

TRIBUNE WATCHDOG: THE TAX DIVIDE

# THE PROBLEM WITH APPEALS

Assessor Joseph Berrios encourages homeowners to file appeals. But the process makes the property tax system even less fair.

North Lawndale, Chicago (Terrence Antonio James / Chicago Tribune)

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By Jason Grotto (mailto:jgrotto@chicagotribune.com?subject=Regarding: )

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Along the 2000 block of West Waveland Avenue, large maple trees form a canopy over pristinely paved streets and sidewalks lined with large homes.

North Center is one of Chicago's most desirable neighborhoods, and home prices on this block reflect it. In October 2014, one 2,000-square-foot single-family home sold for \$1.1 million.

Months later, when the Cook County assessor's office sent out its estimate of the home's market value, the number matched perfectly: \$1.1 million.

Still, the owners did what so many others do each year in Cook County. They hired an attorney to file an appeal and eventually won a reduction from the Cook County Board of Review, shaving \$302,000 off the assessor's estimated market value.

Under current Assessor Joseph Berrios, the number of residential appeals filed in Cook County has soared. In 2015 alone, residential property owners filed assessment appeals involving 370,000 parcels, winning reductions 80 percent of the time.

“Appeals are a good thing,” Thomas Jaconetty, deputy assessor for valuation and appeals, said in an interview. “The goal here is fairness. We made the numbers. We can change them.”

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There’s just one problem with that argument: The Tribune analyzed appeals filed by Cook County homeowners and found the process makes the property tax system less fair — not more.

Working with the Center for Municipal Finance at the University of Chicago’s Harris School of Public Policy, the Tribune examined appeals on more than 2.7 million residential parcels and found that, in every year from 2009 to 2015, the industry’s statistical measures of fairness got worse after the appeals process.

That inequity has placed a financial burden on those who can least afford to pay more, the U. of C. study found (<http://apps.chicagotribune.com/news/watchdog/cook-county-property-tax-divide/data/harris-study.pdf>). On average, even after appeals, people who own homes in the bottom 25 percent of values paid nearly \$500 more a year in property taxes than they would have if the system were fair, the research shows.

The reason: Wealthier neighborhoods appealed at much higher rates and regularly received significant assessment reductions even though homes in those areas were more likely to be undervalued. In poorer neighborhoods, homeowners not only are more likely to have their properties overvalued by the assessor, they are less likely to appeal.

Because of Chicago’s housing patterns, that means white Chicagoans often benefited at the expense of the city’s minorities.

Nearly half of the 28 homeowners on the 2000 block of West Waveland, for example, appealed their assessments in 2015, and all but one won reductions,

though the assessor undervalued homes in the neighborhood by about 15 percent on average, the Tribune found.

“You can’t blame the people who appeal,” said U. of C. professor Christopher Berry. “They are just responding to the incentives that the system gives them. But that system effectively transfers the tax burden onto those who can least afford it while giving a break to those of greater means.

“It’s a textbook example of institutional racism.”



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**“It’s a textbook example of institutional racism.”**

**Christopher Berry** University of Chicago professor

The Tribune interviewed Jaconetty in September, before the U. of C. study was completed. Contacted more recently for comment, the assessor’s office declined to make Jaconetty available again. In a written statement, the office said any homeowner can file an appeal and officials have worked hard to inform every community in the county about the process.

The office “believes in equal opportunity and we respect personal choices to appeal or not appeal,” the statement said. “Of course, we have no control of choices made by free people.”

The system doesn’t just help those in higher-priced homes. It has created a lucrative business for tax attorneys and given a political boost to Berrios.

In 2015, when appeals hit an all-time high, records show that attorneys’ fees from residential appeals totaled roughly \$35 million, triple the amount in 2003, the Tribune found. Many of these lawyers have helped fill the campaign coffers of Berrios, who is also chairman of the Cook County Democratic Party and committeeman of the 31st Ward Democratic Organization.

As previously reported in this series, a Tribune analysis found that the county’s assessments have been riddled with errors. Berrios had a chance to improve the property tax system by implementing a new computer model that would produce more accurate assessments and reduce regressivity, or the tendency to overvalue low-priced homes and undervalue high-priced ones.

But he failed to do so — despite issuing a news release claiming he did.

Leaving the current system in place might work well for some, but it has hurt residents in already-struggling minority neighborhoods, where the assessor's office regularly overvalued homes. These owners ended up paying a disproportionate share of the county's property taxes year after year, and the appeals process failed to rectify the situation.

