



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

APPELLANT: River Key Construction Inc.  
DOCKET NO.: 13-02012.001-R-1 through 13-02012.063-R-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are River Key Construction Inc., the appellant, by attorney Robert A. Calgare, of Conde, Killoren, Bueschel & Calgare in Rockford; and the Winnebago 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 **Winnebago** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
13-02012.001-R-1	07-24-426-004	864	0	\$864
13-02012.002-R-1	07-24-426-005	864	0	\$864
13-02012.003-R-1	07-24-426-006	864	0	\$864
13-02012.004-R-1	07-24-426-007	864	0	\$864
13-02012.005-R-1	07-24-426-008	864	0	\$864
13-02012.006-R-1	07-24-426-009	864	0	\$864
13-02012.007-R-1	07-24-426-010	864	0	\$864
13-02012.008-R-1	07-24-426-011	864	0	\$864
13-02012.009-R-1	07-24-426-012	864	0	\$864
13-02012.010-R-1	07-24-426-013	864	0	\$864
13-02012.011-R-1	07-24-426-014	864	0	\$864
13-02012.012-R-1	07-24-426-015	864	0	\$864
13-02012.013-R-1	07-24-426-016	864	0	\$864
13-02012.014-R-1	07-24-427-005	864	0	\$864
13-02012.015-R-1	07-24-427-006	864	0	\$864
13-02012.016-R-1	07-24-427-007	864	0	\$864
13-02012.017-R-1	07-24-427-008	864	0	\$864
13-02012.018-R-1	07-24-427-009	864	0	\$864
13-02012.019-R-1	07-24-427-010	864	0	\$864
13-02012.020-R-1	07-24-427-011	864	0	\$864
13-02012.021-R-1	07-24-427-012	864	0	\$864
13-02012.022-R-1	07-24-427-013	864	0	\$864
13-02012.023-R-1	07-24-427-014	864	0	\$864
13-02012.024-R-1	07-24-427-015	864	0	\$864
13-02012.025-R-1	07-24-427-017	864	0	\$864

13-02012.026-R-1	07-24-427-018	864	0	\$864
13-02012.027-R-1	07-24-427-019	501	0	\$501
13-02012.028-R-1	07-24-427-020	501	0	\$501
13-02012.029-R-1	07-24-455-001	1,663	0	\$1,663
13-02012.030-R-1	07-24-455-003	1,663	0	\$1,663
13-02012.031-R-1	07-24-455-008	1,663	0	\$1,663
13-02012.032-R-1	07-24-455-012	1,232	0	\$1,232
13-02012.033-R-1	07-24-455-013	1,232	0	\$1,232
13-02012.034-R-1	07-24-455-015	1,232	0	\$1,232
13-02012.035-R-1	07-24-455-017	1,232	0	\$1,232
13-02012.036-R-1	07-24-455-026	1,232	0	\$1,232
13-02012.037-R-1	07-24-455-028	1,232	0	\$1,232
13-02012.038-R-1	07-24-456-001	1,663	0	\$1,663
13-02012.039-R-1	07-24-456-003	1,663	0	\$1,663
13-02012.040-R-1	07-24-476-023	1,232	0	\$1,232
13-02012.041-R-1	07-24-476-025	1,232	0	\$1,232
13-02012.042-R-1	07-24-476-031	1,232	0	\$1,232
13-02012.043-R-1	07-24-476-032	1,232	0	\$1,232
13-02012.044-R-1	07-24-476-033	1,232	0	\$1,232
13-02012.045-R-1	07-24-476-034	1,232	0	\$1,232
13-02012.046-R-1	07-24-476-035	1,232	0	\$1,232
13-02012.047-R-1	07-24-476-040	1,232	0	\$1,232
13-02012.048-R-1	07-24-476-041	1,232	0	\$1,232
13-02012.049-R-1	07-24-476-046	501	0	\$501
13-02012.050-R-1	07-24-476-047	501	0	\$501
13-02012.051-R-1	07-24-476-048	501	0	\$501
13-02012.052-R-1	07-24-476-049	501	0	\$501
13-02012.053-R-1	07-24-476-052	501	0	\$501
13-02012.054-R-1	07-24-477-001	1,663	0	\$1,663
13-02012.055-R-1	07-24-477-006	1,663	0	\$1,663
13-02012.056-R-1	08-19-301-009	501	0	\$501
13-02012.057-R-1	08-19-301-010	501	0	\$501
13-02012.058-R-1	08-19-301-011	501	0	\$501
13-02012.059-R-1	08-19-301-012	501	0	\$501
13-02012.060-R-1	08-19-301-013	501	0	\$501
13-02012.061-R-1	08-19-301-015	501	0	\$501
13-02012.062-R-1	08-19-301-016	501	0	\$501
13-02012.063-R-1	08-19-301-017	501	0	\$501

Subject only to the State multiplier as applicable.

