

June 20, 2013

Louis Apostol  
Executive Director  
Illinois Property Tax Appeal Board  
402 Stratton Building  
Springfield, Illinois

Dear Director Apostol,

Nearly a year ago the State and Local Taxation Section Council established an ad hoc committee to study processes and procedures at the PTAB with particular focus on the current back log, and potential strategies to eliminate the backlog, and improve the overall adjudication flow at the agency.

The Committee consisted of numerous longtime practitioners who possess considerable experience with the agency's enabling law and rules of procedure. It was chaired by Thomas M. Battista, former Deputy Director of the PTAB. The Committee spent months analyzing the PTAB rules, practices, traditions, and procedures with the intention of developing recommendations enabling PTAB to:

1. Swiftly address the backlog with creative procedures and resources.
2. Adopt changes to improve the overall adjudicative functions and mechanisms at the PTAB for timely and thus meaningful relief to taxpayers and public entities appearing before the agency.
3. To encourage the creative use of human resources in a focused expansion of agency efforts to settle the thousands of pending cases. Our suggestions in this regard provide concrete procedures and measures that will result in significantly more settlements, thus avoiding costly formal hearings and delays.

Finally, during this study, several prominent civic organizations learned of this undertaking and asked to become a part of the voice seeking change, progress and relief. They join in the recommendations. We hope that these recommendations are received in the spirit in which they are intended—a professional set of policy suggestions to an agency which has an important function in state government, but is not always afforded the proper resources to accomplish its mission. With respect, we ask for prompt consideration and adoption of these policy recommendations.

## PROPOSALS TO ADDRESS PTAB BACKLOG AND STREAMLINE RULES AND PROCESSES

PREFACE There exists at the Illinois Property Tax Appeal Board a significant backlog of cases waiting for adjudication and decision. Tens of thousands of cases are pending, and the human resources available to process and rule on these matters are not sufficient to erase the back log and keep up with new annual filings of residential and commercial cases. Changes in the manner of filing and processing appeals and motions, and the trial, dismissal or settlement of cases can and will produce quicker results for the parties, and help reduce quickly the backlog of cases pending at the Board. The following recommendations have the support of the organizations identified below, and we jointly urge the PTAB to adopt these changes immediately to address this grievous problem

1. We propose the adoption of a condensed short form for decisions relating to residential properties. The format allows for the capture of key evidence considered by the Administrative Law Judge (ALJ) in reaching his or her decision, but allows the PTAB to spend less time preparing these decisions. The form is adequate for purpose of the administrative review process, and advises the recipient the basis for the decision with enough specificity for them to understand the factual or legal basis for the decision.
2. Expand the role of the ALJ and empower the ALJ to actively move motions and cases to disposition.
  - A) The practice of filing and ruling on Motions for Extensions of Time take an extraordinary and unnecessary amount of time to process and decide. We offer a number of suggestions to dramatically expedite this process by 1) allowing parties to file motions for extensions of time electronically; 2) directing that these motions be filed with and handled by a specific ALJ, who consistently applies proper considerations for the Motions; 3) make the granting of the extension **effective** from the date the previous deadline expired instead of the date processed by PTAB (This proposal is effective only if the PTAB establishes fast tract Motion Procedure to swiftly rule on Motions for Extensions of Time), and 4) use a form letter to advise all parties of record that an extension have been granted, and finally ; 5) prohibit lack of diligence and dilatory tactics by parties who attempt to stall and prolong cases without just cause.
  - B) Enforce a policy creating a case management docket, and empower ALJs to place **each** case on a mandatory case management call at the appropriate time, once parties have had notice and have timely filed evidence. At this management call, ALL parties will be expected to arrive at the hearing and be prepared to discuss their evidence and settle the cases. ALJs must take an

active role in pushing parties to settle, and removing cases from the trial call. The parties must arrive with client authority to settle the matter. If no settlement can be reached, a trial date shall be set for the case, and a pretrial order entered on that date for the production of witness lists and any other pretrial matters. Also at the pre-trial hearing, any party who has not filed evidence timely, shall be dismissed and not allowed to participate in the proceedings. Parties are allowed to file motions to compel a mandatory case management hearing if such is not ordered by the Board.

- C) Create a Motion calendar and appoint a "Motion ALJ" assigned to receive Motions other than motions for the extension of time, and to review said motions and within 30 days after receiving responses from the parties, make written recommendation to the Board, a ruling on the motion. Parties filing Motions of this nature are expected to send Notice to other parties of record at the time said motions are filed with the Board.
3. Revise the PTAB rules and enabling statute if necessary to allow the filing of appeals following a favorable PTAB decision reducing the assessment, for all years remaining in the triennial or quadrennial, for which the BOR for that property has closed. This would encourage parties to settle an entire triennial and quadrennial when a preceding year in the tri or quad has been settled or decided in favor of the taxpayer.
4. Hire part time and temporary ALJs with experience in PTAB matters and settling cases, to handle case management dockets and settle cases. Furthermore use 75 day employees under the Illinois personnel code to bring back retired state employees from the PTAB, DOR or other agencies, who demonstrate the competency to manage a caseload and effectuate settlements regarding commercial and industrial tax appeal cases.
5. Consider a case management call for all pending residential cases where evidence to support the reduction has been filed.
6. Create a PTAB agency liaison to coordinate with the local boards of review, county treasurers and assessors, any of the new procedures adopted herein.
7. Consider ordering as a routine matter, at the conclusion of the offering of evidence in commercial and Industrial hearings, the submission of proposed Findings of Fact and Conclusions of Law, not to exceed 5 pages in length, to assist the ALJ in summarizing evidence in the case, and expediting the release of a proposed decision for Board consideration. Further, enter a standing Board order that ALJs must submit within 30 days, a proposed decision following a residential hearing, and within 60 days following a C-2, C-3, I-2 or I-3 hearing for Board consideration. In extraordinary cases where the facts or law of the case is complex, the Board may order longer periods of time, but only in extraordinary matters.

8. Consider telephonic or video hearings in the larger counties to facilitate less expensive travel costs and ALJ time commitments.

Longer range procedural changes should require an Intervenor to, upon receiving notice of the filing of a PTAB case, file a Petition to Intervene with the Property Tax Appeal Board within 60 days, and to file substantive evidence within 120 days. Failure to comply with these deadlines would prohibit the Intervenor from any participation in the proceeding.

Additional long range changes should include the bifurcation of filing and hearing procedures for cases where more than 200,000 in assessed value reduction has been requested. These changes would include early and regular pretrial conferences and status orders, as well as more sophisticated Motion Practice and mediation proceedings.

Illinois State Bar Association  
State and Local Taxation Section Council  
The Civic Federation

Taxpayer Federation of Illinois  
Illinois Chamber of Commerce