Rozalyn Shelton owns a small stone house on West Cullerton Street in North Lawndale, where no trees line the block and the asphalt is worn and patched. She was the only person on her block who appealed her assessment in 2015. Though she won an \$11,000 reduction in her home's estimated market value, that wasn't enough to make up for the assessor's initial overvaluation, the Tribune found.

In the end, the property taxes she paid that year represented more than 2 percent of her home's value. That percentage, known as the effective tax rate, should be relatively the same for all, but Shelton's was about 60 percent higher than what people living on the Waveland block paid, according to the Tribune's analysis.

Shelton and several other homeowners on Cullerton took ownership of their parents' homes after they passed away. Like many on her block, she said she has trouble paying her tax bills.

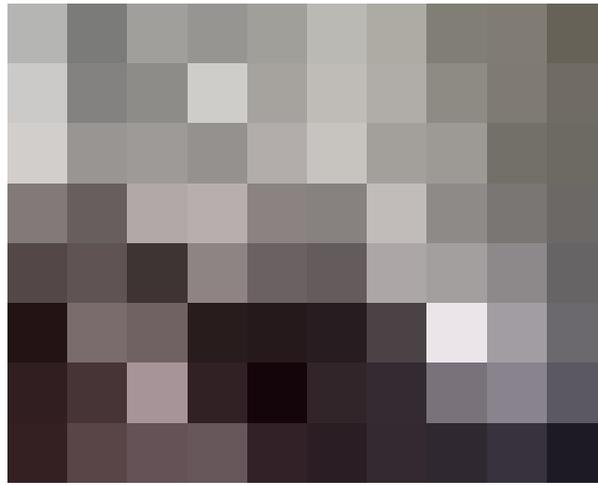
"We're trying to honor our parents by keeping up with the property," she said. "But the taxes are killing us."

## Asking for appeals

Sitting on folding chairs and clutching their paperwork, about 100 homeowners gathered at the River Forest Community Center in February for a workshop on how to appeal their property tax assessments.

A few lashed out or muttered under their breath as officials from the Cook County assessor's office fielded questions. Others stared ahead with befuddled expressions.

The assessor's office holds dozens of these workshops every year, helping drive the number of appeals to levels not seen in any other large jurisdiction in the country.



Beth McBride and other attendees learn about the Cook County property tax appeals process during a February workshop at the River Forest Community Center. (Terrence Antonio James/Chicago Tribune)

New York City, which has a larger tax base, saw just 53,000 applications for reductions in 2015. That is a fraction of the 166,000 applications filed in Cook County, where residential appeals tripled between 2003 and 2015.

The chances of winning a reduction increased as well. Appeals brought to the assessor or to the Board of Review, an elected three-member panel charged with ensuring assessments are fair, resulted in reductions on more than 292,000 parcels in 2015.

The changes gave homeowners more than \$224 million in tax savings, the most ever, the Tribune estimated. Those tax dollars had to be paid by other property owners.

Elsewhere in the country, many jurisdictions are loath to grant appeals, seeking instead to defend their valuations. Some states, such as California, base assessments on actual sales and adjust those values based on market trends, a system that results in far fewer appeals.

“We would prefer that we get the value right the first time, so that taxpayers don’t have to go through the process of an appeal,” said Carmen Chu, the assessor in San Francisco, whose office handled about 4,995 appeals in 2015.

Not so in Cook County, where the assessor’s office actively encourages people to appeal and provides various tools to make it easier, including a recently streamlined appeals process.

In its written statement, the office said it was proud of the increase in appeals and pointed out that most appeals are filed without an attorney.

“These numbers represent the good our office does,” the statement quotes Berrios as saying. “Appeals give all communities a voice in the assessment process, and we reach out to them.”

Despite its relatively low profile, the position of Cook County assessor is among the most powerful offices in the state, closely affecting the interests of real estate developers and investors, law firms and wealthy homeowners. Some of the state’s most influential political families have been tied to the office or the industry of tax attorneys that has grown up around it; Madigan, Burke, Hynes and Cullerton are among the most prominent.

Berrios got his start in politics as a precinct worker for legendary Ald. Thomas Keane, who was convicted in 1974 on federal mail-fraud and conspiracy charges.

Since then, Berrios has risen into the upper echelons of Illinois Democrats. A former state representative, he currently serves as chairman of the Cook County Democrats. In July, he joined Illinois House Speaker Michael Madigan at the Democratic National Convention in Philadelphia, where they stood side by side as Illinois delegates cast their votes.



