



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Cedar Pointe Rehab & Nursing Center
DOCKET NO.: 10-35588.001-C-3 through 10-35588.005-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Cedar Pointe Rehab & Nursing Center, the appellant, by attorney Alan D. Skidelsky, of Skidelsky & Associates, P.C. in Chicago; the Cook County Board of Review by assistant state's attorney Chris Shouldice with the Cook County State's Attorneys office in Chicago; as well as two intervenors, the Cicero Public S.D. #99 and J. Sterling Morton H.S.D. #201, both by attorney Steven Avalos of Del Galdo Law Group, LLC in Berwyn.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds **no change due to lack of jurisdiction** in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
10-35588.001-C-3	16-29-202-004-0000	8,859	412,333	\$421,192
10-35588.002-C-3	16-29-202-005-0000	8,859	412,333	\$421,192
10-35588.003-C-3	16-29-202-006-0000	17,718	824,665	\$842,383
10-35588.004-C-3	16-29-202-007-0000	8,859	471,237	\$480,096
10-35588.005-C-3	16-29-202-008-0000	17,472	824,665	\$842,137

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property contains five parcels of land which are improved with a 36-year old, nine-story, steel and concrete, commercial building with 124,020 square feet of building area. The improvement is used as a 485-bed, skilled and intermediate care nursing home. The building is located on a 23,531 square foot site. The property is classified as a class 5, commercial

property under the Cook County Real Property Assessment Classification Ordinance.

The appellant filed the appeal challenging the assessment for the 2010 tax year based on an overvaluation argument. Included with the appeal form was an appraisal.

After being notified of the appeal, the board of review filed a joint motion to dismiss along with both intervenors asserting that the Board had no jurisdiction over this 2010 property tax appeal because the appellant had previously filed a 2010 tax objection in the Circuit Court of Cook County.

In support of this assertion, the board of review and the intervenors submitted a motion to dismiss along with supporting Exhibits. In summary, the motion and the Exhibits disclose that the appellant-taxpayer filed a 2010 specific objection complaint in March of 2012; and thereafter, filed a 2010 property tax appeal with the Board on October 14, 2014. Further, the Exhibits indicate that the 2010 specific objection complaint is still open and pending in the Circuit Court. These parties argue that:

in Cook County, it is well established under the Property Tax Code that a taxpayer may select one of two distinct routes of challenging one's property taxes after the board of review renders a decision. Schlenz v. Castle, 115 Ill. 2d 135 @ 142, 503 N.E.2d 241(1986); Robert Spiel v. PTAB, 309 Ill. App. 3d 373 @ 378(1999). In summary, a taxpayer may: (1) file an appeal with the PTAB(see 35 ILCS 200/16-160; 86 Ill. Adm. Code Section 1910.60(a)), or (2) it can pay the real estate taxes on the property and then file a tax objection complaint with the Circuit Court of Cook County(see 35 ILCS 200/23-10).

Further, these parties jointly argue that:

the Supreme Court of Illinois has ruled that these two options are "mutually exclusive" of one another. Madison Two Associates v. Pappas, 227 Ill.2d 474 @ 477-78, 884 N.E.2d 142(2008). The statute clearly states that if a taxpayer seeks review before the PTAB, he or she is precluded from filing objections based on valuation in the circuit court. In the same way, if a taxpayer files objections based upon valuation in the circuit court, the taxpayer cannot

file a petition contesting the assessment of the subject property with the PTAB. Madison @ 477-78; 35 ILCS 200/16-160; 86 Ill. Adm. Code Section 1910.50(f), (g)(2014).

In response, the appellant's attorney filed a brief with two Exhibits. The brief states that the appellant filed a 2010 direct appeal at the Board following receipt of a 2009 Board decision pursuant to Section 1910.50(h). In addition, the attorney admits that previously on March 28, 2012, he filed a 2010 specific objection complaint with the Circuit Court of Cook County, specifically Docket #12 COTO 3595. On this point, he also argued that the prior 2010 specific objection filing was dismissed. In support of this assertion, the appellant's attorney submitted copies of an agreed order signed by the appellant's attorney and an assistant state's attorney as well as a copy of a trial call assignment.

