



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

APPELLANT: Terry Hansen
DOCKET NO.: 12-04382.001-C-1 through 12-04382.004-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Terry Hansen, the appellant; and the Jersey County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **A Reduction** in the assessment of the property as established by the **Jersey** County Board of Review is warranted.¹ The correct assessed valuation of the property is:²

| DOCKET NO | PARCEL NUMBER | LAND | IMPRVMT | TOTAL |
|--------------------------------|-----------------------------|---------------------|-----------------|-----------------------|
| <i>12-04382.001-C-1</i> | <i>04-139-001-05</i> | <i>0</i> | <i>0</i> | <i>\$0</i> |
| 12-04382.002-C-1 | 04-139-001-06 | 22,770 | 0 | \$22,770 |
| 12-04382.003-C-1 | 04-139-001-10 | 30,140 | 0 | \$30,140 |
| <i>12-04382.004-C-1</i> | <i>04-019-001-00</i> | <i>6,455</i> | <i>0</i> | <i>\$6,455</i> |

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from decisions of the Jersey 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.

Analysis

Appearing before the Property Tax Appeal Board was the appellant, Terry Hansen. Appearing before the Property Tax Appeal Board on behalf of the Jersey County Board of Review were the Jersey County State's Attorney, Benjamin L. Goetten, and the Jersey County Supervisor of Assessments, Crystal Perry.

The subject property consists of the Wolves' Crossing Golf Course, an eighteen-hole golf course, located in Jerseyville, Jersey Township, Jersey County. Parcel Number (PIN) 04-139-001-05 is

¹ The parcels in italics and bold reflect assessment reductions.

² The assess value for PIN 04-139-001-05 reflects an open space assessment. The assessed values for parcel numbers 04-139-001-06 and 04-139-001-10 reflect their open space assessments. The assessed value for parcel number 04-019-001-00 reflects a farmland assessment.

designated as being for the clubhouse and maintenance sheds located on the golf course. The clubhouse is composed of a one-story building with 3,312 square feet of above grade building area. The building was constructed in 1993. The clubhouse has a full basement with an integral garage. The property record card provided by the board of review disclosed the two maintenance sheds have 4,860 square feet and 3,645 square feet of building area, respectively.

PINs 04-139-001-06 and 04-139-001-10 make up the Wolves' Crossing Golf Course and have 49 acres and 64.87 acres, respectively.

PIN 04-019-001-00 is an undeveloped tract of land that is part of the Wolves' Crossing Estates Subdivision. The tract has 25.27 acres.

The appellant argued the appeal was based on a contention of law founded on the opinion issued by the appellate court in Onwentsia Club v. Illinois Property Tax Appeal Board, 2011 IL App (2d) 100388, 953 N.E. 2d 1010, 352 Ill.Dec. 329. He argued that pursuant to this opinion, everything associated with the golf course should be assessed as open space pursuant to section 10-155 of the Property Tax Code (35 ILCS 200/10-155). The appellant's primary focus was with the assessment of the clubhouse located on PIN 04-139-001-05.

During the course of the hearing the supervisor of assessments testified that PIN 04-139-001-05 had a \$0 land assessment because only the building or improvements were being assessed. She testified that the \$53,610 improvement assessment on this PIN was for the clubhouse and that the land assessment was combined with the other parcels.³ The aerial photograph of PIN 04-139-001-06 depict that the clubhouse and maintenance buildings are actually located on this parcel.⁴

Hansen testified that located in the clubhouse is a pay station to pay the green fees, an area to sit down or congregate, an area where accessories such as tees and golf balls are sold, two restrooms, a game room that measures approximately 8 feet by 12 feet or 14 feet, an office, and a back room used for functions associated with the golf course such as silent auctions. The back room is used from 5 to 15 times per year. There is also a storage area, formerly kitchen area, for beverages and accessories, such as paper cups, for use on the golf course. Hansen testified no meals are prepared in the kitchen. The appellant explained that hot dogs or bratwurst may be prepared on little machines in the bar area of the clubhouse. Hansen explained that he uses the office area for paperwork associated with the golf course. The appellant explained that the back room is used periodically when tables are set up during golf tournaments. Hansen further explained that in 2012 the area that is designated as a game room was an office; in the last year or two that area has been converted to a room for video gaming. The appellant testified that the approximately one-half to two-thirds of the basement area is used to store golf carts, golf cart accessories such as tires and covers, and a power washer. The remaining portion of the basement is sectioned off and heated. The appellant indicated that the heated area in the basement may be used for parties and is currently used to store old golf course records. The appellant asserted other than the game room, the entire building is being used for golf related purposes.