The number of appeals filed in Cook County has soared under Assessor Joseph Berrios. In 2015 alone, property owners filed assessment appeals involving 370,000 residential parcels. (Antonio Perez/Chicago Tribune)

Berrios controls three active campaign accounts where he’s raised more than \$5 million since 2009, an unprecedented amount for an assessor. More than half of it came from tax attorneys and related businesses, a Tribune analysis of campaign data found.

In December 2015, for instance, state records show Berrios held a campaign event at the Lux Bar, spending nearly \$5,400 to host a party largely attended by tax appeal lawyers. That same month, attorneys, appraisers and others tied to the industry contributed more than \$79,000 to Berrios.

Under Berrios, the Tribune found, the assessor's office is providing more reductions than ever before.

## How the Tribune team analyzed appeals

Reporter Jason Grotto worked with the University of Chicago to find out whether appeals make the county's property tax system more fair.

Read the story

(<http://apps.chicagotribune.com/news/watchdog/cook-county-property-tax-divide/appeals-methods.html>)

The Tribune examined appeals by year and tracked how many were granted and by which county entity: the assessor's office, the Board of Review or, in some cases, both. In 2009, the year before Berrios was elected, 27 percent of successful appeals included relief granted by the assessor. In 2015, it was 61 percent.

Jaconetty, who oversees assessments and appeals for Berrios, said in September that the large number of appeals is a testament to the office's record of "community engagement" and argues the "human element" is essential to assessing property accurately in such a complicated and diverse community.

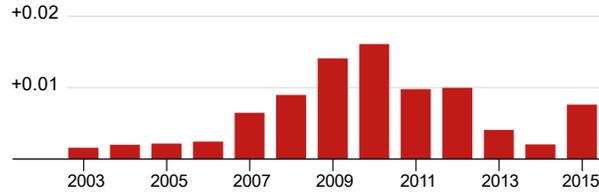
When pressed on how he knows that appeals lead to better valuations, however, Jaconetty couldn't point to any data or other evidence.

In partnering with the U. of C., the Tribune applied accepted industry standards set out by the International Association of Assessing Officers to test Jaconetty's claim.

The analysis found that the assessor's office violated standards on regressivity every year between 2009 and 2015 — and that both measures got worse, not better, after the appeal process. The poorest parts of the county were hurt, not helped, by appeals.

## Regressivity score gets worse after appeals process

### Change in price-related differential (PRD)



One reason appeals failed to make the system more fair is that the owners of undervalued homes often received reductions. The U. of C. found that appeals were filed for more than half of the undervalued homes that sold between 2009 and 2015, and a reduction was granted in nearly a quarter of those cases.

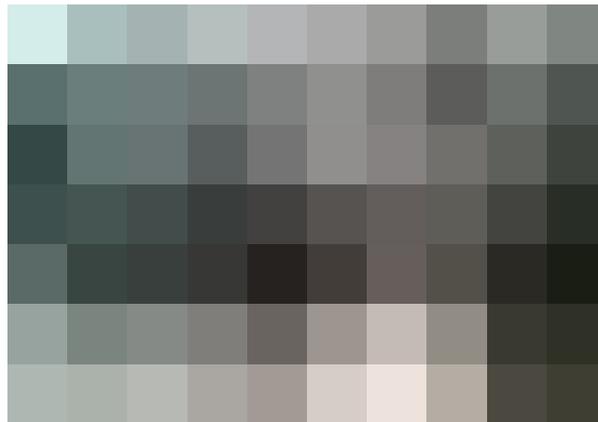
## No way to win

Joan Clark moved to the 4000 block of West Cullerton Street in 1962, when she was 3 years old. Like Shelton and a handful of others, she inherited her parents' home after they died.

"We all grew up together on this block," she said.

The small houses represent the bulk of their wealth, they told the Tribune, and some of them are straining to pay their property taxes. Clark said she worries about losing her home.

"I got a letter in the mail saying if you don't pay on time, they can take your house," she said.



Joan Clark sweeps the sidewalk in front of her home on the 4000 block of West Cullerton Street. Like most people on her block, she has never appealed her property tax assessment. (Terrence Antonio James/Chicago Tribune)

The Tribune's analysis of assessments found that since 2009 the assessor's office overvalued homes in this part of North Lawndale by about 40 percent. In fact, a home

six doors down from Clark's — an exact replica of hers — sold in 2015 for \$75,000, but the assessor valued both properties that year at \$105,250, 40 percent higher.