Thereafter, the board of review and the two intervenors filed a joint reply. These parties state that in May, 2014, when the state's attorneys office considered and signed agreed orders in the subject property's 2009 and 2010 specific objection complaints, that the state's attorneys office was unaware that the appellant-taxpayer had filed 2009 and 2010 property tax appeals with the Property Tax Appeal Board. The brief further states that if the fact of dual filings for each tax year had been known, that the board of review would never have agreed to nor signed the 2009 and 2010 agreed orders in May, 2014. Moreover, the brief stated that the fact of dual tax year filings had not even been disclosed to the County Collector.

Specifically as to the 2010 agreed order, the state's attorney and the intervenors' attorney indicate that the 2010 alleged order has never been presented to or entered in the Circuit Court of Cook County. Additionally, they note that the alleged order has not been signed by the assigned judge, Judge Mark Ballard, nor is it stamped or dated by any Clerk of the Circuit Court. Lastly, these attorneys refer to Exhibit E which is a copy of the Clerk of the Circuit Court's docket search wherein the subject's 2010 specific objection is listed as 'open'.

After reviewing the record and considering the parties' positions and exhibits, the Property Tax Appeal Board finds that it does not have jurisdiction over this appeal.

Section 16-160 of the Property Tax Code provides in part that:

In counties with 3,000,000 or more inhabitants, beginning with assessments made for the 1996 assessment year for residential property of 6 units or less and beginning with assessments made for the 1997 assessment year for all other property, and for all property in any county other than a county with 3,000,000 or more inhabitants, any taxpayer dissatisfied with the decision of a board of review or board of appeals as such decision pertains to the assessment of his or her property for taxation purposes, or any taxing body that has an interest in the decision of the board of review or board of appeals on an assessment made by any local assessment officer, may, (i) in counties with less than 3,000,000 inhabitants within 30 days after the date of written notice of the decision of the board of review or (ii) in assessment year 1999 and thereafter in counties with 3,000,000 or more inhabitants within 30 days after the date of the board of review notice or within 30 days after the date that the board of review transmits to the county assessor pursuant to Section 16-125 its final action on the township in which the property is located, whichever is later, appeal the decision to the Property Tax Appeal Board for review.
. . . 35 ILCS 200/16-160.

In accordance with this statutory authority, Section 1910.50(f) of the rules of the Property Tax Appeal Board provides that:

If a petition is filed by a taxpayer with the Property Tax Appeal Board, the taxpayer is precluded from filing objections based upon valuation in the Circuit Court as may otherwise be permitted by Sections 21-175 and 23-5 of the Property Tax Code. (35 ILCS 200/16-160)

In addition, Section 1910.50(g) of the rules provide that:

If a taxpayer files objections based upon valuation in the Circuit Court as permitted by Sections 21-175 and 23-15 of the Property Tax Code, the taxpayer is precluded from filing a petition contesting the assessment of the subject property with the Property Tax Appeal Board. (35 ILCS 200/16-160)

The Board finds that the undisputed evidence in this record disclosed:

-the appellant did file a 2010 specific objection complaint in the Circuit Court of Cook County in March, 2012;

-this 2010 case, #12 COTO 3595, is still open as of this date; and

-this appellant filed a 2010 tax appeal with the Property Tax Appeal Board on October 14, 2014.

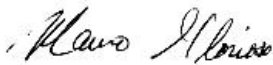
Therefore, the Board hereby grants the board of review's and the intervenors' joint motion to dismiss and dismisses this 2010 tax appeal on the basis of a lack of jurisdiction.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman



Member



Member

Member



Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: May 22, 2015



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.