

LEGAL MEMORANDUM IN SUPPORT OF ASSESSMENT COMPLAINT –
REAL ESTATE # _____

An Assessment Complaint – Real Estate (“The Complaint”) has been filed in connection with the above referenced Complaint, which Complaint relates to real property located in Thompson Township, Jo Daviess County, Illinois identified with reference to an address and a Property Index Number. Documentation has been filed with the Complaint, supporting the complainant’s claim as stated in the Complaint. The Jo Daviess County Assessor’s (“The Assessor”) value is based on the final Board of Review valuation for the tax year 2007 increased, as to the Home Site, by the equalization or multiplier determined by the Assessor for the year 2008. The equalizer has been applied only to the Home Site, not to House/Buildings.

This legal memorandum will address the application of the equalizer or multiplier established for the tax year 2008

PART A:

Chapter 35 ILCS 200/9-145 of the Illinois Statutes provides in part as follows:

Statutory level of assessment. Except in counties with more than 200,000 inhabitants which classify property for purposes of taxation, property shall be valued as follows:

- (a) Each tract or lot of property shall be valued at 33 1/3% of its fair cash value.

Chapter 35 ILCS 200/9-205. Entitled Equalization gives the Chief County Assessment Officer the right to equalize assessments within a township. That section provides as follows:

Equalization. When deemed necessary to equalize assessments between or within townships or between classes of property, or when deemed necessary to raise or lower assessments within a county or any part thereof to the level prescribed by law, changes in individual assessments may be made by a township assessor or chief county assessment officer, under Section 9-75, by application of a percentage increase or decrease to each assessment.

Chapter 35 ILCS 200/9-210. Details the reason for equalization and the method to be used. That section provides as follows:

Equalization by chief county assessment officer; counties of less than 3,000,000. The chief county assessment officer in a county with less than 3,000,000 inhabitants shall act as an equalizing authority for each county in which he or she serves. The officer shall examine the assessments in the county

and shall equalize the assessments by increasing or reducing the entire assessment of property in the county or any area therein or of any class of property, so that the assessments will be at 33 1/3% of fair cash value. The equalization process and analysis described in this Section shall apply to all property except farm and coal properties assessed under Sections 10-110 through 10-140 and 10-170 through 10-200.

For each township or assessment district in the county, the supervisor of assessments shall annually determine the percentage relationship between the estimated 33 1/3% of the fair cash value of the property and the assessed valuations at which the property is listed for each township, multi-township or assessment district. To make this analysis, he or she shall use property transfers, property appraisals, and other means as he or she deems proper and reasonable.

With the ratio determined for each township or assessment district, the supervisor of assessments shall then determine the percentage to be added to or deducted from the aggregate assessments in each township or assessment district, other than property assessed under Sections 10-110 through 10-140 and 10-170 through 10-200, in order to produce a ratio of assessed value to fair cash value of 33 1/3%. That percentage shall be issued as an equalization factor for each township or assessment district within each county served by the chief county assessment officer. The assessment officer shall then change the assessment of each parcel of property by application of the equalization factor.

As stated in Section 200/9-210 above, "The Officer shall examine the assessments in the County and shall equalize the assessments by increasing or reducing the entire assessment of property in the County, or an area therein, or of any class of property, so that the assessments will be at 33 1/3% of fair cash value.

Clearly the Assessor has the authority to and should have the duty to, look at a class of property to determine the equalization that should be applied with respect to such class. Had that method been used by the Assessor in determining the equalization for 2008 to be applied in Thompson Township, and considered the difference between vacant property and improved property, an appropriate equalization would have been developed and could have achieved the mandate required under Section 200/9-210. This information was readily available to the Assessor and should have been used by the Assessor in finalizing the equalizer. The other method that was used by the Assessor will result in a very inequitable adjustment being made to Home Site land values which have already been valued and assessed at much higher level than that of vacant land.

The Assessor is to establish the fair cash value of real property and to assess each parcel of real property at 33 1/3% of its fair cash value.

PART B:

The report of Michael W. Doyle of Homestead Appraisals, Ltd. reflects inconsistencies and inaccuracies on which the 2008 equalizer has been based. It is clear that an equitable application of the sales information should be applied appropriately by the Jo Daviess County Assessor. This would result in a distinction being made between vacant lots and improved lots and the vacant lots being classified separate and apart from the improved lots and the separate lots being assigned an equalizer different than any equalizer applied to the improved lots. It is obvious that a sale of a lot which has been improved with a residential dwelling is not reflective of the value of the lot on which the residence has been constructed. The Assessor has no way of distinguishing between the value that a purchaser may have assigned to the lot or to the house constructed on the lot. Any allocation would be pure speculation and therefore it is completely inappropriate for a multiplier to be applied to a lot on which a house has been constructed which has been computed primarily based on discrepancies in the assessed value of vacant lots and the sale price of such vacant lots. It is incumbent upon the Jo Daviess County Assessor and now the Board of Review to adjust the equalizer to reflect the appropriate distinction.

PART C:

It is my understanding that the information on which the equalization factor is computed is based on information received by the Assessor from the Illinois Department of Revenue, which information is based upon data submitted with respect to annual sales of real estate in each Township. This data is included on the PTAX-203 Illinois Real Estate Transfer Declaration form with respect to each sale and is submitted to the Illinois Department of Revenue by the Assessor.

The Assessor is then required to determine an equalization factor or multiplier which would be applied in the township so that the total or aggregate assessed value of all of the real property in the township would be raised (or lowered) to a level reflecting the discrepancy between the assessed value of the property sold as reflected on the PTAX-203 Illinois Real Estate Transfer Declaration forms and the actual value of the sales as reflected on such forms.

An equalization factor or multiplier has been applied in Thompson Township for the tax years of 2005, 2006 and 2007 and perhaps for prior years. A projected equalizer is now being applied for the year 2008. It appears that what is occurring with respect to these equalizer factors applied for each of those years is that the equalizers are being compounded. For instance for the year 2008, an equalizer is being applied to the final assessed valuation of the Home Site by the board of review which valuation was the assessed value increased by the application of the 2007 equalizer. This has resulted in a cumulative increase in the total market value of the real property of approximately 70% from 2005.

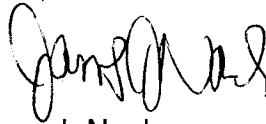
Some of this increase may be attributable to the reassessment without the application of the equalizer, but a large percentage of the increase results from the application of the equalizer on an annual basis and by applying the equalizer to the prior year's valuation which had already included equalizers from prior years.

This procedure is certainly not fair and would not result in the over all equalization required by the Illinois Department of Revenue. This percentage is clearly substantially in excess of the discrepancy that was determined by the Illinois Department of Revenue pursuant to the information submitted on which the annual equalizer is based. The annual equalizer should be based on the assessed valuation of the real property to which the equalizer is applied without taking into account the equalizers applied for prior years. In other words, the equalizer for the year 2008 which is being applied to Home Sites should be applied to the assessed value of the Home Site without taking into account prior equalizers. The quadrennial assessment that was done for Thompson Township in 2007 for the 2007 tax year should have reflected the actual values of the individual parcels of real estate without regard to an equalizer. The quadrennial reassessment established the value of individual parcels and should be the basis on which any equalizer for subsequent years is applied.

Respectfully submitted,

NACK, RICHARDSON & NACK, P.C.

BY:



James J. Nack