³ The board of review submitted a copy of the property record card for this parcel which included a sketch of the clubhouse with the various rooms being designated.

⁴ The Property Tax Appeal Board makes no finding on the propriety of establishing a separate PIN to assess the building improvements rather than including the improvement assessment with the underlying PIN on which they are located.

The appellant indicated that the maintenance buildings located on PIN 04-139-001-05 house the equipment used to maintain the golf course or are used to provide a place to service the golf course equipment. The newer maintenance building also stores chemicals such as fertilizer and pesticides used on the golf course.

It was the appellant's position that the clubhouse as well as the maintenance buildings are used to facilitate the property being used as a golf course and should have a \$0 assessment as open space.

At the hearing the appellant presented no arguments with respect to the remaining parcels under appeal.

Under cross-examination, the appellant testified the only equipment in the kitchen was a hood and the room was not functional as a kitchen. The appellant testified the kitchen has a sink but that is used to wash golf balls. He also testified there is a washing machine in the basement that is used to wash golf balls. The appellant further testified that the so called "banquet room" (back room) is used predominately for golf related purposes.

The board of review submitted its "Board of Review Notes on Appeal" for each of the parcels under appeal. The submission from the board of review disclosed PIN 04-139-001-05 had a total assessment of \$53,610; PIN 04-139-001-06 had a total assessment of \$22,770; PIN 04-139-001-10 had a total assessment of \$30,140; and PIN 04-019-001-00 had a total assessment of \$15,490.

Called as a witness on behalf of the board of review was the Jersey County Supervisor of Assessments, Crystal Perry. With respect to PIN 04-139-001-05, Ms. Perry was of the opinion that 45% of the clubhouse should be considered open space. In accordance with a written statement submitted to the Property Tax Appeal Board by the previous supervisor of assessments dated August 16, 2014, Perry agreed that the clubhouse had an assessment of \$48,250 that should be lowered to \$40,000 due to condition and lowered another 45% due to its use for open space purposes, resulting in a revised assessment of \$22,000. The witness also agreed that the maintenance sheds had assessments of \$5,360 and \$4,305 that should be reduced to \$0 as they are used to maintain the golf course. In the written submission the board of review indicated that the bar area, bathrooms, office, some of the storage and the integral garage were being used to maintain the golf course. The board of review was willing to stipulate to a revised improvement assessment on this parcel of \$22,000.

Both the appellant and the board of review were in agreement with the assessments of the remaining parcels under appeal, which are outlined as follows.

With respect to PIN 04-139-001-06 and PIN 04-139-001-10, the parcels that compose the golf course, the supervisor of assessments indicated that both parcels are receiving an open space assessment of \$465 per acre. The supervisor of assessments indicated the open space assessment

for PIN 04-139-001-06 was \$22,770 and the open space assessment for PIN 04-139-001-10 was \$30,140.⁵

With respect to PIN 04-019-001-00, the supervisor of assessments testified that the board of review was willing to stipulate to a revised assessment of \$6,455 as a farmland assessment as some of this tract is farmed and the home was no longer on this parcel. The appellant did not disagree with or contest this proposed revised assessment.

Conclusion

The appellant's argument is based on a contention of law that the subject property, specifically the clubhouse, should receive the preferential open space assessment as provided by section 10-155 of the Property Tax Code (35 ILCS 200/10-155). Where a contention of law is made the standard of proof is the preponderance of the evidence. (See 5 ILCS 100/10-15).

