

Law Report



THE CHALLENGE OF CHANGE

By Michael J. Elliott



The process of contesting assessments in Cook County is ever changing. People change. Procedures change. The government has access to more and better data. And, taxing bodies are taking an increasingly active role in the process by intervening in (i.e. opposing) tax appeal cases filed by taxpayers.

Residential property values are increasing faster than commercial causing residential property owners (as a group) to pay an increasingly smaller share of the property tax burden.

In addition, there is perception that some commercial property owners are getting un-justified assessment reductions and, as a result, not paying their fair share of taxes.

As a result of these factors, commercial property owners face legislation designed to shift a greater share of the tax burden to them (example: the 7% assessment cap). And, they face tighter rules and

procedures in assessment appeals, which are intended to make it harder to win.

In addition, over the last year we have seen major changes in key personnel at two of the three agencies that hear assessment appeals filed by taxpayers (the Cook County Board of Review and the Property Tax Appeal Board). These changes are likely to impact the outcome of tax appeals filed today and in the future.

Many years ago, it was widely believed that the key to lowering your assessment was to hire an attorney with political clout. That is certainly not the case today. Today, lawyers must act like lawyers. The keys to success are WHAT the lawyer knows; how PREPARED he is; how well he can PURSUADE the assessing officials; and, how much TENACITY he brings to the table. Simply put: lawyers need to work harder and smarter to obtain meaningful assessment reductions.

(continued on inside)



INSIDE!

- THE CHALLENGE OF CHANGE
- TAX TALE
- NORTH SUBURBS TO BE REASSESSED



Michael J. Elliott

"Our firm understands the challenges facing property owners in this environment. We take an active role in the legislative process, attempting to prevent bad proposals from becoming law and supporting those that make good sense."



ELLIOTT & ASSOCIATES
ATTORNEYS at law

1430 Lee Street
Des Plaines, Illinois 60018
Phone 847-298-8300
Fax 847-298-8388



Our firm understands the challenges facing property owners in this environment. We take an active role in the legislative process, attempting to prevent bad proposals from becoming law and supporting those that make good sense. We consult for major business groups, such as the Chicagoland Chamber of Commerce, BOMA Chicago and the Chicagoland Development Council, testifying on their behalf in Springfield regularly.

We also understand that it takes knowledge, creativity and persistence to win cases. Lawyers today can no longer simply order an appraiser or present a basic analysis of operating income. We must thoroughly understand the factors that affect property values, what trends are taking place in the market and what comparable properties are being assessed for. Then, we must be able to effectively communicate our position to the assessing officials and persuade them. That is our challenge.

Presented below is an article that appeared in Crain's Chicago Business last fall. It succinctly discusses some of the challenges facing taxpayers in Cook County. We hope you find it interesting.

CREC
HINZ



TAX TALE

Assessor Houlihan is installing loyalists at agencies that review his decisions.

The whole basis of our democracy is checks and balances. Congress eyeballs the president. Republicans scrutinize Democrats. Judges boss around the mayor. The media gets to kick around everybody. It's the American way.

No system is perfect, though. Which leads to the story of how Cook County Assessor Jim Houlihan in recent weeks not only managed to win re-election—with a paltry 80% of the vote—but at the same time effectively take control of both of the regulatory agencies with the power to overrule his decisions.

Mr. Houlihan says he had good reasons and argues he doesn't control anyone except himself. But you might want to keep your wallet close by while you read the details.

The first move involved the Illinois Property Tax Appeal Board (PTAB), which hears appeals of assessments statewide. As first reported by Crain's last month, Mr. Houlihan got Gov. Rod Blagojevich to replace PTAB's executive director with a new man who until recently had been a top aide to, um, Mr. Houlihan.

PTAB and the assessor have been fighting for years about which of the two does the better job of assessing property. Mr. Houlihan tried a few years ago to get the Illinois General Assembly to restrict PTAB to hearing

cases Downstate, but lawmakers balked. Sweet as it was to win the PTAB war, Mr. Houlihan scored a bigger victory on Election Day.

In a strategic political strike worthy of Richard J. Daley in his prime, Mr. Houlihan and an ally at the last minute quietly dropped \$100,000 into the campaign of Brendan Houlihan for what amounts to the swing seat of the Cook County Board of Review, which reviews assessments in Cook County. (The two Houlihans are not related.)

The money arrived in several chunks about 10 days before the election—late enough to prevent much coverage by the media, but soon enough to allow Brendan Houlihan to finance a late blitz of direct-mail and radio ads aimed at GOP incumbent Maureen Murphy. When the dust settled, Brendan Houlihan emerged with a narrow 14,000-vote edge out of nearly 500,000 votes cast.

