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

APPELLANT: Ray-Dan Corporation
DOCKET NO.: 12-01709.001-R-2 through 12-01709.007-R-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Ray-Dan Corporation, the appellant, by Daniel J. Kramer, Attorney at Law, in Yorkville, 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:

| DOCKET NO | PARCEL NUMBER | LAND | IMPRVMT | TOTAL |
|---|---|---|---|---|
| 12-01709.001-R-2 | 12-26-478-001 | 27,979 | 0 | $27,979 |
| 12-01709.002-R-2 | 12-25-353-006 | 27,979 | 0 | $27,979 |
| 12-01709.003-R-2 | 12-25-353-007 | 27,979 | 0 | $27,979 |
| 12-01709.004-R-2 | 12-25-354-001 | 27,979 | 0 | $27,979 |
| 12-01709.005-R-2 | 12-25-354-002 | 27,979 | 0 | $27,979 |
| 12-01709.006-R-2 | 12-26-478-003 | 27,979 | 0 | $27,979 |
| 12-01709.007-R-2 | 12-26-478-004 | 27,979 | 0 | $27,979 |

Subject only to the State multiplier as applicable.

## Statement of Jurisdiction

The appellant timely filed the appeal from decisions of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessments 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 seven vacant parcels of land that range in size from 14,001 to 14,836 square feet of land area. The property is located in Batavia, Batavia Township, Kane County.

The appellant put forth a contention of law as the basis of the appeal. In support of this legal argument, the appellant's counsel filed a brief contending that the subject parcels were improperly denied an agricultural valuation in accordance with the preferential assessment

provisions of Section 10-30 (35 ILCS 200/10-30) of the Property Tax Code (hereinafter "Code"), also known as the developer's exemption.

In the brief, counsel further reported that the subject subdivision is known as Cherry Cove Subdivision and "prior to the subdivision of the property" the property had been used for farming. The appellant, who was also the original developer, obtained approval for a 5.93-acre subdivision in or around January 20, 1998. Counsel argued that the seven parcels in this appeal have remained in the same condition and under the same ownership of the original developer and therefore, the lots should be given preferential treatment in accordance with Section 10-30 of the Code.

Counsel further asserted the property was platted and subdivided in accordance with the Plat Act. The platting occurred after January 1, 1978. At the time of platting, the property was in excess of 5 acres and at the time of platting, the property was vacant or used as farmland as defined in Section 1-60.

It was argued that the reassessment of the property "due to the removal of Developer Assessment Relief Legislation" was in derogation to both the legislative intent of Section 10-30 and case law interpreting the provision.

Based on the foregoing arguments, the appellant seeks an agricultural assessment of the subject parcels in accordance with the preferential assessment provisions of Section 10-30 of the Code.[1] The appellant requested the assessment of each parcel be reduced to $3,500.

The board of review submitted its "Board of Review Notes on Appeal" as to each of the seven parcels disclosing the individual assessments for each of the parcels of $27,979.

In response to the appeal, the board of review submitted a memorandum and data prepared by the Batavia Township Assessor's Office. The memorandum asserted that two of the parcels are not entitled to preferential assessments as the properties have transferred twice prior to January 1, 2009. However, the assessor "agree[s] with the owner's requested value of $16,665" for the other five parcels.[2] In addition, a memorandum prepared by Mark D. Armstrong, CIAO and Clerk of the Kane County Board of Review was also submitted; the memorandum generally discusses Section 10-31 of the developer's exemption in the Code with reference to property other than the subject parcels.

Parcel 12-26-478-001 and parcel 12-25-354-002 reportedly have sold. The assessing officials provided property record cards for each of these parcels which have minimal information that sales occurred in 2002 of these parcels. While there are "sale" dates in 2010 and 2011, the data does not indicate a sale price related to these later dates on the respective property record cards. Moreover, each of the seven parcels have these identical "sale" dates in 2010 and 2011 for each of the properties without any recorded sale price(s) on the respective property record cards.

[1] The appellant made no alternative request and provided no evidence to challenge the market value of the subject parcels.

[2] As to the assessor's statement, the record is confusing. The appellant requested an assessment for each parcel of $3,500. Mathematically $16,665 divided by 5 parcels would reflect $3,333 for each parcel. Thus, the record does not reflect the "agreement" stated by the township assessor.

Based on this evidence, the board of review through the township assessor contends that no reduction is warranted as to parcels 12-26-478-001 and 12-25-354-002 due to sales of the parcels subsequent to the subdivision of the property, but the assessor agrees that the remaining five parcels should each have an assessment of $3,333 or a total of $16,665.

## Conclusion of Law

The parties presented no objection to a decision in this matter being rendered on the evidence submitted in the record. Therefore, the decision of the Property Tax Appeal Board contained herein shall be based upon the evidence contained in and made a part of this record.

Factually the parties do not dispute that Ray-Dan Corporation was the initial owner of the subject parcels. The appellant reported that the owner of the land platted the property as Cherry Cove Subdivision, a 5.93-acre subdivision, in or around January 20, 1998. There is no dispute that the property was platted in accordance with the Plat Act; the platting occurred after January 1, 1978; the property was in excess of 5-acres when it was subdivided; and the property was, as of the assessment date at issue, vacant.

As to the application of the Code, based on the appellant's brief set forth above, the subject parcels were never entitled to "preferential" treatment as at the time of platting as the property was not in excess of 10 acres.

As of in or around January 20, 1998, when the subject parcel was platted, Section 10-30 of the Code stated in pertinent part:

> (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 *10 acres*; **and**
> (4) At the time of platting the property is vacant or used as a farm as defined in Section 1-60. . . .

(35 ILCS 200/10-30) [Emphasis added.] Section 10-30(a)(3) of the Code was amended effective January 1, 2008 reducing the 10-acre size requirement to a 5-acre size requirement. (P.A. 95-135, eff. Jan. 1, 2008)

Factually the parties agree that the parcel was platted on or around January 20, 1998. As of January 20, 1998, the requirements of Section 10-30 of the Code included that the property be **in excess of 10 acres when platted** (Section 10-30(a)(3)). The parties both agree that the subject property was 5.93-acres at the time of platting. As such, the provisions of Section 10-30 of the Code have not all been met and the Property Tax Appeal Board finds that subject parcel does not

qualify for the developer's exemption under Section 10-30 of the Code since it was not in excess of 10 acres when platted.

This interpretation of the Code is further supported by the Illinois Department of Revenue's Publication 134, Developer's Exemption Property Tax Code, Section 10-30 (October 2007). On page 2, Publication 134 notes that of the four criteria to qualify for the developer's exemption, "before January 1, 2008, the subdivision had to be more than 10 acres when platted."

In conclusion and as discussed above, the subject property is not entitled to the developer's exemption as set forth in Section 10-30 of the Property Tax Code and, therefore, no change in the subject's equalized assessment is warranted on this record.

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

Acting 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: August 18, 2017

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.