is Over-Assessed Based upon a Lack of Assessment Uniformity

A review of the proposed assessments for other comparable residences located in the immediate area indicates that the 2000 proposed assessment of the subject property is excessive since it is not uniform with the assessments of the most closely comparable properties. In support of this assertion, we have attached a schedule of comparable residential properties located in the subject property's neighborhood.

The proposed 2000 assessments for sample Class 2-06 properties in neighborhood "022" impute a value range from \$101.69 to \$119.23 per square foot of building area. The indicated average per square foot value of improvement, \$108.93, is substantially less than the square foot full value imputed to the subject property, \$155.29. This value differential would result in the owners of the subject property paying more per year in real estate taxes than if they were assessed uniformly with the average homeowner in his neighborhood.

The 2000 proposed assessments for these comparable properties demonstrate a discriminatory lack of uniformity in the 2000 proposed assessment for the subject property. "Taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill. Const. Art. IX, §4(a).

In addressing the issue of assessment uniformity, the Illinois Appellate Court has held as follows:

The rule of uniformity developed from Article IX, section 4(a), requires that one person shall not be burdened with a greater proportion of the taxes, according to the value of his property, than another. It does not permit valuation by taxing officials of property in the same taxing district at a certain proportion of its true value while other property in that district is valued at a substantially less or greater proportion. *People of the State of Illinois v. Barthow*, 111 Ill. App. 3d 513, 444 N.E. 2d 282, 287 (1983).

The equality in tax burden mandated by the Illinois Constitution cannot exist without uniformity in the basis of assessment, as well as in the rate of taxation. *Apex Motor Fuel Company v. Barrett*, 20 Ill. 2d 395, 169 N.E. 2d 769, 773 (1960). Under the "uniformity of taxation" clause of the Constitution, taxation must be uniform as to the class upon which it operates, and that the uniformity demanded applies to property of like kind and character and similarly situated. *People v. Southwestern Bell Telephone Co.*, 377 Ill. 303, 36 N.E. 2d 362, 364 (1941).

The list of Class 2-06 comparable properties submitted herewith constitute property "of like kind and character which are similarly situated" to the subject property. These comparable properties, however, are more favorably treated when compared to the subject property assessments for 2000, and therefore the proposed 2000 assessment of the subject property does not meet the Constitutional standard.

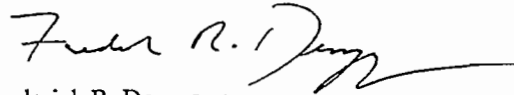
Mr. James M. Houlihan
Assessor of Cook County
September 5, 2000
Page 3

III. Conclusion

We request that the proposed 2000 assessment of the subject property be revised in conformity with Article IX, Section 4 of the Illinois Constitution of 1970. Accordingly, we request that the 2000 assessment for the subject property be reduced to 16% of the \$108.93 per square foot neighborhood improvement average value times the 4,412 square feet of living area (\$480,599), plus land value (\$157,956), for a market value of \$638,555, or a total revised assessment of \$102,169.

Respectfully submitted,

GOULD & RATNER

A handwritten signature in dark ink, appearing to read "Frederick R. Dempsey", with a long, sweeping horizontal line extending to the right.

Frederick R. Dempsey

FRD/md
Enclosure

cc: Theodore M. Swain

2000 REAL ESTATE TAX ANALYSIS
BILL MHEE
400 ELDERBERRY LN
WINNETKA, ILLINOIS

P.I.N.	ADDRESS	(Living Area) BUILDING SQ. FT.	LAND SQ. FT.	PROPOSED 2000 A.V. BLDG.	IMPUTED FULL VALUE BLDG.	VALUE PER SQUARE FOOT OF BLDG.	EST 2000 TAXES* BLDG.
		SUBJECT PROPERTY					
01-01-100-001-0000	400 Elderberry	4,412	19,745	\$109,625	685,156	\$155.29	\$19,185
		COMPARABLE PROPERTIES					
01-01-102-014-0000	381 Elderberry	3,576	17,300	\$60,127	\$375,794	\$105.09	\$10,522
01-01-102-013-0000	365 Elderberry	3,438	20,198	\$55,938	\$349,613	\$101.69	\$9,789
01-01-104-008-0000	368 Elderberry	3,380	15,980	\$62,404	\$390,025	\$115.39	\$10,921
01-01-104-007-0000	370 Elderberry	3,071	12,750	\$54,055	\$337,844	\$110.01	\$9,460
01-01-100-012-0000	520 Elderberry	3,336	16,500	\$55,780	\$348,625	\$104.50	\$9,762
01-01-110-004-0000	388 Elderberry	2,722	8,500	\$48,497	\$303,106	\$111.35	\$8,487
01-01-111-011-0000	399 Elderberry	2,872	8,650	\$47,258	\$295,363	\$102.84	\$8,270
01-01-103-010-0000	350 Elderberry	3,768	8,500	\$71,880	\$449,250	\$119.23	\$12,579
TOTAL AVERAGES		3,270	13,547	\$56,992	\$356,203	\$108.93	\$9,974

*The estimated taxes are based on the 1998 equalization factor and tax rate and do not reflect any exemptions which may be applicable.

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-100-001-0000		
Address:	400 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	82
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	25,273	25,273
Building	109,625	109,625
Total	134,898	134,898
Estimated Market Value	843,113	843,113
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Stucco	
Full Baths	3	
Half Baths	2	
Basement ¹	Full and Unfinished	
Attic	None	
Central Air	No	
Number of Fireplaces	1	
Garage Size/Type ²	2 car detached	
Building Square Footage:	4,412	
Land Square Footage	19,745	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-102-014-0000		
Address:	381 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	79
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	21,235	21,235
Building	60,127	60,127
Total	81,362	81,362
Estimated Market Value	508,513	508,513
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Frame	
Full Baths	3	
Half Baths	1	
Basement ¹	Partial and Unfinished	
Attic	Partial and Unfinished	
Central Air	No	
Number of Fireplaces	2	
Garage Size/Type ²	1.5 car detached	
Building Square Footage:	3,576	
Land Square Footage	17,300	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-102-013-0000		
Address:	365 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	75
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	24,792	24,792
Building	55,938	55,938
Total	80,730	80,730
Estimated Market Value	504,563	504,563
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Frame/Masonry	
Full Baths	3	
Half Baths	2	
Basement ¹	Full and Unfinished	
Attic	Partial and Unfinished	
Central Air	No	
Number of Fireplaces	2	
Garage Size/Type ²	2 car attached	
Building Square Footage:	3,438	
Land Square Footage	20,198	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-104-008-0000		
Address:	368 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	75
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	19,852	19,852
Building	62,404	62,404
Total	82,256	82,256
Estimated Market Value	514,100	514,100
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Masonry	
Full Baths	3	
Half Baths	2	
Basement ¹	Partial and Rec Room	
Attic	Partial and Unfinished	
Central Air	No	
Number of Fireplaces	1	
Garage Size/Type ²	3 car detached	
Building Square Footage:	3,380	
Land Square Footage	15,980	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-104-007-0000		
Address:	370 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	73
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	15,840	15,840
Building	54,055	54,055
Total	69,895	69,895
Estimated Market Value	436,844	436,844
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Masonry	
Full Baths	3	
Half Baths	0	
Basement¹	Full and Unfinished	
Attic	None	
Central Air	No	
Number of Fireplaces	0	
Garage Size/Type²	2 car detached	
Building Square Footage:	3,071	
Land Square Footage	12,750	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-100-012-0000		
Address:	520 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	86
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	20,908	20,908
Building	55,780	55,780
Total	76,688	76,688
Estimated Market Value	479,300	479,300
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Stucco	
Full Baths	3	
Half Baths	1	
Basement ¹	Full and Unfinished	
Attic	None	
Central Air	No	
Number of Fireplaces	1	
Garage Size/Type ²	2 car detached	
Building Square Footage:	3,336	
Land Square Footage:	16,500	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-110-004-0000		
Address:	388 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	70
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	10,560	10,560
Building	48,497	48,497
Total	59,057	59,057
Estimated Market Value	369,106	369,106
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Frame/Masonry	
Full Baths	2	
Half Baths	1	
Basement ¹	Partial and Unfinished	
Attic	Partial and Living Area	
Central Air	No	
Number of Fireplaces	1	
Garage Size/Type ²	1.5 car attached	
Building Square Footage:	2,722	
Land Square Footage	8,500	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-111-011-0000		
Address:	399 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	84
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	10,617	10,617
Building	47,258	47,258
Total	57,875	57,875
Estimated Market Value	361,719	361,719
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Stucco	
Full Baths	3	
Half Baths	1	
Basement ¹	Full and Unfinished	
Attic	Partial and Living Area	
Central Air	No	
Number of Fireplaces	1	
Garage Size/Type ²	None	
Building Square Footage:	2,872	
Land Square Footage	8,650	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-103-010-0000		
Address:	350 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	73
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	10,560	10,560
Building	71,880	71,880
Total	82,440	82,440
Estimated Market Value	515,250	515,250
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Masonry	
Full Baths	3	
Half Baths	1	
Basement ¹	Full and Unfinished	
Attic	Partial and Living Area	
Central Air	No	
Number of Fireplaces	3	
Garage Size/Type ²	2 car attached	
Building Square Footage:	3,768	
Land Square Footage	8,500	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment.

