



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

APPELLANT: American Legion Post 199
DOCKET NO.: 13-04277.001-C-1 through 13-04277.004-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are American Legion Post 199 (American Legion), the appellant, by attorney B. Jay Dowling of Sterling and Dowling P.C. in Fairview Heights; and the Madison County Board of Review by John McGuire, Madison County Assistant State's Attorney.

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

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
13-04277.001-C-1	14-1-15-11-17-301-002	9,800	121,320	\$131,120
13-04277.002-C-1	14-1-15-14-00-000-001	0	0	\$0
13-04277.003-C-1	14-1-15-15-08-201-026	0	0	\$0
13-04277.004-C-1	14-1-15-10-20-401-007	56,850	0	\$56,850

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from decisions of the Madison County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessments 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 four parcels containing a total of approximately 49 acres of land improved with the various building improvements and a 9-hole golf course. Parcel number 14-1-15-11-17-301-002 (PIN 002) contains 24 acres and is improved with eight buildings including an 8,916 square foot pre-engineered steel building on a slab foundation constructed in 1980, which includes a bar, kitchen, offices, storage and a

banquet hall; a 1,372 square foot metal storage building constructed in 1986; a 1,700 square foot storage building constructed in 1935; a 2,400 square foot canopy constructed over a concrete slab built in 1979 used as a picnic shelter; a 448 square foot brick structure built in 1940 as a refreshment stand; a 1,152 square foot utility storage shed constructed in 1940; a frame storage building built before 1900; a second brick refreshment stand constructed around 1940; and a 690 square foot concrete patio slab. Parcel number 14-1-15-14-00-000-001 (PIN 001) is composed of 13.39 acres with no improvements but contains portions of the 9-hole golf course. Parcel number 14-1-15-15-08-201-026 (PIN 026) is composed of 3.03 acres with no improvements but contains portions of the 9-hole golf course. Parcel number 14-1-15-10-20-401-007 (PIN 007) is comprised of 8.69 acres with no improvements but contains portions of the 9-hole golf course. The property is located in Edwardsville, Edwardsville Township, Madison County.

The parties identified the 8,916 square foot pre-engineered steel building on a slab foundation constructed in 1980, with the bar, kitchen, offices, storage and a banquet hall located on PIN 002 as the principal building for the American Legion. The appellant's counsel also explained that approximately one acre on parcel 002 has been identified by the board of review as containing the improvements while approximately 23 acres on PIN 002 are part of the 9-hole golf course.

The appellant appeared before the Property Tax Appeal Board by counsel raising a contention of law regarding the interpretation and application of the veterans organization assessment freeze found at section 10-300 of the Property Tax Code (35 ILCS 200/10-300). Section 10-300 of the Property Tax Code provides:

Sec. 10-300. Veterans organization assessment freeze.

- (a) For the taxable year 2000 and thereafter, the assessed value of real property owned and used by a veterans organization chartered under federal law, on which is located the principal building for the post, camp, or chapter, and, for taxable years 2004 and thereafter, the assessed value of real property owned by such an organization and used by the organization's members and guests for parking at the principal building for the post, camp, or chapter, must be frozen by the chief county assessment officer at (i) 15% of the 1999 assessed value of the property for property that qualifies for the assessment freeze in taxable year 2000 or (ii) 15% of the assessed value of the property for the taxable year that the property first qualifies for the assessment freeze after taxable year 2000. If, in any year, improvements or additions are made to the property that would increase the assessed value of the property were it not for this Section, then 15% of the assessed

value of such improvements shall be added to the assessment of the property for that year and all subsequent years the property is eligible for the freeze.

- (b) The veterans organization must annually submit an application to the chief county assessment officer on or before (i) January 31 of the assessment year in counties with a population of 3,000,000 or more and (ii) December 31 of the assessment year in all other counties. The initial application must contain the information required by the Department of Revenue, including (i) a copy of the organization's congressional charter, (ii) the location or description of the property on which is located the principal building for the post, camp, or chapter, (iii) a written instrument evidencing that the organization is the record owner or has a legal or equitable interest in the property, (iv) an affidavit that the organization is liable for paying the real property taxes on the property, and (v) the signature of the organization's chief presiding officer. Subsequent applications shall include any changes in the initial application and shall be signed by the organization's chief presiding officer. All applications shall be notarized.
- (c) This Section shall not apply to parcels exempt under Section 15-145.

