



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

APPELLANT: Hickory Rowhomes Homeowners Association
DOCKET NO.: 13-29612.001-R-2 through 13-29612.011-R-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Hickory Rowhomes Homeowners Association, the appellant, by attorney Jennifer Truong of McCracken, McCracken & Behrens, P.C. in Chicago; the Cook County Board of Review; and Township High School Dist. #214, intervenor, by attorney Ares G. Dalianis of Franczek Radelet P.C., in Chicago.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds it lacks jurisdiction in this matter and, therefore, the case is dismissed, the Board of Review's Motion to Dismiss For Lack of Standing is **granted**. As a result, there is no change in the assessment of the property as established by the **Cook** County Board of Review:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
13-29612.001-R-2	03-29-403-037-0000	603	47,815	\$48,418
13-29612.002-R-2	03-29-403-038-0000	571	47,919	\$48,490
13-29612.003-R-2	03-29-403-039-0000	593	47,868	\$48,461
13-29612.004-R-2	03-29-403-040-0000	577	47,841	\$48,418
13-29612.005-R-2	03-29-403-041-0000	604	47,843	\$48,447
13-29612.006-R-2	03-29-403-042-0000	566	47,852	\$48,418
13-29612.007-R-2	03-29-403-043-0000	589	47,829	\$48,418
13-29612.008-R-2	03-29-403-044-0000	595	47,894	\$48,489
13-29612.009-R-2	03-29-403-045-0000	585	47,833	\$48,418
13-29612.010-R-2	03-29-403-046-0000	578	47,840	\$48,418
13-29612.011-R-2	03-29-403-047-0000	584	47,906	\$48,490

Subject only to the State multiplier as applicable.

ANALYSIS

The subject properties consist of eleven residential dwellings otherwise known as the Hickory Row Homes. The appellant, Hickory Rowhomes Homeowners Association, filed its appeal based on lack of assessment uniformity for each of the eleven parcels. The subject properties are located in Arlington Heights, Wheeling Township, Cook County.

The Board finds the appellant, Hickory Rowhomes Homeowners Association, timely filed its appeal on April 9, 2014 following a Final Decision issued by the Cook County Board of Review on February 24, 2014 with a final transmittal date for Wheeling Township for tax year 2013 of March 21, 2014.

On February 27, 2015 the Cook County Board of Review was notified of this appeal and given 90 days to file its response.

On May 21, 2015 the Cook County Board of Review filed its Motion to Dismiss For Lack of Standing in the above captioned appeal. By letter dated May 29, 2015, the appellant was informed of this dismissal motion and granted an extension of time to respond. The appellant did not respond to the dismissal motion nor request an additional extension of time to do so. The motion is ripe for ruling.

The Cook County Board of Review argues that petitioner, Hickory Rowhomes Homeowners Association, is not the owner, taxpayer and/or does not have standing conferred on it by operation of statute or case law. (35 ILCS 200/9-175; 86 Ill.Admin.Code §1910.10(c); 86 Ill.Admin.Code §1910.60(a)) Section 1910.10(c) of the rules of the Property Tax Board (86 Ill.Admin.Code §1910.10(c)) states in pertinent part that appeals are permitted if filed by the "taxpayer" or "owner." In further support of its motion, the board of review argued that the homeowner association is not the legal owner of the residential units in the development. See Spring Mill Townhomes Association v. OSLA Financial Services, Inc., 124 Ill.App.3d 774 (1st Dist. 1983).

The board of review further cites a prior decision of the Property Tax Appeal Board in Docket Number 11-02054.001-R-3, issued on October 18, 2013, finding that a townhome association is not a taxpayer, owner or taxing body and does not have standing to file an assessment appeal. (Tyler Bluff Townhome Association, Docket No. 11-02054.001-R-3 through 11-02054.060-R-3, dated 10-18-13). After determining that the townhome association was not the taxpayer or owner of the 60 parcels on appeal, the Property Tax Appeal Board found in light of its rules that only a "taxpayer," "owner," or "taxing district

having an interest in the decision of the board of review" may file an appeal before the Property Tax Appeal Board. Since a townhome association did not qualify as any of those entities, the appeal was dismissed.

The Cook County Board of Review further argued the facts of this appeal are identical to the Property Tax Appeal Board's decision in Tyler Bluff Townhome Association, Docket No. 11-02054.001-R-3 through 11-02054.060-R-3, dated 10-18-13. Based on the foregoing arguments, the Cook County Board of Review requested the appellant's appeal be dismissed for lack of standing to proceed before the Property Tax Appeal Board.

After reviewing the record, the Property Tax Appeal Board finds that it does not have jurisdiction over the parties and the subject matter of this appeal.

The Property Tax Appeal Board finds only taxpayers and those granted statutory standing may pursue an appeal (citing Kankakee County Board of Review v. Property Tax Appeal Board, 316 Ill.App.3d 148 (3rd Dist. 2000); First National Bank v. Mid Central Food Sales, Inc., 129 Ill.App.3d 1002 (1st Dist. 1965)).