The issue in this appeal deals with application of section 10-155 of the Code, the open space statute, to the clubhouse located on the subject golf course. Section 10-155 of the Code provides in part:

§10-155. Open space land; valuation. In all counties, in addition to valuation as otherwise permitted by law, land which is used for open space purposes and has been so used for the 3 years immediately preceding the year in which the assessment is made, upon application under Section 10-160, shall be valued on the basis of its fair cash value, estimated at the price it would bring at a fair, voluntary sale for use by the buyer for open space purposes.

Land is considered used for open space purposes if it is more than 10 acres in area and: . . .

(d) conserves landscaped areas, such as public or private golf courses. . .

Land is not considered used for open space purposes if it is used primarily for residential purposes.

If the land is improved with a water-retention dam that is operated primarily for commercial purposes, the water-retention dam is not considered to be used for open space purposes despite the fact that any resulting man-made lake may be considered to be used for open space purposes under this Section. (35 ILCS 200/10-155).

Both appellant and the board of review agree that the clubhouse is entitled to be considered open space; they disagree on the percentage of the building that is entitled to the open space

⁵ A copy of the property record card and the 2012 Parcel Information Report submitted by the board of review disclosed that PIN 04-139-001-06 had a full market value assessment of \$95,655 and an open space assessment of \$22,770. A copy of the property record card and the 2012 Parcel Information Report submitted by the board of review disclosed that PIN 04-139-001-10 had a full market value assessment of \$126,625 and an open space assessment of \$30,140.

classification. The appellant contends the entire clubhouse should be considered open space while the board of review contends 45% of the building is entitled to the open space assessment. It is undisputed that the clubhouse is part of a public golf course, which is one of the enumerated uses that qualify for the open space designation as set forth in section 10-155(d) of the open space statute. (35 ILCS 200/10-155(d)).

In Onwentsia Club v. Illinois Property Tax Appeal Board, 2011 IL App (2d) 100388, 953 N.E.2d 1010, 352 Ill.Dec. 329, (hereinafter "Onwentsia I") the court broadly construed the word "conserve" in section 10-155(d) of the Property Tax Code to mean "to keep in a safe or sound state . . ." or "to preserve." 2011 IL App (2d) 100388 at ¶10, 953 N.E.2d at 1013. The court in construing section 10-155(d) of the Property Tax Code stated:

[T]he plain language of the statute indicates that the legislature intended to grant open-space status not only to land that actually constitutes a landscaped area, but also to land that facilitates the existence of (*i.e.*, conserves) a landscaped area. Id.

The court concluded that the fact that a particular piece of land has some improvement upon it - including in some cases a building - does not preclude the land from being deemed open space. Onwentsia I, 2011 IL App (2d) 100388 at ¶11, 953 N.E.2d at 1014. In construing the statute, the court determined that an improvement does not defeat the open space status unless the improvement is a commercial water-retention dam or a residential use. Onwentsia I, 2011 IL App (2d) 100388 at ¶14, 953 N.E.2d at 1014-1015. The court stated that, "the requirement that land *conserve* a landscaped area is broader and more inclusive than actually *being* a landscaped area." Onwentsia I, 2011 IL App (2d) 100388 at ¶14, 953 N.E.2d at 1015.

The court in Onwentsia I ultimately held "that land, even if it contains an improvement, may be granted open-space status if it conserves landscaped areas." 2011 IL App (2d) 100388 at ¶16, 953 N.E.2d at 1015. The court explained that "[a] golf course typically requires certain appurtenances in order to function, such as parking areas, a building in which to conduct the course business (*i.e.*, a clubhouse), and perhaps a building to support the physical maintenance of the course." Id. The court reasoned that "[s]ince they facilitate the existence of the golf course, and the course conserves landscaped areas, such improvements also can be said to conserve landscaped areas." Id.

The court explained that if an improvement contributes to the nature of the land as a landscaped area, it fits within the statutory definition of open space. The court stated that to the extent improved land facilitates a golf course being a golf course, it conserves a landscaped area. In vacating the decision of the Property Tax Appeal Board and remanding with directions, the court in Onwentsia I determined that the Property Tax Appeal Board had applied an incorrect standard and should have considered whether the land, improved or not (so long as not improved with a residence or commercial water-retention dam), conserves a landscaped area (that is, facilitates the existence of such an area). 2011 IL App (2d) 100388 at ¶18, 953 N.E.2d at 1016.

