



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

APPELLANT: Pulte Homes
DOCKET NO.: 12-01463.001-R-1
PARCEL NO.: 06-19-177-001

The parties of record before the Property Tax Appeal Board are Pulte Homes, the appellant, by attorney Dennis W. Hetler of Dennis W. Hetler & Associates PC in Chicago; and the Kane County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **No Change** in the assessment of the property as established by the **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$22,725
IMPR.: \$0
TOTAL: \$22,725

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2012 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of vacant single family residential lot located in the Shadow Hill - Unit 4 subdivision Elgin Township, Kane County.

The appellant raises a contention of law with respect to the applicability of section 10-30 of the Property Tax Code (35 ILCS 200/10-30) to the assessment of the subject parcel. In support of the legal argument the appellant submitted a brief explaining that in March 2006 Centex, which merged into the appellant Pulte Home Corporation, purchased raw/undeveloped land which is now known as Shadow Hill – Unit 4 residential development. Subsequent to the purchase, Centex deeded the raw/undeveloped land to PII Land Banker to provide for what the appellant described as "take outs" over a period of time.

The appellant indicated that in March 2006 Centex "took out" 31.709 acres, which was documented as Exhibit A. Exhibit A was a Trustee's Deed from Chicago Title Land Trust Company to Centex Homes (Centex) conveying the 31.709 acres to Centex. Appellant asserted that Centex then developed (subdivided and improved) 95 single family residential lots known as Shadow Hill – Unit 4 and the plat of subdivision was recorded July 6, 2006 in Kane County. As support the appellant submitted Exhibit B, the Final Plat of Subdivision for Shadow Hill – Unit 4. The appellant contends the property was platted and subdivided in accordance with the Plat Act, 765 ILCS 205/1 et seq.; the platting occurred after January 1, 1978; at the time of platting the property was in excess of five acres and was vacant. The appellant owns 22 developed lots in Shadow Hill – Unit 4.

Counsel explained that in April 2007 the appellant "took out" eight lots from PII Land Banker. In support of this statement the appellant submitted Exhibit C, a warranty deed identifying the grantor as PII Real Estate LLC, a Delaware limited liability company, and the grantee as Centex Homes, a Nevada general partnership. The warranty deed recites in part that:

THE GRANTOR, PII REAL ESTATE LLC, a Delaware limited liability company, for and in consideration of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration in had paid, CONVEYS and WARRANTS to CENTEX HOMES, a Nevada general partnership, all of Grantor's right, title and interest to the following describe real estate situated in the County of Kane in the State of Illinois (the "Premises"), to wit:

LOTS 30, 32, 33, 34, 35, 59, 60 and 61 ON THE FINAL PLAT OF SUBDIVISION FOR SHADOW HILL – UNIT 4

Counsel further explained that in March 2008 the appellant "took out" lots 31, 62 through 72 and 87 through 97. In support of this statement the appellant submitted Exhibit D, a warranty deed identifying the grantor as PII Real Estate LLC, a Delaware limited liability company, and the grantee as Centex Homes, a Nevada general partnership. The warranty deed provided in part:

WITNESSETH, the Grantor, for and in consideration of sum of TEN AND NO/100THS DOLLARS (\$10.00) in hand paid, and other good and valuable consideration, CONVEYS and WARRANTS to the said Grantee, the following described real estate situated in the County of Kane in the State of Illinois, to wit:

. . .

P.I.N. . . . 06-19-177-001. . . .¹

The appellant contends that the 2012 assessments of ten lots, apparently owned by the appellant, were not being appealed as the Elgin Township Assessor appears to have assessed these lots in accordance with section 10-30 of the Property Tax Code resulting in assessments \$1,660. The

¹ The warranty deed references 21 property index numbers (PINs), however, this decision references only the PIN associated with the property which is the subject matter of this appeal.

appellant contends the remaining 12 lots owned by the appellant were not assessed in accordance with section 10-30 of the Property Tax Code and each has an assessment of \$22,725.

The appellant contends the assessment of the subject parcel should be made in accordance with section 10-30 of the Property Tax Code, which would result in an assessment of \$1,660. The appellant argues this assessment would place the 2012 assessment of the subject parcel on an equal basis with the assessor's 2012 assessments of the other 10 vacant lots owned by the appellant in Shadow Hill – Unit 4.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$22,725. In support of its contention of the correct assessment the board of review submitted a brief prepared by Joseph F. Lulves, Assistant State's Attorney of Kane County. Lulves argued that the appellant's brief ignores the plain language of 10-30(c) of the Property Tax Code, which provides that the preferential assessment provided by section 10-30(b) does not apply ". . . upon the initial sale of any platted lot, including a platted lot which is vacant. . . ." (35 ILCS 200/10-30(c)). Counsel argued that the attachments to the appellant's brief, specifically the warranty deeds, establishes that the lots were sold transferring the parcels. He further argued that appellant's counsel's use of the term "take out" has no special legal meaning within the Property Tax Code.