"Those negative mailers and radio ads probably made the difference," says John Norris, an attorney and lobbyist for the Illinois Property Tax Lawyers Assn. "Do you really want to have the assessor controlling who is going to oversee his own assessments?"

Now, Mr. Norris is not exactly a disinterested party. He's a property tax lawyer, someone whose job it is to get Jim Houlihan, PTAB or the Board of Review to lower assessments on his clients' property. Some property tax lawyers—not necessarily including Mr. Norris—have had

(continued on back page)

NORTH SUBURBS TO BE REASSESSED A SUMMARY OF THE PROCESS AND RECENT DEVELOPMENTS

All property in the northern suburbs of Cook County (north of North Avenue) is scheduled to be reassessed during 2007 as part of the Assessor's ongoing triennial (3 year) reassessment process.

Over the last few years, the Assessor has attempted to complete the assessment process as early as possible so that tax bills would be mailed on time. As a result, we expect the first re-assessment notices to be mailed in March or early April and the last to be mailed around Thanksgiving.

The Assessor will post the anticipated and, eventually, the actual filing deadlines on his website (www.cookcountyassessor.com).

Taxpayers will have only 30 days from the date their township assessment notices are mailed to file complaints with the Assessor. This deadline has been shortened from 45 days. Time frames are tight and an effective appeal requires thoughtful preparation. Therefore, we like to begin our work before assessment notices are mailed.

It is important to note that the Assessor will not grant vacancy relief unless (1) evidence of vacancy is filed at the time the complaint is filed, (2) the Assessor is informed of the vacancy on the complaint form, and (3) the taxpayer requests on the complaint form that the Assessor conduct a field inspection to verify the existence of the vacancy.

Decisions of the Assessor may be appealed to the Board of Review. The Board will announce a 30-day filing window for each township shortly after the Assessor completes his work for that township and certifies the assessment roll. Taxpayers may file complaints to the Board individually or through an attorney. Non-lawyers are

prohibited from representing taxpayers before the Board.

The Board operates under increasingly tighter time frames each year. Currently, Board hearings are scheduled about 10 days after the filing deadline. The taxpayer or its attorney must submit a brief (written argument) and supporting documentation at the hearing and will have the opportunity to argue the case directly to the Commissioners or one of their deputies. The Board will render a written decision in about 30 to 60 days from the hearing date.

If the taxpayer wants to appeal the Board's decision, they will have a choice of appeal routes: Property Tax Appeal Board (PTAB) or Circuit Court. The choice of forum (PTAB or Court) is critical; however, the factors to be considered are beyond the scope of this article. Each of these forums requires that an appeal first be filed with the Board. Each forum also has its own filing deadlines. Appeals to PTAB must be

made within 30 days following the post-mark date of the Board's decision. Appeals to Court must be made within 165 days following the due date of the second installment tax bill.

Each case must be monitored in subsequent assessment years. One-year only reductions (granted as a result of vacancy or abnormally low rental income) will certainly require consideration and possibly an appeal the following assessment year. Material, detrimental reductions in property operations (fire, substantial vacancy or abnormal reductions in operating income, for example) may warrant additional assessment reductions. Lastly, appeals must be filed to the Board in subsequent years as a prerequisite to filing an independent appeal to PTAB or Court for that year. And, since relief in the first year of an assessment period is likely to be granted for subsequent years of that same period, it is crucial to file necessary Board, PTAB and/or Court complaints in subsequent years.



1430 Lee Street, Des Plaines, IL 60018

ATTORNEYS at LAW
ELLIOTT & ASSOCIATES



PRESRT STD
US POSTAGE
PAID
ADDISON, IL
PERMIT #210

4



“Simply put: lawyers need to work harder and smarter to obtain meaningful assessment reductions.”

their problems with Mr. Houlihan.

On the other hand, the matter becomes even stickier when you consider who Mr. Houlihan's partner was in coming up with the last-minute money for Brendan Houlihan. That would be Larry Rogers Jr., one of the other two members of the Board of Review.

Yes, you read that right. Mr. Rogers and Jim Houlihan joined together to provide vital campaign cash to someone who will now hold the second seat on the board, which potentially makes the third board member, Joseph Berrios, irrelevant.

Of course, Messrs. Houlihan and Mr. Rogers have their own side of this. Their general argument is that Ms. Murphy and Mr. Berrios were too friendly with big property owners and blocked reform steps needed to bring balance and transparency to the office.

"I don't expect either the board or PTAB to be anything other than an independent and thoughtful part of the process. That hasn't been the situation," Jim Houlihan puts it. "The check and balance is the integrity of the individuals that are serving."

Agreed. In my book, though, few folks drop \$100K solely in the interest of good government. They want something, like friends in the right places in the often subjective business of setting land values.

Having friends is good for the assessor. Time will tell if it's good for the rest of us.

©2006 by Crain Communications Inc.