In Lake County Board of Review v. Property Tax Appeal Board, 2013 IL App (2d) 120429, 989 N.E.2d 745, 371 Ill.Dec. 155, (hereinafter "Onwentsia II") the court again vacated the decision of the Property Tax Appeal Board and remanded the matter with directions. In Onwentsia II the court held the Property Tax Appeal Board's application of the relevant portion of section 10-155

of the Code was overbroad. In construing section 10-155(d) of the Code in Onwentsia II the court stated:

Nothing in the statute indicates that the legislature intended to create an enormous tax shelter whereby any parcel of property associated in some way with a golf course would escape taxation. Moreover, it is axiomatic that we are to construe tax exemptions "narrowly and strictly in favor of taxation" (citation omitted) and the burden to prove a tax exemption lies with the taxpayer (citation omitted). **Accordingly, we hold that "conserve" as it is used in section 10-155 of the Code (citation omitted) must be construed narrowly, and in turn, there must be some substantial nexus between the land for which the exemption is claimed and the landscaped area it is claimed to conserve. That is to say, the improvement in question must directly relate to and thus facilitate the existence of the golf course.** Onwentsia II, 2013 IL App 2d 120429 ¶10 (Emphasis added).

The burden in this appeal was on the appellant to prove the improvements in question, the clubhouse, directly related to and facilitated the existence of the golf course. The testimony provided by the appellant demonstrated that the primary use of the clubhouse related directly to the operation of the golf course. The clubhouse was used to collect green fees; to sell golf accessories such as tees and balls; provided a location for golfers to purchase refreshments; provided restroom facilities for golfers; provided office space to conduct the golf course business activities; provided an area for golfers to congregate before or after golfing; and had a basement to store equipment, such as golf carts, and business records. The testimony provided by the appellant was not refuted by the board of review. The Board finds the testimony provided by the appellant demonstrated there was a substantial nexus between the clubhouse and the golf course. The Board finds the predominate overall use of the clubhouse in 2012 directly relates to the existence of the golf course. The Board finds there was testimony that the clubhouse currently has a room for video gaming; however, the appellant testified this use was not present in 2012 and the room was used for office space at that time. Additionally, the room used for gaming encompasses minimal space in relation to the entire building area. Based on this record the Property Tax Appeal Board finds the entire clubhouse is entitled to an open space designation and assessment in 2012.

The Property Tax Appeal Board further finds the parties were in agreement that the maintenance buildings that were assessed to PIN 04-139-001-05 pertained to conserving the golf course and were entitled to the open space designation. This agreement is supported by the appellant's testimony that the buildings housed golf course tools and equipment, were used to repair the golf course equipment and stored chemicals and fertilizers that were used to preserve the golf course grounds.

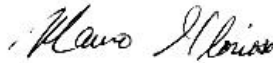
Based on this record the Property Tax Appeal Board finds PIN 04-139-001-05, assessed as being improved with the clubhouse and maintenance buildings, is entitled to an open space assessment. As held by the court in Consumers IL Water Co. v. Property Tax Appeal Board, 363 Ill.App.3d 646, 844 N.E.2d 71, 300 Ill.Dec. 399 (4th Dist. 2006), "section 10-155 of the Code (35 ILCS 200/10-155) provides a single assessment value, and thus improvements do not have their own assessment value." Consumers IL Water Co., 363 Ill.App.3d at 652, 844 N.E.2d at 75, 300

Ill.Dec. at 403. Therefore, the Board finds PIN 04-139-001-05 is entitled to an open space assessment and there should be no improvement assessment associated with the clubhouse and the maintenance buildings.⁶

As noted, the parties were in agreement with respect to the assessments of the remaining PINs under appeal.

⁶ The Property Tax Appeal Board finds that the underlying PIN on which the clubhouse and maintenance buildings area located, PIN 04-139-001-06, is receiving an open space designation and an open space assessment.

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



Acting 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:

May 19, 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.