For purposes of this appeal and pursuant to Property Tax Appeal Board rule 1910.78 (86 Ill.Admin Code §1910.78), Docket No. 13-02012.001-R-1 through 13-02012.063-R-1 was consolidated with Docket No. 14-02929.001-R-1 through 14-02929.063-R-1 and Docket No. 15-

00823.001-R-1 through 15-00823.062-R-1 for purposes of oral hearing. A separate decision will be issued for each docket number.

### **Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Winnebago County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 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 63 vacant lots of various size containing a total of 21.41 acres of land area. The subject lots consist of countryside (no water frontage), canal (water frontage along the interior canals) and river (water frontage along Rock River) and are located within the River Key Subdivision, Plats 1, 2 & 3, in Owen Township, Winnebago County, Illinois.

The appellant appeared before the Property Tax Appeal Board contending assessment inequity as the basis of the appeal. In support of this argument the appellant submitted Plat 1, containing 7 lots; Plat 2, containing 16 lots; and Plat 3, containing 41 lots. The appellant also submitted a spreadsheet summarizing all parcels within Winnebago County receiving an assessed value of less than \$100 since the 2009 real estate tax assessment year. For 2013, 2014 and 2015, the subject parcels are receiving a preferential "Developer's Relief Assessment" pursuant to Section 10-30 of the Property Tax Code (35 ILCS 200/10-30).

Section 10-30(b) of the Code states in relevant part:

- (a) ... 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: ... (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.

(35 ILCS 200/10-30(b))

The appellant argues that based on similarly situated lots with similar characteristics, the subject parcels are inequitably assessed. Appellant argues that it is the practice of the Winnebago County Board of Review, with the exception of the appellant's parcels in River Key Subdivision (coded 0039), to assess properties coded 0039, 0059 and 0089 at values of \$100 or less. River Keys Construction purchased the subject lots in 1998. The appellant argued that the subject land was farmed in 1998 and assessed as class code 0020 (vacant farmland). In 2000, improvements

such as canal excavation, raising grade elevations above flood elevations, grading, water, sanitary and sewer installations and roadways began. In 2000 the land was reclassified as vacant land. Plat 1, 7 lots containing 38.97 acres was recorded in 2001, Plat 2, 16 lots containing 21.21 acres was recorded in 2004 and Plat 3, 41 lots containing 15.14 acres was recorded in 2007.

The appellant argued that the reclassification in 2000 resulted in a land assessment increase of approximately 85%. Appellant argued the subject lots have a total land assessment of approximately \$60,100, reflecting a market value of \$181,297 or \$8,468 per acre.<sup>1</sup> Wherein, if they were assessed correctly (at \$100), the subject lots would have a land assessment total of \$6,400 reflecting a market value of \$19,200 or \$245.30 per acre.<sup>2</sup>

Tammy Veitch, Secretary of River Key Construction, was called as a witness and testified that similar lots within Winnebago County were assessed at levels lower than the subject lots. Ms. Veitch pointed out 6 lots receiving an assessment less than the subject. Appellant's exhibit "A" represents 7 lots (Plat 1), 16 lots (Plat 2) and 40 lots (Plat 3) located in River Key Subdivision retained by the taxpayer which are receiving assessments in excess of \$100.

During cross-examination, Veitch testified that in 2013 canal lots were marketed for between \$75,000 and \$90,000 with waterfront lots averaging between \$78,000 and \$80,000 with a countryside lot selling for less than \$20,000. Based on this evidence, the appellant requested a reduction in the assessments of the subject parcels.

On redirect, Veitch testified 1,942 lots were coded 0039 in Winnebago County, and of that number 1,558 were receiving assessments less than \$100. Each lot under appeal is a vacant residential lot, approximately 1/3 of an acre, with some having water frontage. Veitch testified that 5 lots in "Stevens Ridge Development" are comparable to a "country side" River Key lot and are assessed at \$100 or less.<sup>3</sup>

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject parcels of \$60,100 reflecting a market value of \$181,297 or approximately \$8,468 per acre using the 2013 three-year average median level of assessments for Winnebago County of 33.15% as determined by the Illinois Department of Revenue. It was argued the Illinois Property Tax Code requires the vacant lots be assessed as if they were not platted or otherwise improved. Thus, the assessment is based on the market value of land as if it were vacant non-farmland 21.41 acres with some frontage on Rock River.

The board of review further argued, the subject properties were not farmed in 2000, 2001 or any time since. Thus, the board of review argued that in 2001, the subject parcels were assessed as vacant non-farmland and their assessment was based on the market value of vacant land pursuant to Section 10-30 of the Code. It was argued the subject parcels as well as the appellant's comparables were all assessed under 35 ILCS 200/10-30 by looking at their use prior to platting

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<sup>1</sup> Appellant's brief depicts appellant holds title to 64 of the development's 150 platted lots as of 2013. One lot was inadvertently not appealed to the Property Tax Appeal Board.