Section 1910.40(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.40(b)) states:

If the board of review objects to the Board's jurisdiction, it must submit a written request for dismissal of the petition prior to the submission of the Board of Review Notes on Appeal and accompanying documentation. The request for dismissal must set forth the basis of the board of review's objections to the Property Tax Appeal Board's jurisdiction over the appeal. In such cases, the Property Tax Appeal Board shall transmit a copy of the request for dismissal to the contesting party and secure a written response to the request for dismissal from the contesting party within 30 days after the postmark date of the notice of the filing of the motion to dismiss. A copy of the response shall be transmitted to the board of review. Upon receipt of the request for dismissal and the response, the Property Tax Appeal Board shall issue a decision determining if it has jurisdiction in the matter.

The Board finds the Cook County Board of Review objected to the Property Tax Appeal having jurisdiction over the above captioned

2013 tax year appeal pursuant to Section 1910.40(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.40(b)).

The Board further finds Section 16-160 of the Property Tax Code (35 ILCS 200/16-160) states in relevant part:

In counties with 3,000,000 or more inhabitants, beginning with assessments made for the 1996 assessment year for residential property of 6 units or less and beginning with assessments made for the 1997 assessment year for all other property, and for all property in any county other than a county with 3,000,000 or more inhabitants, **any taxpayer** dissatisfied with the decision of a board of review or board of appeals as such decision pertains **to the assessment of his or her property for taxation purposes, or any taxing body that has an interest in the decision of the board of review** or board of appeals on an assessment made by any local assessment officer, **may**, (i) in counties with less than 3,000,000 inhabitants within 30 days after the date of written notice of the decision of the board of review or (ii) in assessment year 1999 and thereafter in counties with 3,000,000 or more inhabitants within 30 days after the date of the board of review notice or within 30 days after the date that the board of review transmits to the county assessor pursuant to Section 16-125 its final action on the township in which the property is located, whichever is later, **appeal the decision to the Property Tax Appeal Board for review.**
. . . [Emphasis added]

Section 1-150 of the Property Tax Code (35 ILCS 200/1-150) defines a taxing district as:

Any unit of local government, school district or community college district with the power to levy taxes.

Section 1910.10(c) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.10(c)) states:

Only a taxpayer or owner of property dissatisfied with the decision of a board of review **as such decision pertains to the assessment of his property for taxation purposes**, or a taxing body that has a tax

revenue interest in the decision of the board of review on an assessment made by any local assessment officer, may file an appeal with the Board. [Emphasis added]

Section 1910.60(a) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.60(a)) further states in relevant part:

Any taxpayer or owner of property dissatisfied with a decision of the board of review as such decision pertains to the assessment of his or her property may appeal that decision by filing a petition with the Property Tax Appeal Board . . . [Emphasis added]

The court in Kankakee County Board of Review v. Property Tax Appeal Board, 316 Ill.App.3d 148 (3rd Dist. 2000), in determining whether a party that initiated an appeal before the Property Tax Appeal Board had standing as an owner or taxpayer, stated:

Title refers only to a legal relationship to the land, while ownership is comparable to control and denotes an interest in the real estate other than that of holding title thereto.

Id. at 152, citing (People v. Chicago Title & Trust Co., 75 Ill.2d 479 at 489 (1979)).

The Kankakee court further found:

Especially in tax law, "[t]he key elements of ownership are control and the right to enjoy the benefits of the property. Revenue collection is not concerned with the "refinements of title"; it is concerned with the realities of ownership."

Kankakee at 152.

The Board further finds Section 16-160 of the Property Tax Code (35 ILCS 200/16-160) and Section 1910.10(c) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.10(c)) are clear: only a "taxpayer", "owner" or "taxing district having an interest in the decision of the board of review" may file an appeal before the Property Tax Appeal Board. The Board finds the appellant has not refuted that it is neither a "taxpayer," "owner" nor a "taxing district" as defined in the Code and/or the Property Tax Appeal Board rules. The Board further finds the appellant, Hickory Rowhomes Homeowners Association, is not a

"taxpayer," "owner" nor a "taxing district" as defined in the Code, nor is it granted leave to file an appeal before the Board pursuant to the rules of the Property Tax Appeal Board or any other statutory authority.

Pursuant to Section 1910.90(i) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.90(i)), the Board may take judicial notice of previous decisions issued by the Board.

Section 1910.90(i) of the rules of the Property tax Appeal Board states:

The Property Tax Appeal Board may take official notice of decisions it has rendered, matters within its specialized knowledge and expertise, and all matters of which the Circuit Courts of this State may take judicial notice.

The Board furthermore takes judicial notice of Docket Nos. 10-32409.001-R-1 through 10-32409.011-R-1 and 11-29219.001-R-2 through 11-29219.011-R-2 involving the same appellant, Hickory Rowhomes Homeowners Association, and the same Cook County Board of Review wherein the parties entered into a stipulation concerning these same parcels. The Board further finds in these two cases, the issue of jurisdiction was not raised by the Cook County Board of Review prior to the execution of the stipulation.

Therefore, based on the conclusion that Hickory Rowhomes Homeowners Association is not a taxpayer, owner or taxing body, the Board finds the appellant does not have standing to file an assessment appeal and the Property Tax Appeal Board **grants** to Motion To Dismiss For Lack of Standing; **case dismissed for lack of jurisdiction.**

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.

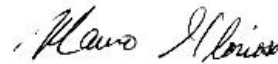
Chairman




Member



Member



Member



Acting Member

DISSENTING: _____

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: September 18, 2015



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.