Another identical home two doors down sold earlier this year for \$53,000. The assessor valued it at \$133,080.

Like most people on her block, however, Clark has never appealed her property tax assessment.

“I don't know anything about it,” she said. “But we've all been talking about how our homes are overtaxed.”

In its statement to the Tribune, the assessor's office said it has significantly increased the number of workshops and other outreach events it holds in low-income communities.

The office also questioned whether the home sales cited by the Tribune were valid, arm's-length transactions.

But all of the Tribune's examples meet standards set by the International Association of Assessing Officers for arm's-length sales. Among other things, the newspaper checked to make sure that the homes were advertised for sale, that the transactions weren't foreclosures or other types of distressed sales, and that the buyers and sellers weren't related.

Even when they appeal, homeowners in poorer areas can still end up paying too much in property taxes because of the way appeals in Cook County are decided.

### **Berry on regressivity and appeals**



Comparing assessments to similar homes in the same neighborhood may work if the assessor's valuations are generally accurate. But that isn't the case here, where the assessment system has been both regressive and error-ridden for years.

For example, though Shelton won a reduction in 2015 by filing an appeal, the assessor's new valuation of \$114,050 was still much higher than the \$75,000 sales price of the similar house right across the street.

At the same time, people whose homes were already undervalued often succeeded in their appeals because similar homes in the same neighborhood were undervalued even more.

The skewed valuations mean Clark and her neighbors paid more in taxes as a percentage of their home's value than those living in wealthy city neighborhoods — even though the effective tax rate should be about the same for all residents in a taxing district.

It's a reality the homeowners on Cullerton Street have long suspected but felt powerless to do anything about.

Clark said she called the assessor's office in October to ask how she could lower her tax bill but was told there was nothing she could do until the property is reassessed in 2018. In fact, according to the county's appeal schedule, Clark could have appealed her tax bill through January 2017.

"They're short and nasty when you call," she said. "They're not willing to do anything to help us."

The assessor's office denied Clark's allegation, saying they couldn't find any evidence that she had called.



Identical homes line the 4000 block of West Cullerton Street in Chicago. The Cook County assessor's office has often overvalued homes in this part of North Lawndale, according to a Tribune analysis. (Alyssa Pointer/Chicago Tribune)

## New home, big break

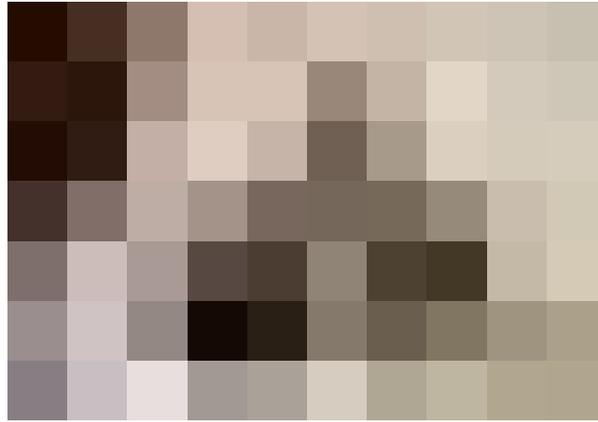
Back on the 2000 block of West Waveland Avenue, a newly constructed luxury home exemplifies another way in which the county's appeals process favors the wealthy — many of whom have access to attorneys with inside knowledge of the arcane system.

Before the home was built on the site of a tear-down property, it had been listed for sale in 2014 at more than \$2 million. The listing offered 3,000 square feet of living

space, six bedrooms, three and a half bathrooms, vaulted ceilings, top-flight appliances and a finished basement.

In March 2015, when the house was nearly complete, the assessor's office sent out its estimate of the market value: \$1.3 million.

Yet property tax attorney James Sarnoff, who had agreed to buy the home, filed an appeal on May 8 on behalf of the developer. And the assessor's office granted the appeal later that year, decreasing its estimate of the property's value by about 30 percent, to \$914,482.



Thomas Jaconetty is Cook County's deputy assessor for valuation and appeals. (Nancy Stone/Chicago Tribune)



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**“Appeals are a good thing. The goal here is fairness. We made the numbers. We can change them.”**

**Thomas Jaconetty** deputy assessor for valuation and appeals

Sarnoff is the son of Robert M. Sarnoff, a longtime property tax lawyer and former assistant state's attorney in the real estate division. James works at his father's law firm, Sarnoff & Baccash, which focuses on property tax appeals.