² Excluded from Building Square footage



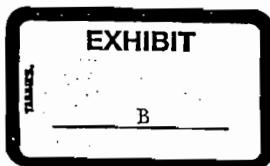
PTAX-215

Assessment Ratios Adjusted for Changes

through 1999 ASSESSOR for Cook County

Non-farm by township	1996	1997	1998	3-year average
<u>Class 1</u>	<u>11.94</u>	<u>11.05</u>	<u>12.12</u>	<u>11.70</u>
<u>Class 2</u>	<u>10.21</u>	<u>9.96</u>	<u>9.47</u>	<u>9.88</u>
<u>Class 3</u>	<u>24.21</u>	<u>22.75</u>	<u>21.00</u>	<u>22.65</u>
<u>Class 5 B</u>	<u>33.19</u>	<u>33.09</u>	<u>31.24</u>	<u>32.11</u>
<u>Class 5 A</u>	<u>30.22</u>	<u>29.05</u>	<u>27.08</u>	<u>28.82</u>
<u>Urban Ltd</u>	<u>15.43</u>	<u>14.92</u>	<u>14.08</u>	<u>14.81</u>
<u>Ltd Class 5</u>	<u>31.06</u>	<u>29.97</u>	<u>28.01</u>	<u>29.68</u>

Computed MAF (5125108)
 Checked KW (2451-4)





James M. Houlihan
Cook County Assessor

Cook County Assessor's Office
118 North Clark Street Chicago, IL 60602
Phone: 312.603.5300 Fax: 312.603.3352
Website: www.cookcountyassessor.com

GOULD & RATNER
ATTN: FREDERICK R. DEMPSEY – SUITE 800
222 N. LASALLE ST.
CHICAGO IL 60601

08/03/00

2000 Assessment Appeal

Township: NEW TRIER

Appeal Number: 0000000

Property Index Number(s):
01-01-100-001-0000

Please accept this letter acknowledging the receipt of your Assessment Appeal recently filed with our office. Your Appeal has been assigned the number above, which should be used in any future inquiries you may have on this issue.

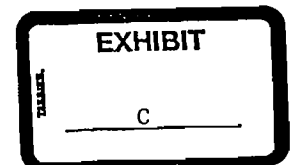
It is your right as a property owner, or as their authorized representative, to file an Assessment Appeal. This is an important part of the process in arriving at fair and uniform assessments.

Our staff will examine your Appeal carefully and will notify you by mail when our analysis is completed.

We are pleased to be of service to you in this manner. If you have any further questions at this time, please call an Industrial/Commercial Hearing Officer at (312) 603-7541.

Sincerely,

James M. Houlihan
Cook County Assessor



COOK COUNTY ASSESSOR'S OFFICES

DOWNTOWN
118 N. Clark St. Rm. 301
(312) 443-7530
TDD (312) 603-6181

SKOKIE
5600 Old Orchard Rd.
Rm. 149
(847) 470-7237

MAYWOOD
1500 Maybrook Square
Rm. 082
(708) 865-6032

BRIDGEVIEW
10200 76th Ave.
Rm. 237
(708) 974-6451

ROLLING MEADOWS
2121 Euclid Ave.
Rm. 237
(847) 818-2444

MARKHAM
16501 Kedzie Ave.
Rm. 237
(708) 210-4100



James M. Houlihan
Cook County Assessor

Cook County Assessor's Office
118 North Clark Street Chicago, IL 60602
Phone: 312.603.5300 Fax: 312.603.3352
Website: www.cookcountyassessor.com

GOULD & RATNER
ATTN: FREDERICK R. DEMPSEY – SUITE 800
222 N. LASALLE ST.
CHICAGO IL 60601

08/21/00

2000 Assessment Appeal

Township: NEW TREIER

Appeal Number: 0000000

Property Index Number(s):
01-01-100-001-0000

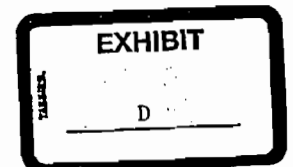
Our Appeals Department has analyzed your Assessment Appeal together with any supporting documentation you may have filed. Our analysis indicates the assessed valuation should remain as originally proposed. This is due to your property's uniformity with comparable properties.

Should you have any questions regarding our decision, please contact one of our Appeals Department at (312) 603-754. Due to the fast approaching closing date of your township, it is very important to call our office within the next five business days.

You also have an opportunity for further appeal by filing with the Cook County Board of Review. Detailed information is available by contacting the Board of Review's Office located in Room 601 of the County Building, 118 North Clark Street, Chicago 60602, (312) 603-5542.

Yours very truly,

M. Veronica Lynch
Chief Deputy Assessor



COOK COUNTY ASSESSOR'S OFFICES

DOWNTOWN
118 N. Clark St. Rm. 301
(312) 443-7550
TDD (312) 603-6181

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16501 Kedzie Ave.
Rm. 237
(708) 210-4100

2000 REAL ESTATE ASSESSED VALUATION COMPLAINT **THE BOARD OF REVIEW OF COOK COUNTY**

TYPE OR PRINT ALL INFORMATION. COMPLY WITH BOARD RULES AND REGULATIONS IN FILLING OUT THIS FORM.