The appellant's counsel submitted a brief and various exhibits in support of the legal argument. Appellant's Exhibit C consisted of copies of the 1999 real estate taxes for the four PINs under appeal. The PINs had a combined total equalized assessment of \$88,980. The assessments and taxes for PINs 001, 026 and 007 were attributed to PIN 002. Counsel asserted that for taxable year 2000 Madison County had determined that the real property owned and used by American Legion Post 199 comprised of PINs 002, 026, 001 and 007, totaling approximately 49.22 acres. (Appellant's Exhibit A.) In taxable year 2001 Madison County determined that the 49.22 acres qualified for the veterans organization assessment freeze (veterans freeze) and had a total taxable value of \$13,350, which was 15% of the 1999 assessed value of the property. (Appellant's Exhibit B.) For taxable years 2002 through 2009 the taxable value for PIN 002 remained \$13,350, representing 15% of the 1999 assessed value of \$88,980. (Appellant's Exhibit D.) During those years the assessments and real estate taxes for PINs 001, 026 and 007 continued to be attributed to and included with PIN 002. (Appellant's Exhibits E, F and G.)

The appellant's counsel asserted in the brief that in tax years 2010 and 2011, despite no improvements or additions to the real property owned by the appellant and no changes to the veterans

freeze, Madison County changed the assessment of PIN 007 to \$29,540. (Appellant's Exhibit J.) Despite this change, for tax years 2010 and 2011 Madison County continued to assess PINs 002, 026 and 001 under the tax assessment for PIN 002 at \$13,350, which was 15% of the 1999 assessed value of \$88,980. (Appellant's Exhibits K, L & M.)

The appellant's counsel stated that in tax years 2012 and 2013, despite the fact that there were no improvements or additions made to the real property owned and used by the American Legion, and no changes to the veteran freeze statute, Madison County determined that only 1 acre of PIN 002 qualified for the veterans freeze; the remaining 23 acres of PIN 002 as well as PINs 026, 001 and 007 no longer qualified for the veterans freeze; and 23 acres of PIN 002 and PINs 001, 026 and 007 were assessed as open space pursuant to section 10-155 of the Property Tax Code (35 ILCS 200/10-155). The open space assessments for PINs 002, 001 and 007 were attributed and included with the assessment of PIN 007. (Appellant's Exhibit N.)

Counsel argued that under the provisions of the veterans freeze, Madison County was required to freeze the assessed value of all the real property owned and used by the veteran's organization at either 15% of the 1999 assessed value of the property or 15% of the assessed value of the property for the taxable year in which it first qualifies for the veterans freeze after taxable year 2000. He argued that Madison County initially properly followed the law by determining that the real property owned and used by the American Legion qualified for the veterans freeze and consisted of all of PINs 002, 026, 001 and 007. The appellant argued that the property qualified for the veterans freeze in taxable year 2000 and once qualified there was no provision in the statute which allowed Madison County to reconsider the determination of the qualification for the veterans freeze especially when there had been no change in the law, ownership or use of the real property by the veterans organization. Counsel argued that by removing the veterans freeze from the subject PINs, Madison County violated the rules of statutory construction and the legislative intent of the veterans freeze. The appellant requested the assessment for the subject PINs be reduced to \$13,350, which was 15% of the 1999 assessed value of \$88,980.

Alternatively, the appellant argued that Madison County's decision to subdivide PIN 002 by applying the veterans freeze on 1 acre and assessing 23 acres as open space violated the veterans freeze. The appellant's counsel argued there is no dispute that PIN 002 is owned and used by the American Legion and is the real property on which the principal building is located. The appellant argued that there was no provision in the veterans freeze that permitted Madison County to arbitrarily subdivide the real property owned and used by a veteran's organization so as to apply the freeze to some but not all of the real property. As an alternative the appellant requested that all 24 acres of PIN 002 be assessed at 15% of the 1999 assessed value of \$88,980 or \$13,350 and assess PINs 026, 001 and 007 under the tax assessment

for PIN 007 as open space pursuant to section 10-155 of the Property Tax Code.

Also included with the appellant's submission were the legislative debates surrounding the veterans freeze statute, which were marked as Appellant's Exhibit I.