The firm, which employs eight attorneys, filed appeal applications covering more than 81,000 residential parcels between 2003 and 2015. Robert M. Sarnoff and his firm have donated \$153,000 to campaign funds controlled by Berrios, campaign data show. James and his wife gave \$8,000.

More than a week before James Sarnoff filed the appeal, the developer executed a deed transferring ownership of the property to the James B. Sarnoff Trust and Leslie S.

Sarnoff Trust, records show.

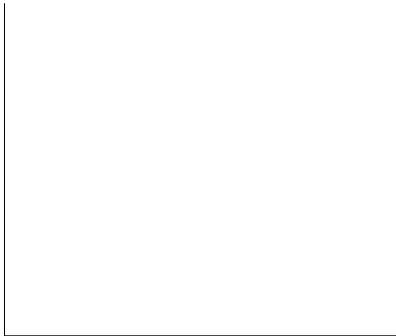
State transfer tax stamps show the sale price was \$2.15 million.

In appealing for a reduction from the assessor, James Sarnoff argued the property on Waveland should be treated as a vacant lot for part of the year because the home would not be “completed and occupied until after May 18, 2015.”

For decades, the assessor’s office has routinely given massive reductions to the owners of newly constructed homes based on a vague provision in the Illinois property tax code. The law says homeowners aren’t liable for newly constructed homes until the dwellings are “inhabitable” but provides no standard for determining when that threshold is met.

Records obtained from the assessor’s office show officials conducted a field inspection of the Waveland home in March, two months before Sarnoff filed the appeal. The inspection noted that the exterior construction and roof were complete and that the home had central air conditioning and heat, a finished basement and an enclosed porch.

The appeal included old building permits and undated pictures of a demolished home but nothing showing what the house looked like at the time of the appeal.



In a statement to the Tribune, Sarnoff said it was a routine appeal and he didn’t receive special treatment.

He said he moved into the home on May 14. “Until the date of our move, significant items of work remained incomplete and, while largely complete, the house was in fact unfit for occupancy; for example, the house did not have operable plumbing or safety railings on the front steps, and most lighting fixtures had not been installed,” he wrote.

According to its website, the assessor’s office granted the appeal because of “the partial occupancy” of the home.

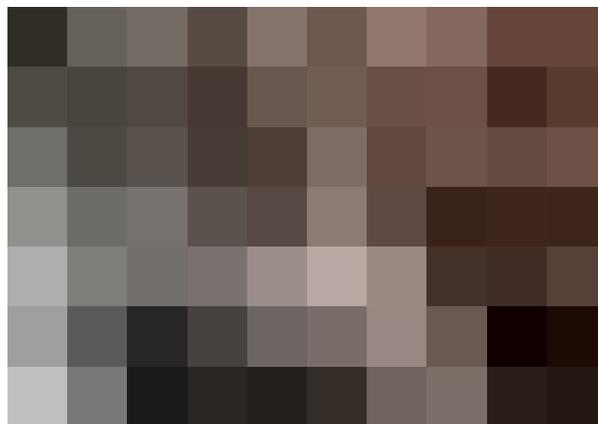
The key question under state law, however, is not whether a home is vacant but whether it is inhabitable. And though Sarnoff requested a field inspection in his appeal, the assessor's office did not revisit the property before shaving \$400,000 off its already low valuation.

The assessor's office wrote in a statement to the Tribune that "there was no reason for another field inspection, two months after the March 6, 2015 inspection." It also stated: "It might be impossible to achieve 100 percent certainty as to when a structure was inhabitable."

The assessor's office also said knowing the sale price of the home would have affected its estimate of the market value.

"At any time, the homeowner could have and should have informed CCAO of the pending or closed sale price," the statement said. "That information would have called for further analysis."

Had the property been taxed at a value of \$2.15 million over the full calendar year, the Sarnoffs would have paid the county about \$39,000 in taxes, the Tribune estimated. Instead, they paid around \$17,000. The difference was spread among every other taxpayer in the city.



Every year, the Cook County assessor's office holds dozens of workshops to educate residents about filing appeals. Joyce Tasch, left, and Katie Rauh attended one in February. (Terrence Antonio James/Chicago Tribune)

In 2016, the assessor's office increased the taxable value of the Sarnoff property back to \$1.3 million. But Sarnoff appealed again, arguing that the price per square foot was not uniform with other properties in the area.

This time, the assessor denied the appeal. But the Board of Review granted it. That decision reduced the home's market value to \$1.2 million.

After the Tribune raised questions about the 2015 appeal, the assessor's office sent inspectors to the house, where they reported discovering an additional 1,300