Name of Appellant Bill Mhee
 Address of Appellant 400 Elderberry Lane
 City Winnetka State Illinois Zip 60093
 Phone No. 312-899-1685 Fax No. _____

STATUS OF APPELLANT

☒ Owner ☐ Former Owner Liable for Tax ☐ Tenant Liable for Tax ☐ Taxing Body Alleging Underassessment
☐ Beneficiary of Trust ☐ Executor ☐ Other (Explain) _____

LOCATION AND IDENTIFICATION OF REAL ESTATE

Address 400 Elderberry Lane City _____ Township _____
 Description of Property: ☒ Single Family ☐ 6 Apts. or Less ☐ Over 6 Apts. ☐ Coop
☐ Commercial ☐ Industrial ☐ Not-For-Profit ☐ Other
☐ Mixed Use ☐ Vacant Land ☐ Condo

Purchased on or after January 1, 1997. Year Purchased _____ Purchase Price \$ _____
 Purchased prior to January 1, 1997, insert "prior".
 The undersigned Appellant states that the above described real estate is OVERASSESSED by the Assessor of Cook County for the year 2000.

Has an Appeal made to PTAB for 1999? Yes ☒ No ☐
 Has an Appeal made to the Assessor for 2000? Yes ☒ No ☐
 Has an Appeal made to the Board of Review for 1999? Yes ☒ No ☐
 The undersigned states that he has read the above complaint, has personal knowledge of the contents thereof, and the same is true in substance and in fact, and further so certifies under the penalties as provided by law pursuant to Section 1-14 of the Illinois Code of Civil Procedure.

Signature of Appellant, or Attorney _____

ATTORNEYS ONLY

ATTORNEY'S CERTIFICATION: I, Frederick R. Dempsey & Theodore M. Swain Gould & Ratner
 ATTORNEY'S NAME (PRINTED OR TYPED) FIRM

222 N. LaSalle Street, Suite 800, Chicago 60601 (312) 236-3003, certify that I have obtained
 FIRM ADDRESS CITY ZIP PHONE

Owner Bill Mhee APPELLANT TITLE OR POSITION Owner (1) explicit
 authorization to file this 2000 assessment complaint and (2) the Appellant's assurance that I am the only attorney so authorized.

Attorney Fax No. _____ Signature of Attorney Frederick R. Dempsey Board Code No. 1122

NOTICE TO APPELLANT: You will be notified by mail of the time and place of your hearing. You must be prepared at that time to present any evidence you have in support of your claim. Please see the Rules of the Board which govern all appeals.

JOSEPH BERRIOS COMMISSIONER
 MAUREEN MURP COMMISSIONER
 ROBERT SHAW COMMISSIONER

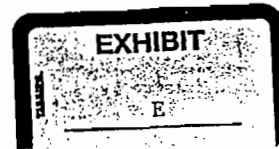
BOARD OF REVIEW ORIGINAL
DO NOT LIST COMPARABLES BELOW

COMPLAINT NO.

Received & Checked by: _____

List in ascending order all Permanent Index Numbers of related parcels of the property owned by Appellant.
 PERMANENT INDEX NUMBER VOLUME
 1. 01-01-100-001-0000 400

2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
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15. _____
16. _____
17. _____
18. _____
19. _____
20. _____
21. _____
22. _____
23. _____
24. _____
25. _____





COOK COUNTY BOARD OF REVIEW

118 NORTH CLARK STREET
ROOM 601 COUNTY BUILDING
CHICAGO, ILLINOIS 60602
TEL: (312) 603-5542
FAX: (312) 603-3479

JOSEPH BERRIOS
COMMISSIONER

MAUREEN MURPHY
COMMISSIONER

ROBERT SHAW
CHAIRMAN

11-16-00

Dear Taxpayer,

Your hearing on the assessment complaint listed below will be held at:

Time: 9:15 Date: 11-28-00

Place: Room 601, County Building, 118 N. Clark, Chicago, IL 60602

You or your attorney must attend this hearing. Failure to attend will result in dismissal of the complaint. However, you may, if you prefer, file your documents and evidence prior to the hearing. Kindly consult Rule 14 of the Official Rules of the Board of Review in this regard.

If the description of your residential property is printed with this notice, please check carefully for errors. If there are any, please bring to your hearing any evidence you may have of the correct information. You will be asked at the hearing to attest to the correctness of any changes you make in the official record. Not all errors result in assessment changes.

Please bring at least one photograph of your property's exterior. You are also encouraged to bring photographs of any other properties you wish to compare to yours.

Please check the following list of complaint and property numbers. If the list contains a property number on which you have not filed a complaint, call 312-603-5542.

YOU MUST BRING THIS NOTICE WITH YOU

Thank You,

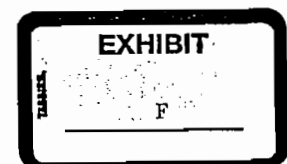
JOSEPH BERRIOS
Commissioner

MAUREEN MURPHY
Commissioner

ROBERT SHAW
Commissioner

COMPLAINT		PROPERTY NUMBER
00000-000	A	01-01-100-001-0000

GOULD & RATNER
FREDERICK R DEMPSEY
222 N LASALLE 8TH FLOOR
CHICAGO IL 60601



1 PROPERTIES
1 QUESTIONNAIRES

**SINGLE FAMILY HOME AND
6 OR LESS APARTMENTS**

COMPLAINT NO. 00000-000

SINGLE FAMILY X

MULTIPLE FAMILY _____ # UNITS _____

OTHER: _____

CURRENT ASSESSED VALUATION _____

1999 ASSESSED VALUATION 134,898

APPRAISAL:

INSPECTION DATE _____

FAIR MARKET
VALUE _____ AS OF _____

ECONOMIC ANALYSIS:

RENT PER UNIT _____

TOTAL RENT RECEIVED (1999) _____

20 _____ TAXES: _____ %

HAS PROPERTY RECEIVED
REDUCTION IN ASSESSORS OFFICE? YES _____ NO _____

RECENT PURCHASE OR NEW CONSTRUCTION:

(ON OR AFTER JANUARY 1, 1997)

DATE: Prior

AMOUNT: _____

IF VALUE OF PROPERTY WAS AFFECTED BY CATASTROPHE OR
DEMOLITION, DESCRIBE EVENT. N/A

WHAT PORTION IS OWNER OCCUPIED? 100%

IS APPEAL BASED ON LACK OF UNIFORMITY? Yes


Owner or Attorney Signature

Reviewed by: _____

B.O.R. FORM #13A

GOULD & RATNER

FREDERICK R. DEMPSEY
312/899-1685
fdempsey@gouldratner.com

September 5, 2001

HAND DELIVERED

The Honorable Commissioners of the
Cook County Board of Review,
Joseph Berrios and
Commissioners Maureen Murphy and Robert Shaw
Room 601, County Building
118 N. Clark Street
Chicago, IL 60602

Re: 2000 Real Estate Assessed Valuation Complaint
New Trier Township; Complaint No. 00000-000
P.I.N.: 01-01-100-001-0000
Property: 400 Elderberry Lane
Winnetka, Illinois
Proposed Assessment: \$134,898
Requested Assessment: \$102,169

BRIEF

Dear Commissioners:

Gould & Ratner represent the homeowner of the subject property, which consists of a two-story single family stucco residence with an unfinished basement and three baths. The improvements are located on a site that has a total land area of 25,273 square feet. This property, while on a slightly larger lot, is typical of residences throughout its neighborhood, and has a two car detached garage.