During the course of his argument, the appellant's counsel asserted that the veterans freeze provided by section 10-300 was not limited to the principal building but extended to all the property owned and used by the veteran's organization. Counsel acknowledged that approximately one acre of the subject property was devoted to the building improvements and the remaining acreage was devoted to the golf course. Counsel explained that the golf course was not reserved for use only by the American Legion but was open to the general public that pay fees to play golf on the course. The appellant's attorney argued that the income generated by the golf course is used to fund the purposes of the veterans organization. He was of the opinion this type of use was consistent with the purpose behind the veterans freeze as espoused in the legislative debates.

The appellant presented no evidence and made no argument with respect to the valuation of the improvements as calculated by the board of review or as to the correct assessment of land used for open space purposes.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the equalized assessments for the respective PINs. PIN 002 had a total equalized assessment of \$131,120; PIN 001 had an assessment of \$0; PIN 026 had an assessment of \$0; and PIN 007 had a total equalized assessment of \$56,850. The board of review indicated that PINs 001 and 002 were assessed with PIN 007. The board of review submitted copies of the property record cards for the respective PINs disclosing the assessment calculations.

Mr. McGuire argued on behalf of the board of review that once the taxing authorities had granted the assessment freeze they are not bound to continue granting the freeze if they later determine it is erroneous. He argued that each individual tax year stands on its own and if a mistake is made it can be corrected.

Mr. McGuire also argued that the veterans freeze applies only to the real property owned and used by the veterans organization on which is located the principal building. He also referenced the legislative debates surrounding House Bill 134 dealing with passage of the veterans freeze submitted by the appellant and the board of review in which Representative Cowlshaw stated in part that:

[V]eteran's organizations. . . who own properties for their local hall or their post home . . . the equalized assessed value of those properties would be reduced by 85% and then frozen. . .

[T]o enable the American Legion and the VFW posts to continue to have a home. . .

[Y]ou had enabled them to keep their American Legion hall, their VFW post, the place where they meet together and renew their friendships, their recollections, their patriotism. (Appellant's Exhibit I and Board of Review Exhibit #5, State of Illinois 91st General Assembly House of Representatives Transcription Debate, May 27, 1999, pages 8-9.)

Mr. McGuire noted there was no reference in the debate to any golf course or any type of other profit making business that may have been run on the site. He further noted that the change to the statute brought about by Public Act 93-753, adding language dealing with the parking lot, would not have been necessary if the assessment freeze applied to all property owned by the veteran's organization as the appellant asserts. (See Board of Review Exhibit #6.)

Bessie Powers, member of the Madison County Board of Review, testified that the assessments for PINs 001 and 026 were placed on PIN 007. Each of these PINs was receiving an open space assessment and valued at \$3,570 per acre. Ms. Powers did not know the fair market value attributed to the land. With respect to the assessment on PIN 026, Ms. Powers testified it was her understanding that the assessment was for one acre and the buildings with the remaining acreage assessed as open space and included with the assessment on PIN 007.

In argument, Mr. McGuire reiterated that the board of review's position was that the veterans freeze applied only to the principal building and the parking lot. He noted that the remaining acreage used as the golf course was assessed as open space even though the appellant had never actually applied for an open space assessment.

In response, the appellant's counsel argued that the appellant owns and uses the golf course to preserve their fraternal organization and meeting place; therefore, he contends the land used as a golf course should likewise receive the veterans freeze.

Conclusion of Law

The appellant's argument is based on a contention of law regarding the interpretation and application of section 10-300 of the Property Tax Code. The standard of proof on a contention of law is a preponderance of the evidence. (See 5 ILCS 100/10-15). Section 10-300 of the Property Tax Code provides in part that:

Sec. 10-300. Veterans organization assessment freeze.

- (a) For the taxable year 2000 and thereafter, the assessed value of real property owned and used by a veterans organization chartered under federal law, on which is located the principal building for the post, camp, or chapter, and, for taxable years 2004 and thereafter, the assessed value of real property owned by such an organization and used by the organization's members and guests for parking at the principal building for the post, camp, or chapter, must be frozen by the chief county assessment officer at (i) 15% of the 1999 assessed value of the property for property that qualifies for the assessment freeze in taxable year 2000 . . . [Emphasis added.]
- (b) The veterans organization must annually submit an application to the chief county assessment officer on or before (i) January 31 of the assessment year in counties with a population of 3,000,000 or more and (ii) December 31 of the assessment year in all other counties. The initial application must contain the information required by the Department of Revenue, including (i) a copy of the organization's congressional charter, (ii) the location or description of the property on which is located the principal building for the post, camp, or chapter, (iii) a written instrument evidencing that the organization is the record owner or has a legal or equitable interest in the property, (iv) an affidavit that the organization is liable for paying the real property taxes on the property, and (v) the signature of the organization's chief presiding officer. Subsequent applications shall include any changes in the initial application and shall be signed by the organization's chief presiding officer. All applications shall be notarized [Emphasis added.]