<sup>2</sup> Based on 78.27 acres of platted lots and vacant land.

<sup>3</sup> Parcel numbers 07-35-177-001, 07-35-177-006, 07-35-177-002, 07-35-177-003 and 07-35-177-004 in appellant's exhibit "A."

and in accordance with Illinois Appellate Court interpretations in Mill Creek Development, Inc. v. Property Tax Appeal Board, 345 Ill.App.3d 790 (3<sup>rd</sup> Dist. 2003) and Paciga v. Property Tax Appeal Board, 322 Ill.App.3d 157 (2<sup>nd</sup> Dist. 2001).

On direct examination, Brent Ferguson, the Owen Township Assessor, testified that lots in Owen Township that were farmed immediately prior to platting were receiving assessments of approximately \$100. However, if they were not farmland immediately prior to platting, and were vacant non-farmland, they were receiving an assessment over \$100. Ferguson testified the difference was caused by the statute's interpretation that the use of the property immediately prior to platting, which determined the assessment, was frozen at time of platting, subject only to yearly equalization factors. The subject parcel assessments were based on their vacant non-farm use immediately prior to platting. Ferguson stated that in Owen Township, all vacant residential non-farmland lots, are assessed uniformly. Ferguson further testified that the preferential assessments pursuant to Section 10-30 of the Code created non-uniform assessments within Owen Township because of use immediately prior to platting. Code 0039 means the parcel is receiving the "Developer's Relief" preferential assessment according to use immediately prior to platting. Ferguson testified the difference between the assessments is caused by the subject parcel's use immediately prior to platting. Ferguson testified that the lots in "Stevens Ridge Development" were vacant farmland immediately prior to platting and were therefore assessed at \$100, unlike the subject. Ferguson further testified that River Keys is the only subdivision in Owen Township that is vacant non-farmland that is receiving the "Developer's Relief" preferential assessment; there were no other vacant non-farmland lots in Owen Township receiving the preferential assessments.

### **Conclusion of Law**

The taxpayer contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the assessments of the subject parcels is not warranted.

The Board finds Section 10-30 of the Code requires the assessment of the subject parcels be based on the use of the property immediately prior to platting (35 ILCS 200/10-30). The record further depicts the subject parcels were not farmed in 2000 or thereafter. The record disclosed the subject parcels were classified and assessed as vacant non-farmland immediately prior to platting (2001, 2004 and 2007) and were assessed according to use at time of platting for tax years 2013, 2014 and 2015. Ferguson testified that all vacant non-farm land property within Owen Township was assessed uniformly depending on the various features and use immediately prior to platting. He further stated that the six comparables relied upon by the appellant were farmed immediately prior to platting, and therefore, were not similar to the subject at time of platting. The subject parcels under appeal are the only parcels within Owen Township that were not farmed immediately prior to platting. Appellant's counsel stated that customarily lots are farmed right up until platting occurs, and he was not aware of other non-farmland lots receiving

preferential treatment under Section 10-30 of the Code that were platted. Ferguson explained that even though they may have similar characteristics in 2013 or other years, their assessments were based on their assessed use immediately prior to when they were originally platted, until development occurs.

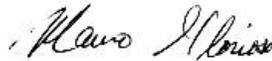
The court in Paciga v. Property Tax Appeal Board, 322 Ill.App.3d 157 (2<sup>nd</sup> Dist. 2001) held that “property at issue must be assessed at the assessed valuation prior to platting.” Id. at 163. In addition, the court in Mill Creek Development, Inc. v. Property Tax Appeal Board, 345 Ill.App.3d 790 (3<sup>rd</sup> Dist. 2004) held that “the tax valuation must remain at its prior assessment level until development has occurred pursuant to Section 10-30(c).” Id. at 794.

The record is clear the subject parcels were not farmed in 2000 and thereafter. The record also depicts the subject parcels were reclassified and assessed as vacant non-farmland in 2000, immediately prior to platting, which occurred in 2001, 2004 and 2007. The record further reveals the subject parcels were assessed as non-farmland vacant property according to use immediately prior to platting, subject only to equalization. The Board finds similar type properties that were utilized as non-farmland vacant properties within Owen Township were assessed uniformly.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the parties disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity, which appears to exist on the basis of the evidence presented.

Based on the above analysis, the Board finds a reduction in the subject assessments is not warranted based on Section 10-30 of the Property Tax Code and the holdings in Paciga and Mills Creek Development, Inc. that the assessments immediately prior to platting shall remain in effect until development occurs pursuant to Section 10-30(c) of the Property Tax Code.

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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Member



Member



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: July 17, 2018



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

AGENCY

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