I. The Proposed 2000 Triennial Assessment

The proposed 2000 assessment is \$134,898. Based on the 16% level of assessment applicable to Class 2 residential property, the full value imputed from the assessment is \$843,113 (\$191.09/sf of improvement plus land value, or \$155.29/sf of just improvement value). We believe the proposed assessment is excessive based on the proposed assessments of comparable residential properties in the neighborhood.



222 North LaSalle Street, Eighth Floor, Chicago, Illinois 60601 #130143 v1 - BOR-Seminar Case Study/Residential Brief/7/19/2001
Telephone 312/236-3003 Facsimile 312/236-3241 www.gouldratner.com

The Honorable Commissioners of the
Cook County Board of Review,
Joseph Berrios and
Commissioners Maureen Murphy and Robert Shaw
September 5, 2001
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II. Subject Property is Over-Assessed Based upon a Lack of Assessment Uniformity

A review of the proposed assessments for other comparable residences located in the immediate area indicates that the 2000 proposed assessment of the subject property is excessive since it is not uniform with the assessments of the most closely comparable properties. In support of this assertion, we have attached a schedule of comparable residential properties located in the subject property's neighborhood.

The proposed 2000 assessments for sample Class 2-06 properties in neighborhood "022" impute a value range from \$101.69 to \$119.23 per square foot of building area. The indicated average per square foot value of improvement, \$108.93, is substantially less than the square foot full value imputed to the subject property, \$155.29. This value differential would result in the owners of the subject property paying more per year in real estate taxes than if they were assessed uniformly with the average homeowner in his neighborhood.

The 2000 proposed assessments for these comparable properties demonstrate a discriminatory lack of uniformity in the 2000 proposed assessment for the subject property. "Taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill. Const. Art. IX, §4(a).

In addressing the issue of assessment uniformity, the Illinois Appellate Court has held as follows:

The rule of uniformity developed from Article IX, section 4(a), requires that one person shall not be burdened with a greater proportion of the taxes, according to the value of his property, than another. It does not permit valuation by taxing officials of property in the same taxing district at a certain proportion of its true value while other property in that district is valued at a substantially less or greater proportion. *People of the State of Illinois v. Barthow*, 111 Ill. App. 3d 513, 444 N.E. 2d 282, 287 (1983).

The equality in tax burden mandated by the Illinois Constitution cannot exist without uniformity in the basis of assessment, as well as in the rate of taxation. *Apex Motor Fuel Company v. Barrett*, 20 Ill. 2d 395, 169 N.E. 2d 769, 773 (1960). Under the "uniformity of taxation" clause of the Constitution, taxation must be uniform as to the class upon which it operates, and that the uniformity demanded applies to property of like kind and character and similarly situated. *People v. Southwestern Bell Telephone Co.*, 377 Ill. 303, 36 N.E. 2d 362, 364 (1941).

The list of Class 2-06 comparable properties submitted herewith constitute property "of like kind and character which are similarly situated" to the subject property. These comparable properties, however, are more favorably treated when compared to the subject property

The Honorable Commissioners of the
Cook County Board of Review,
Joseph Berrios and
Commissioners Maureen Murphy and Robert Shaw
September 5, 2001
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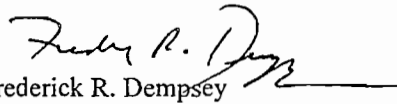
assessments for 2000, and therefore the proposed 2000 assessment of the subject property does not meet the Constitutional standard.

III. Conclusion

We request that the proposed 2000 assessment of the subject property be revised in conformity with Article IX, Section 4 of the Illinois Constitution of 1970. Accordingly, we request that the 2000 assessment for the subject property be reduced to 16% of the \$108.93 per square foot neighborhood improvement average value times the 4,412 square feet of living area (\$480,599), plus land value (\$157,956), for a market value of \$638,555, or a total revised assessment of \$102,169.

Respectfully submitted,

GOULD & RATNER


Frederick R. Dempsey

FRD/md
Enclosure

cc: Theodore M. Swain

2000 REAL ESTATE TAX ANALYSIS

**BILL MHEE
400 ELDERBERRY LN
WINNETKA, ILLINOIS**

P.I.N.	ADDRESS	(Living Area) BUILDING SQ. FT.	LAND SQ. FT.	PROPOSED 2000 A.V. BLDG.	IMPUTED FULL VALUE BLDG.	VALUE PER SQUARE FOOT OF BLDG.	EST 2000 TAXES* BLDG.
		SUBJECT PROPERTY					
01-01-100-001-0000	400 Elderberry	4,412	19,745	\$109,625	685,156	\$155.29	\$19,185
		COMPARABLE PROPERTIES					
01-01-102-014-0000	381 Elderberry	3,576	17,300	\$60,127	\$375,794	\$105.09	\$10,522
01-01-102-013-0000	365 Elderberry	3,438	20,198	\$55,938	\$349,613	\$101.69	\$9,789
01-01-104-008-0000	368 Elderberry	3,380	15,980	\$62,404	\$390,025	\$115.39	\$10,921
01-01-104-007-0000	370 Elderberry	3,071	12,750	\$54,055	\$337,844	\$110.01	\$9,460
01-01-100-012-0000	520 Elderberry	3,336	16,500	\$55,780	\$348,625	\$104.50	\$9,762
01-01-110-004-0000	388 Elderberry	2,722	8,500	\$48,497	\$303,106	\$111.35	\$8,487
01-01-111-011-0000	399 Elderberry	2,872	8,650	\$47,258	\$295,363	\$102.84	\$8,270
01-01-103-010-0000	350 Elderberry	3,768	8,500	\$71,880	\$449,250	\$119.23	\$12,579
TOTAL AVERAGES		3,270	13,547	\$56,992	\$356,203	\$108.93	\$9,974

*The estimated taxes are based on the 1998 equalization factor and tax rate and do not reflect any exemptions which may be applicable.

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-100-001-0000		
Address:	400 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	82
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	25,273	25,273
Building	109,625	109,625
Total	134,898	134,898
Estimated Market Value	843,113	843,113
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Stucco	
Full Baths	3	
Half Baths	2	
Basement ¹	Full and Unfinished	
Attic	None	
Central Air	No	
Number of Fireplaces	1	
Garage Size/Type ²	2 car detached	
Building Square Footage:	4,412	
Land Square Footage	19,745	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-102-014-0000		
Address:	381 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	79
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	21,235	21,235
Building	60,127	60,127
Total	81,362	81,362
Estimated Market Value	508,513	508,513
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Frame	
Full Baths	3	
Half Baths	1	
Basement ¹	Partial and Unfinished	
Attic	Partial and Unfinished	
Central Air	No	
Number of Fireplaces	2	
Garage Size/Type ²	1.5 car detached	
Building Square Footage:	3,576	
Land Square Footage	17,300	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-102-013-0000		
Address:	365 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	75
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified ¹
Land	24,792	24,792
Building	55,938	55,938
Total	80,730	80,730
Estimated Market Value	504,563	504,563
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Frame/Masonry	
Full Baths	3	
Half Baths	2	
Basement ¹	Full and Unfinished	
Attic	Partial and Unfinished	
Central Air	No	
Number of Fireplaces	2	
Garage Size/Type ²	2 car attached	
Building Square Footage:	3,438	
Land Square Footage	20,198	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-104-008-0000		
Address:	368 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	75
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	19,852	19,852
Building	62,404	62,404
Total	82,256	82,256
Estimated Market Value	514,100	514,100
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Masonry	
Full Baths	3	
Half Baths	2	
Basement ¹	Partial and Rec Room	
Attic	Partial and Unfinished	
Central Air	No	
Number of Fireplaces	1	
Garage Size/Type ²	3 car detached	
Building Square Footage:	3,380	
Land Square Footage	15,980	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment :

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-104-007-0000		
Address:	370 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	73
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	15,840	15,840
Building	54,055	54,055
Total	69,895	69,895
Estimated Market Value	436,844	436,844
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Masonry	
Full Baths	3	
Half Baths	0	
Basement ¹	Full and Unfinished	
Attic	None	
Central Air	No	
Number of Fireplaces	0	
Garage Size/Type ²	2 car detached	
Building Square Footage:	3,071	
Land Square Footage	12,750	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-100-012-0000		
Address:	520 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	86
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	20,908	20,908
Building	55,780	55,780
Total	76,688	76,688
Estimated Market Value	479,300	479,300
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Stucco	
Full Baths	3	
Half Baths	1	
Basement ¹	Full and Unfinished	
Attic	None	
Central Air	No	
Number of Fireplaces	1	
Garage Size/Type ²	2 car detached	
Building Square Footage:	3,336	
Land Square Footage	16,500	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment.

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-110-004-0000		
Address:	388 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	70
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	10,560	10,560
Building	48,497	48,497
Total	59,057	59,057
Estimated Market Value	369,106	369,106
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Frame/Masonry	
Full Baths	2	
Half Baths	1	
Basement ¹	Partial and Unfinished	
Attic	Partial and Living Area	
Central Air	No	
Number of Fireplaces	1	
Garage Size/Type ²	1.5 car attached	
Building Square Footage:	2,722	
Land Square Footage	8,500	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-111-011-0000		
Address:	399 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	84
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	10,617	10,617
Building	47,258	47,258
Total	57,875	57,875
Estimated Market Value	361,719	361,719
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Stucco	
Full Baths	3	
Half Baths	1	
Basement ¹	Full and Unfinished	
Attic	Partial and Living Area	
Central Air	No	
Number of Fireplaces	1	
Garage Size/Type ²	None	
Building Square Footage:	2,872	
Land Square Footage	8,650	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment

² Excluded from Building Square footage

COOK COUNTY ASSESSOR'S OFFICE

Residential Search Results



Property Index Number:	01-01-103-010-0000		
Address:	350 Elderberry Lane		
City:	Winnetka	Township:	New Trier
Neighborhood:	22	Age:	73
Class:	2-06	Description:	Two or More Story Residence, Over 62 Years, 2,201 to 4,999 Sq. Ft.

Assessed Valuation

	2000 First Pass Assessment	1999 Board of Review Certified
Land	10,560	10,560
Building	71,880	71,880
Total	82,440	82,440
Estimated Market Value	515,250	515,250
Residence Type	Two Story	
Use	Single Family	
Apartments	None	
Exterior Construction	Masonry	
Full Baths	3	
Half Baths	1	
Basement ¹	Full and Unfinished	
Attic	Partial and Living Area	
Central Air	No	
Number of Fireplaces	3	
Garage Size/Type ²	2 car attached	
Building Square Footage:	3,768	
Land Square Footage	8,500	
Assessment Pass	First Pass	

¹ Excluded from Building Square footage, except apartment.

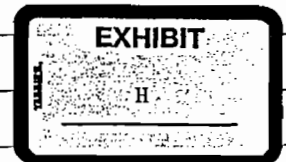
² Excluded from Building Square footage

COMPLAINT NO. _____

BOARD OF REVIEW

FINDINGS

Photographs please send to Sharon Benson



DEPUTY MEMBER

GOULD & RATNER

FREDERICK R. DEMPSEY
312/899-1685
fdempsey@gouldratner.com

September 5, 2001

HAND DELIVERED

Ms. Sharice Penson
Cook County Board of Review,
Room 601, County Building
118 N. Clark Street
Chicago, IL 60602

Re: 2000 Real Estate Assessed Valuation Complaint
New Trier Township; Complaint No. 00000-000
P.I.N.: 01-01-100-001-0000
Property: 400 Elderberry Lane
Winnetka, Illinois
Proposed Assessment: \$134,898
Requested Assessment: \$102,169

Dear Ms. Penson:

Enclosed is the photograph of the Subject Property for the above-referenced Complaint.

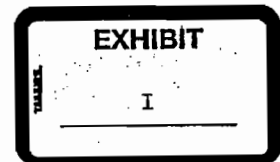
Thank you.

Respectfully submitted,

GOULD & RATNER

Frederick R. Dempsey

FRD/md
Enclosure



222 North LaSalle Street, Eighth Floor, Chicago, Illinois 60601
Telephone 312/236-3003 Facsimile 312/236-3241 www.gouldratner.com

#102200 v1 - BOR-2000 Photo Trnsmtl/Penson

2000 Real Estate Assessed Valuation Complaint
New Trier Township; Complaint No. 31340-001
P.I.N.: 01-01-100-001-0000
Property: 400 Elderberry Lane
Winnetka, Illinois
Taxpayer: Bill Mhee

SUBJECT PROPERTY





COOK COUNTY BOARD OF REVIEW

118 NORTH CLARK STREET
ROOM 601 COUNTY BUILDING
CHICAGO, ILLINOIS 60602
TEL: (312) 603-5542
FAX: (312) 603-3479

JOSEPH BERRIOS
COMMISSIONER

MAUREEN MURPHY
COMMISSIONER

ROBERT SHAW
CHAIRMAN

12/13/2000

CLASS: 02-06
B/R COMPLAINT TYPE: A

Dear Complainant,

After consideration of any evidence or facts submitted and pursuant to their powers and authority under the Illinois Property Tax Code, Joseph Berrios, Maureen Murphy and Robert Shaw, Commissioners of the Board of Review of Cook County, are pleased to inform you that as a result of the hearing on your complaint they have directed the Assessor to reduce the assessed value of your property as shown below.

PROPERTY NUMBER	BOARD COMPLAINT	2000 ASSESSED VALUATIONS		CHANGE
		ASSESSOR ORIGINAL	BOARD OF APPEALS FINAL	
01-01-100-001-0000	00000-000	134,898	125,249	9,649-

This reduced final Board 2000 valuation will be equalized by the Illinois Department of Revenue, as provided by law.

If you are dissatisfied with your 2000 real estate assessment, you have the following option:

1. You may appeal this decision to the Property Tax Appeal Board at 9511 West Harrison Street, Suite 171, DES PLAINES, IL 60016-1523, by filing a petition for your review with the Illinois Property Tax Appeal Board within 30 days after the date of this notice or within 30 days after the date the Board of Review transmits to the County Assessor pursuant to Sec 16-125 (35 ILCS 200/16-125) its final action on the township in which your property is located, whichever is later.
-- OR --
2. You may file a tax objection complaint in the Circuit Court of Cook County, Illinois. If you choose this option, please consult the laws concerning the procedure for proceeding in court.