In discussing statutory interpretation the court in Onwentsia Club v. Illinois Property Tax Appeal Board, 2011 IL App (2d) 100388, stated in part that:

In ascertaining the meaning of a statute, a court must first look to its plain language, as that is usually the best indication of the legislature's intent. (Citation omitted.) Our primary goal is . . . to give effect to the intent of the legislature. (Citation omitted.) Where a statute is unambiguous, we must apply it as written. (Citation omitted.) A statute must be read as a whole, giving effect to all its parts.

Onwentsia Club v. Illinois Property Tax Appeal Board, 2011 IL App (2d) 100388, ¶9. In the context of construing exemptions the court in Lake County Board of Review v. Illinois Property Tax Appeal Board, 2013 IL App (2d) 120429, stated that:

[I]t 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.)

Lake County Board of Review v. Illinois Property Tax Appeal Board, 2013 IL App (2d) 120429, ¶10.

With these precepts the Property Tax Appeal Board will consider this appeal.

The evidence in this appeal disclosed that for the tax year at issue the Madison County Board of Review applied the veterans freeze to the American Legion's principal building and parking lot located on PIN 002; described as an 8,916 square foot pre-engineered steel building on a slab foundation constructed in 1980, inclusive of a bar, kitchen, offices, storage and a banquet hall, as well as the parking area for guests at the principal building. The remaining improvements on PIN 002 did not receive the veterans freeze. The record also disclosed that 23 acres on PIN 002 and the remaining land owned by the appellant located on PINs 001, 026 and 007, used as a golf course did not receive the veterans freeze but were assessed as open space pursuant to section 10-155 of the Property Tax Code. (35 ILCS 200/10-155).

The Board finds that the veterans freeze provided by section 10-300 of the Code is limited to the principal building located on the subject property and the real property used by the appellant's members and guests for parking at the principal building for the post. (See 35 ILCS 200/10-300.) The Board finds this interpretation is supported by the plain language contained in section 10-300(a) of the Property Tax Code and is further supported by the plain language of 10-300(b)(ii) of the Property Tax Code addressing the initial application that must be submitted by the veteran's organization with the chief county assessment officer. Section 10-300(b)(ii) provides that the applicant for the veterans freeze must initially include "the location or description of the property on which is located the principal building for the post, camp or chapter." This language focuses on the principal building of the veterans organization and no other improvement or real property owned by the organization. The Board finds the remaining land owned and used by the appellant as a 9-hole golf course does not qualify for the veterans freeze nor do the additional building improvements located on PIN 002 qualify for the veterans freeze.

The appellant argued that the Madison County Board of Review was precluded from removing the veterans freeze from portions of the property that had been receiving the freeze beginning in 2001. The Board finds this argument is without merit. Section 16-30 of

the Property Tax Code provides in part, "the board of review upon application of any taxpayer or upon its own motion may revise the entire assessment of any taxpayer or any part of the assessment as appears to it to be just." (35 ILCS 200/16-30). Furthermore section 16-55(a) of the Property Tax Code provides in part that, "[o]n written complaint that any property is overassessed or underassessed, the board shall review the assessment, and correct it, as appears to be just" (35 ILCS 200/16-55). Additionally, section 16-55(e) of the Property Tax Code provides in part that:

The board may also, at any time before its revision of the assessments is completed in every year, increase, reduce or otherwise adjust the assessment of any property, making changes in the valuation as may be just, and shall have full power over the assessment of any person and may do anything in regard thereto that it may deem necessary to make a just assessment (35 ILCS 200/16-55(e)).

The Board finds these provisions grant the board of review the statutory authority to revise assessments in any year as appears to be just. Based on this authority the board of review is not precluded from reviewing and revising the assessment on property receiving the veterans freeze provided by section 10-300 of the Property Tax Code.

Based on this record the Property Tax Appeal Board finds that a reduction in the subject's assessment is not 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



Member



Acting 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: March 18, 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.