In response appellant's counsel stated that upon purchase of the property, Centex (now Pulte through merger) placed the property in a "holding position" with PII Land Banker pending platting and development by Pulte. According to counsel, Pulte remained the "party interest" from the time of acquisition through the 2007 and 2008 "take outs" from PII Land Banker and no transfers to third parties occurred.

Conclusion of Law

The appellant's argument is based on a contention of law that the subject property should receive the preferential assessment as provided by section 10-30 of the Property Tax Code (35 ILCS 200/10-30). Where a contention of law is made the standard of proof is the preponderance of the evidence. (See 5 ILCS 100/10-15). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The issue in this appeal deals with application of the section 10-30 of the Property Tax Code, the so called "developers exemption", to the assessment of the subject property, a vacant residential site. Section 10-30 of the Property Tax Code provides:

- (a) In counties with less than 3,000,000 inhabitants, the platting and subdivision of property into separate lots and the development of the subdivided property with streets, sidewalks, curbs, gutters, sewer, water and utility lines shall not increase the assessed valuation of all or any part of the property, if:
- (1) The property is platted and subdivided in accordance with the Plat Act;
 - (2) The platting occurs after January 1, 1978;
 - (3) At the time of platting the property is in excess of 5 acres; and

(4) At the time of platting the property is vacant or used as a farm as defined in Section 1-60.

(b) Except as provided in subsection (c) of this Section, the assessed valuation of property so platted and subdivided shall be determined each year based on the estimated price the property would bring at a fair voluntary sale for use by the buyer for the same purposes for which the property was used when last assessed prior to its platting.

c) Upon completion of a habitable structure on any lot of subdivided property, or upon the use of any lot, either alone or in conjunction with any contiguous property, for any business, commercial or residential purpose, **or upon the initial sale of any platted lot, including a platted lot which is vacant: (i) the provisions of subsection (b) of this Section shall no longer apply in determining the assessed valuation of the lot, (ii) each lot shall be assessed without regard to any provision of this Section, and (iii) the assessed valuation of the remaining property, when next determined, shall be reduced proportionately to reflect the exclusion of the property that no longer qualifies for valuation under this Section.** (Emphasis added.) Holding or offering a platted lot for initial sale shall not constitute a use of the lot for business, commercial or residential purposes unless a habitable structure is situated on the lot or unless the lot is otherwise used for a business, commercial or residential purpose.

(d) This Section applies before the effective date of this amendatory Act of the 96th General Assembly and then applies again beginning January 1, 2012.

(35 ILCS 200/10-30). The parties presented no arguments with respect to whether the requirements of subsection (a) of the statute were met. The primary issue before this Board appears to be whether or not there was an initial sale that terminated the preferential assessment provided by subsection (b) of the statute. Subsection (c) of the statute is clear in that it states in part, "the initial sale of any platted lot, including a platted lot which is vacant" terminates the preferential assessment provided by subsection (b) of section 10-30 of the Property Tax Code.

The record is not clear on how PII Real Estate LLC became the owner of the various lots in the Shadow Hill – Unit 4 subdivision after the property was platted and subdivided. Nevertheless, the record contains a copy of a warranty deed, identified as appellant's Exhibit D, dated March 27, 2008, recorded April 22, 2008 as Document Number 2008K034320, disclosing that PII Real Estate LLC, a Delaware limited liability company, was the grantor and Centex Homes, a Nevada general partnership, was the grantee. The warranty deed provided in part:

WITNESSETH, the Grantor, for and in consideration of sum of TEN AND NO/100THS DOLLARS (\$10.00) in hand paid, and other good and valuable consideration, CONVEYS and WARRANTS to the said Grantee, the following described real estate situated in the County of Kane in the State of Illinois, to wit:

...

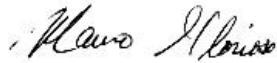
P.I.N. . . . 06-19-177-001. . . .

The warranty deed clearly indicates that a sale involving the subject property occurred transferring the property from PII Real Estate LLC to Centex Homes. The Board finds this transaction terminated the preferential "developers assessment" provided by section 10-30 of the Property Tax Code.

The appellant asserts that 10 other lots it owns are receiving the preferential assessment provided by section 10-30 of the Property Tax Code. The Board finds this argument is of no consequence given the record in this appeal clearly shows the subject property was the subject matter of a sale transferring ownership from PII Real Estate LLC to Centex Homes, which terminates the preferential assessment.

The appellant did not otherwise challenge the correctness of the assessment of the subject property as established by the Kane County Board of Review. Therefore, on this record, the Property Tax Appeal Board finds that the assessment of the subject property is correct and no reduction in the assessment is justified.

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



Acting Member

DISSENTING: _____

CERTIFICATION

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: October 21, 2016



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.