In addition, you may file a new complaint at the board of Review next year for 2001 with any new evidence.

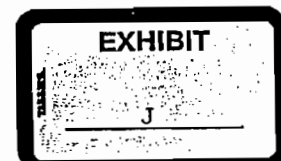
Sincerely,

Joseph Barrios
Commissioner

Maureen Murphy
Commissioner

Robert Shaw
Commissioner

GOULD & RATNER
FREDERICK R DEMPSEY
222 N LASALLE 8TH FLOOR
CHICAGO IL 60601



FBA:

**Statutory Overview of Tax Liens and
Enforcement of Collection**

Frederick R. Dempsey

STATUTORY OVERVIEW OF TAX LIENS

AND ENFORCEMENT OF COLLECTION

By Frederick R. Dempsey

Real estate taxes are a first and prior lien on the land, superior to all other liens and encumbrances, which stays in effect from the first day of January in the year taxes are levied, until paid or sold. 35 ILCS 200/21-75.

The foregoing principle underlies the entire privatized tax collection mechanism codified in the Property Tax Code. See generally, the Property Tax Code, 35 ILCS 200/1-1 et seq. There are numerous constitutional protections built into the Code, and a long case law history has refined the interpretation of the Code. The result is a fairly predictable business in tax sales and titles, at least in a high volume county such as Cook, where County Division judges are knowledgeable about the issues involved and tax buyers have a predictable expectation. The situation is considerably different in less populated counties, where the volume of tax delinquent property is relatively small.

The general tax due dates, delinquency dates and interest payment dates are found at 35 ILCS 200/21-15 through 200/21-30. Taxes that are not collected, are sold. There are three kinds of tax sales. Every county has an annual tax sale, often in December of the year subsequent to that being sold. Cook County's annual sale runs from January to March, and is held in the second subsequent year to the year being sold (i.e., 2000 taxes will start being auctioned in January 2002). Statutory references are found at 35 ILCS 200/21-205 through 200/21-220. Forfeiture tax sales, or "over-the counter" sales, are

initiated by the tax buyer and is a purchase of taxes previously offered for sale, but not purchased. Forfeiture sales are governed by 35 ILCS 200/21-405. In counties that make no cash bids on taxes not purchased at their annual sale, there are no forfeiture sales. Only Cook County currently holds a scavenger tax sale, which is held every two years, for parcels that are two or more years delinquent. 35 ILCS 200/21-260 through 200/21-290.

The annual tax sale is conducted pursuant to 35 ILCS 200/21-205. It is an open outcry auction with the winner being that buyer bidding the lowest interest rate per penalty period. The maximum interest is 18% per penalty period, which is every six months. Bids of zero penalty interest are allowed. Counties are permitted "no cash" bids on any property delinquent or forfeited for each of 2 or more years pursuant to 35 ILCS 200/21-90. To complete the sale, the successful bidder must pay "forthwith" the amount of the tax sale, other statutory fees, and - in Cook County – all tax delinquencies against the parcel.

The scavenger sale is conducted pursuant to 35 ILCS 200/21-145 and 200/21-260. It is an auction where the highest bidder wins and all tax delinquencies are included. Thus, an uncontested minimum bid of \$250 could purchase a certificate on a parcel with a \$100,000 tax deficiency.

After obtaining a Certificate of Purchase or Forfeiture, the tax buyer has 4 months and 15 days to deliver to the County Clerk a Take Notice to the last known assessee informing him of the sale and redemption date pursuant to 35 ILCS 200/22-5. The minimum redemption periods are set forth in 35 ILCS 200/21-345, and range from 6

months to 2½ years. The tax buyer can extend the period of redemption up to 3 years (35 ILCS 200/21-385), and the owner can redeem under protest (35 ILCS 200/21-380).

For a tax buyer to obtain an Order for Issuance of Tax Deed, he must file a petition for tax deed in Circuit Court and observe all the notice serving provisions in 35 ILCS 200/22-10 through 200/22-25; conduct a tax deed hearing in court proving strict compliance thereto; and, prove payment of all subsequently accruing taxes. If a municipality has an interest under the police and welfare power for funds advanced, proof of reimbursement must also be submitted to the court. 35 ILCS 200/22-35.

After the court has entered an Order for Issuance of Tax Deed, the tax buyer has one year from the last day of redemption to record, or the tax deed is void. 35 ILCS 200/22-85. One year from the last date of redemption is also the last day that the tax buyer can obtain a sale in error. 35 ILCS 200/21-310.

Like any court order, an Order for Issuance of Tax Deed can be vacated within 30 days of entry under Section 5/2-1301 of the Code of Civil Procedure. However, pursuant to 35 ILCS 200/22-45, the grounds for relief under Section 5/2-1401 is limited to proof that: 1) the taxes were paid prior to sale; 2) the property was exempt from taxation; 3) by clear and convincing evidence the tax deed had been procured by fraud and deception by the tax purchase; and 4) a person holding a recorded ownership or other interest was not named as a party and that a diligent inquiry was not made to serve that person. In Cook County, if the property is a homestead property and the Order for Issuance of Tax Deed was entered not more than 3 months prior, it can be vacated if the Order was effectuated

pursuant to a negligent or willful error of an employee of the county clerk or county collector, which was reasonably relied upon by a person with a redeemable interest.

An owner of property who sustains loss or damage by reason of issuance of a tax deed, and who is precluded from bringing an action for its recovery, may file a petition for indemnity against the County Collector, as trustee of the Indemnity Fund. 35 ILCS 200/21-295 and 200/21-305. If successful, the owner can recover the full fair market value of the property, less liens and encumbrances. However, recent changes to 35 ILCS 21-305 have altered the burden of proof. Previously, an owner who resided on a property containing 4 or less dwelling units merely had to prove equitable entitlement, and all other owners had to prove the loss occurred through no fault or negligence of their own. That has been amended under 35 ILCS 200/21-305 (a)(1) so that the equitable entitlement standard is limited to the same owner occupant as before but only to the first \$99,000 of market value, and thereafter the no fault or negligence standard is applicable.

####

State of Illinois
Public Acts
92nd General Assembly

[\[Home \]](#) [\[ILCS \]](#) [\[Search \]](#) [\[Bottom \]](#)
[\[Other General Assemblies \]](#)

Public Act 92-0729

SB1666 Enrolled

LRB9210095SMdvA

AN ACT in relation to taxes.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The Property Tax Code is amended by changing Sections 15-10, 21-310, 21-315, 21-320, 21-325, 21-330, and 21-335 and by adding Section 21-251 as follows:

(35 ILCS 200/15-10)

Sec. 15-10. Exempt property; procedures for certification. All property granted an exemption by the Department pursuant to the requirements of Section 15-5 and described in the Sections following Section 15-30 and preceding Section 16-5, to the extent therein limited, is exempt from taxation. In order to maintain that exempt status, the titleholder or the owner of the beneficial interest of any property that is exempt must file with the chief county assessment officer, on or before January 31 of each year (May 31 in the case of property exempted by Section 15-170), an affidavit stating whether there has been any change in the ownership or use of the property or the status of the owner-resident, or that a disabled veteran who qualifies under Section 15-165 owned and used the property as of January 1 of that year. The nature of any change shall be stated in the affidavit. Failure to file an affidavit shall, in the discretion of the assessment officer, constitute cause to terminate the exemption of that property, notwithstanding any other provision of this Code. Owners of 5 or more such exempt parcels within a county may file a single annual affidavit in lieu of an affidavit for each parcel. The assessment officer, upon request, shall furnish an affidavit form to the owners, in which the owner may state whether there has been any change in the ownership or use of

the property or status of the owner or resident as of January 1 of that year. The owner of 5 or more exempt parcels shall list all the properties giving the same information for each parcel as required of owners who file individual affidavits.

However, titleholders or owners of the beneficial interest in any property exempted under any of the following provisions are not required to submit an annual filing under this Section:

(1) Section 15-45 (burial grounds) in counties of less than 3,000,000 inhabitants and owned by a not-for-profit organization.

(2) Section 15-40.

(3) Section 15-50 (United States property).

~~(4) As is otherwise provided in Sections 15-170 and 15-175 (senior and general homestead exemptions).~~

If there is a change in use or ownership, however, notice must be filed pursuant to Section 15-20.

An application for homestead exemptions shall be filed as provided in Section 15-170 (senior citizens homestead exemption), Section 15-172 (senior citizens assessment freeze homestead exemption), and Section 15-175 (general homestead exemption), respectively.

(Source: P.A. 92-333, eff. 8-10-01.)

(35 ILCS 200/21-251 new)

Sec. 21-251. Registry of owners of certificates of purchase.

(a) The county clerk of each county shall create and maintain a registry system that permanently records the names, addresses, and telephone numbers of owners or assignees of certificates of purchase issued pursuant to any tax sale conducted under this Code. The registry may consist of a single record or a combination of records maintained in paper or electronic form and may include copies of records kept by the county treasurer for other purposes, all to be used as the county clerk deems appropriate to carry out the purposes of this Section. The information in the registry shall be made available to the public.

(b) The county clerk of each county is authorized to promulgate reasonable rules, procedures, and forms for purposes of creating and maintaining the registry and for access to the registry information by members of the public. In counties with 3,000,000 or more inhabitants, any owner of a certificate of purchase pursuant to assignment may elect whether to register that assignment as provided in this Section, but all owners of certificates of purchase shall be subject to the provisions of subsection (d) of this Section. In counties with less than 3,000,000 inhabitants, the county clerk shall provide by rule whether registration of assignments of certificates of purchase shall be elective or

mandatory.

(c) The owner of a certificate of purchase pursuant to assignment, in order to register that assignment, shall submit to the county clerk the owner's name, address, and telephone number in accordance with any rules, procedures, and forms promulgated by the clerk. Any registered owner of a certificate of purchase may update the registration at any time without charge by submitting to the county clerk any lawful change of name, address, or telephone number.

(d) If notice is required to be given to the owner of the certificate of purchase in any proceeding, whether judicial or administrative, affecting a tax sale conducted under any provision of this Code, the notice may be directed to the most recent owner of the certificate of purchase appearing in the county clerk's registry under this Section. Any notice that has been directed as provided in this Section shall be conclusively presumed to be properly directed to the owner of the certificate of purchase for all purposes related to the proceeding in which the notice is given. No objection or assertion by any assignee of a certificate of purchase in any proceeding shall be heard on grounds that a notice to the tax purchaser was misdirected, unless that assignee's current and lawful name, address, and telephone number were submitted to the county clerk's registry at the time of the notice in question.

(e) The county clerk may assess an automation fee of no more than \$10 to be paid by the owner of the certificate of purchase for each assignment of the certificate that is registered under this Section. The fee shall be collected in the same manner as other fees and costs and shall be held by the county clerk in a fund for purposes of automating his or her office. The fee provided for under this Section shall not be chargeable to the cost of redemption under Section 21-355 nor shall it be posted under Section 21-360 of this Code.

(35 ILCS 200/21-310)

Sec. 21-310. Sales in error.

(a) When, upon application of the county collector, the owner of the certificate of purchase, or a municipality which owns or has owned the property ordered sold, it appears to the satisfaction of the court which ordered the property sold that any of the following subsections are applicable, the court shall declare the sale to be a sale in error:

(1) the property was not subject to taxation, or all or any part of the lien of taxes sold has become null and void pursuant to Section 21-95 or unenforceable pursuant to subsection (c) of Section 18-250 or subsection (b) of Section 22-40,

(2) the taxes or special assessments had been paid prior to the sale of the property,

(3) there is a double assessment,
(4) the description is void for uncertainty,
(5) the assessor, chief county assessment officer, board of review, board of appeals, or other county official has made an error (other than an error of judgment as to the value of any property),

(5.5) the owner of the homestead property had tendered timely and full payment to the county collector that the owner reasonably believed was due and owing on the homestead property, and the county collector did not apply the payment to the homestead property; provided that this provision applies only to homeowners, not their agents or third-party payors,

(6) prior to the tax sale a voluntary or involuntary petition has been filed by or against the legal or beneficial owner of the property requesting relief under the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13, or

(7) the property is owned by the United States, the State of Illinois, a municipality, or a taxing district.

(b) When, upon application of the owner of the certificate of purchase only, it appears to the satisfaction of the court which ordered the property sold that any of the following subsections are applicable, the court shall declare the sale to be a sale in error:

(1) A voluntary or involuntary petition under the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been filed subsequent to the tax sale and prior to the issuance of the tax deed.

(2) The improvements upon the property sold have been substantially destroyed or rendered uninhabitable or otherwise unfit for occupancy subsequent to the tax sale and prior to the issuance of the tax deed.

(3) There is an interest held by the United States in the property sold which could not be extinguished by the tax deed.

(4) The real property contains a hazardous substance, hazardous waste, or underground storage tank that would require cleanup or other removal under any federal, State, or local law, ordinance, or regulation, only if the tax purchaser purchased the property without actual knowledge of the hazardous substance, hazardous waste, or underground storage tank. This paragraph (4) ~~applies only to tax purchases occurring after January 1, 1990 and if the owner of the certificate of purchase has made application for a sale in error at any time before the issuance of a tax deed.~~

(c) When the county collector discovers, within one year after the date of sale if taxes were sold at an annual tax sale or within 180 days after the date of sale if taxes were

sold at a scavenger tax sale, that a tax sale should not have occurred for one or more of the reasons set forth in subdivision (a)(1), (a)(2), (a)(6), or (a)(7) of this Section, the county collector shall notify the last known owner of the certificate of purchase by certified and regular mail, or other means reasonably calculated to provide actual notice, that the county collector intends to declare an administrative sale in error and of the reasons therefor, including documentation sufficient to establish the reason why the sale should not have occurred. The owner of the certificate of purchase may object in writing within 28 days after the date of the mailing by the county collector. If an objection is filed, the county collector shall not administratively declare a sale in error, but may apply to the circuit court for a sale in error as provided in subsection (a) of this Section. Thirty days following the receipt of notice by the last known owner of the certificate of purchase, or within a reasonable time thereafter, the county collector shall make a written declaration, based upon clear and convincing evidence, that the taxes were sold in error and shall deliver a copy thereof to the county clerk within 30 days after the date the declaration is made for entry in the tax judgment, sale, redemption, and forfeiture record pursuant to subsection (d) of this Section. The county collector shall promptly notify the last known owner of the certificate of purchase of the declaration by regular mail and shall promptly pay the amount of the tax sale, together with interest and costs as provided in Section 21-315, upon surrender of the original certificate of purchase.

(d) If a sale is declared to be a sale in error, the county clerk shall make entry in the tax judgment, sale, redemption and forfeiture record, that the property was erroneously sold, and the county collector shall, on demand of the owner of the certificate of purchase, refund the amount paid, pay any interest and costs as may be ordered under Sections 21-315 through 21-335, and cancel the certificate so far as it relates to the property. The county collector shall deduct from the accounts of the appropriate taxing bodies their pro rata amounts paid.

(Source: P.A. 91-177, eff. 1-1-00; 91-357, eff. 7-29-99; 91-924, eff. 1-1-01; 92-224, eff. 1-1-02.)

(35 ILCS 200/21-315)

Sec. 21-315. Refund of costs; interest on refund.

(a) ~~If The court which orders a sale in error under Section 21-310, 22-35, or 22-50 is declared, the amount refunded shall also include award a refund of all costs paid by the owner of the certificate of purchase or his or her assignor which were posted to the tax judgment, sale, redemption and forfeiture record.~~

(b) In those cases which arise solely under grounds set forth in Section 21-310, the amount refunded ~~court~~ shall also include ~~award~~ interest on the refund of the amount paid for the certificate of purchase, except as otherwise provided in this Section. Interest shall be awarded and paid to the tax purchaser at the rate of 1% per month from the date of sale to the date of payment, or in an amount equivalent to the penalty interest which would be recovered on a redemption at the time of payment pursuant to the order for sale in error, whichever is less. Interest shall not be paid when the sale in error is made pursuant to paragraph (2) or (4) of subsection (b) of Section 21-310, Section 22-35, Section 22-50, any ground not enumerated in Section 21-310, or in any other case where the court determines that the tax purchaser had actual knowledge prior to the sale of the grounds on which the sale is declared to be erroneous.

(c) When the county collector files a petition for sale in error under Section 21-310 and mails a notice thereof by certified or registered mail to the last known owner of the certificate of purchase ~~tax purchaser~~, any interest otherwise payable under this Section shall cease to accrue as of the date the petition is filed, unless the tax purchaser agrees to an order for sale in error upon the presentation of the petition to the court. Notices under this subsection may be mailed to the last known ~~original~~ owner of the certificate of purchase, ~~or to the latest assignee, if known~~. When the owner of the certificate of purchase contests the collector's petition solely to determine whether the grounds for sale in error are such as to support a claim for interest, the court may direct that the principal amount of the refund be paid to the owner of the certificate of purchase forthwith. If the court thereafter determines that a claim for interest lies under this Section, it shall award such interest from the date of sale to the date the principal amount was paid. (Source: P.A. 92-224, eff. 1-1-02.)

(35 ILCS 200/21-320)

Sec. 21-320. Refund of other taxes paid by holder of certificate of purchase. If a sale in error under Section 21-310, 22-35, or 22-50 is declared, the amount refunded shall also include ~~The court which orders a sale in error shall order the refund of all~~ other taxes paid or redeemed by the owner of the certificate of purchase or his or her assignor subsequent to the tax sale, together with interest on those other taxes under the same terms as interest is otherwise payable under Section 21-315. The interest under this subsection shall be calculated at the rate of 1% per month from the date the other taxes were paid and not from the date of sale. The collector shall take credit in settlement of his or her accounts for the refund of the other

taxes as in other cases of sale in error under Section 21-310.

(Source: P.A. 92-224, eff. 1-1-02.)

(35 ILCS 200/21-325)

Sec. 21-325. ~~Orders for~~ Payment of interest - Counties of 3,000,000 or more. In counties with 3,000,000 or more inhabitants, all ~~payments orders for payment~~ of interest or costs under Sections 21-315 and 21-320 and subsection (c) of Section 21-310 shall be paid as provided in Sections 21-330, 21-335 and 21-340. In all other counties, the county treasurer may determine in his or her discretion whether payment of interest and costs shall be made as provided in Sections 21-330, 21-335 and 21-340. In the other counties, where the treasurer determines not to make payment as provided in those subsections, the treasurer shall pay any interest or costs ~~awarded~~ under this Section pro rata from those accounts where the principal refund of the tax sale purchase price under Section 21-310 is taken.

(Source: P.A. 86-286; 86-415; 87-669; 88-455.)

(35 ILCS 200/21-330)

Sec. 21-330. Fund for payment of interest. In counties of under 3,000,000 inhabitants, the county board may impose a fee of up to \$60, which shall be paid to the county collector, upon each person purchasing any property at a sale held under this Code, prior to the issuance of any certificate of purchase. Each person purchasing any property at a sale held under this Code in a county with 3,000,000 or more inhabitants shall pay to the county collector, prior to the issuance of any certificate of purchase, a fee of \$100 for each item purchased. That amount shall be included in the price paid for the certificate of purchase and the amount required to redeem under Section 21-355.

All sums of money received under this Section shall be paid by the collector to the county treasurer of the county in which the property is situated for deposit into a special fund. It shall be the duty of the county treasurer, as trustee of the fund, to invest the principal and income of the fund from time to time, if not immediately required for payments under this Section, in investments as are authorized by Sections 3-10009 and 3-11002 of the Counties Code. The fund shall be held to ~~pay satisfy orders for payment of~~ interest and costs ~~by obtained against~~ the county treasurer as trustee of the fund. No payment shall be made from the fund except by order of the court declaring a sale in error under Section 21-310, 22-35, or 22-50 or by declaration of the county collector under subsection (c) of Section 21-310. Any moneys accumulated in the fund by the county treasurer in excess of \$500,000 shall be paid each year prior to the

commencement of the annual tax sale, first to satisfy any existing unpaid judgments entered pursuant to Section 21-295, and any funds remaining thereafter shall be paid to the general fund of the county.

(Source: P.A. 92-224, eff. 1-1-02.)

(35 ILCS 200/21-335)

Sec. 21-335. Claims for interest and costs. Any person claiming interest or costs under Sections 21-315 through 21-330 shall include the claim in his or her petition for sale in error under Section 21-310, 22-35, or 22-50. Any claim for interest or costs which is not included in the petition is waived, ~~except~~. Interest or costs may be awarded, however, to the extent permitted by this Section upon a sale in error petition filed by the county collector or municipality or upon a declaration by the county collector pursuant to subsection (c) of Section 21-310, without requiring a separate filing by the claimant. Any refund of order for interest or costs upon the petition for sale in error or upon a declaration by the county collector pursuant to subsection (c) of Section 21-310 shall be paid by ~~deemed to be entered against~~ the county treasurer as trustee of the fund created by this Section. The fund shall be the sole source for payment and satisfaction of orders for interest or costs, except as otherwise provided in this subsection. If the court determines that the fund has been depleted and will not be restored in time to pay an award with reasonable promptness, the court may authorize the collector to pay the interest portion of the award pro rata from those accounts where the principal refund of the tax sale purchase price under Section 21-310 is taken.

(Source: P.A. 92-224, eff. 1-1-02.)

Section 99. Effective date. This Act takes effect upon becoming law.

Passed in the General Assembly May 15, 2002.

Approved July 25, 2002.

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