FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Angela Ohl
DOCKET NO.: 14-00143.001-R-1 through 14-00143.010-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Angela Ohl, the appellant, by attorney Donald J. Ohl of Knapp, Ohl & Green in Edwardsville; and the Madison 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 **Madison** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
14-00143.001-R-1	01-2-24-04-08-203-001	$250	0	$250
14-00143.002-R-1	01-2-24-04-08-203-006	$250	0	$250
14-00143.003-R-1	01-2-24-04-12-203-002	$250	0	$250
14-00143.004-R-1	01-2-24-04-12-203-003	$250	0	$250
14-00143.005-R-1	01-2-24-04-12-203-004	$250	0	$250
14-00143.006-R-1	01-2-24-04-12-203-005	$250	0	$250
14-00143.007-R-1	01-2-24-04-12-203-006	$250	0	$250
14-00143.008-R-1	01-2-24-04-12-203-007	$250	0	$250
14-00143.009-R-1	01-2-24-04-12-203-008	$250	0	$250
14-00143.010-R-1	01-2-24-04-08-203-002	$250	0	$250

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 assessment for the 2014 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 10 vacant lots located in Highland, Helvetia Township, Madison County.

The appellant's appeal is based on a legal contention regarding the application of Sections 10-30 and 10-31 of the Property Tax Code (hereinafter "the Code") (35 ILCS 200/10-30, 10-31) to establish the assessments of the subject parcels. In support of this argument the appellant, through counsel, submitted a brief.

Counsel explained that in February 2010 the appellant purchased ten (10) undeveloped lots from First Mid Illinois Bank. The appellant asserted, upon information and belief, First Mid Illinois Bank acquired the lots from Earl L. and Bonnie M. Striecker in a foreclosure proceeding. The appellant stated, upon information and belief, the Strieckers were the "developers" who platted and subdivided the property and constructed the streets, curbs, gutters, sewer, water and utilities. The appellant purchased the lots from First Mid Illinois Bank in 2010 with the intention of developing duplexes to be used as rental property.

From the time of purchase in 2010 through assessment year 2013, each of the ten lots was assessed for $250.[1] The appellant stated that in the Notice to Taxpayer of Assessment Change dated July 31, 2014 for each of the ten undeveloped lots, the "prior year value" and the "current year value" changed. For the assessment year 2014, the "prior year value" for each lot decreased from $250 to $240 per lot and the "current year value" for each lot increased as follows:

Parcel I.D. Number	Prior Year Assessed Value	Current Year Assessed Value
01-2-24-04-08-203-001	$240	$ 6,710
01-2-24-04-08-203-006	$240	$10,620
01-2-24-04-12-203-002	$240	$ 8,740
01-2-24-04-12-203-003	$240	$ 7,320
01-2-24-04-12-203-004	$240	$10,480
01-2-24-04-12-203-005	$240	$ 9,800
01-2-24-04-12-203-006	$240	$ 6,710
01-2-24-04-12-203-007	$240	$ 9,090
01-2-24-04-12-203-008	$240	$ 9,090
01-2-24-04-08-203-002	$240	$ 7,760

The appellant appealed the assessments to the Madison County Board of Review contending the property qualified for the "developer's assessment" as provided by Section 10-31 of the Property Tax Code (35 ILCS 200/10-31). The Madison County Board of Review concluded that none of the lots qualified for the "developer's assessment" and this appeal followed.

The appellant, citing Kennedy Brothers, Inc. v. Property Tax Appeal Board, 158 Ill.App.3d 154, 510 N.E.2d 1275 (1987), contends that the purpose of Sections 10-30 or 10-31 of the Property Tax Code is to protect real estate developers from rising assessments which result from the development of farmland into subdivisions. The appellant stated Section 10-31(d) of the Code reads as follows:

> This Section applies on and after the effective date of this amendatory Act of the 96th General Assembly and through December 31, 2011.

[1] A copy of the assessment notice for the 2013 tax year for Parcel No. 01-2-24-04-08-203-002 submitted by the appellant disclosed a land assessment of $250 and a building assessment of $1,200.

The appellant further stated that Section 10-30(d) of the Code reads as follows:

> This Section applies before the effective date of this amendatory Act of the 96th General Assembly and then applies again beginning January 1, 2012.

The appellant argued that Section 10-31 of the Code applied up to and including December 31, 2011 and Section 10-30 of the Code applied after December 31, 2011. The appellant contends that since the lots were purchased in 2010 Section 10-31 of the Code is applicable and is the way the lots were assessed from 2010 to 2013.

The appellant stated that Section 10-31(b) of the Code provides:

> (b) Except as provided in subsection (c) of this Section, the assessed valuation of property so platted and subdivided shall be determined based on the assessed value assigned to the property when last assessed prior to its last transfer or conveyance. An initial sale of any platted lot, including a lot that is vacant, or a transfer to a holder of a mortgage, as defined in Section 15-1207 of the Code of Civil Procedure, pursuant to a mortgage foreclosure proceeding or pursuant to a transfer in lieu of foreclosure, does not disqualify that lot from the provisions of this subsection (b).

The appellant argued that the sale from First Mid Illinois Bank to the appellant in 2010 did not disqualify the lots from the provisions of subsection (b) of Section 10-31 and the preferential assessment.

The appellant contends that Section 10-31(c) of the Code is different from Section 10-30(c) of the Code in that Section 10-30(c) provides that an initial sale of a platted lot terminates the preferential assessment provided by Section 10-30(b) whereas Section 10-31(c) does not contain similar language and Section 10-31(b) explicitly provides than an initial sale does not affect the preferential assessment. The appellant also contends that Section 10-30(d) of Code provides that section 10-30 of the Code applies again beginning January 1, 2012. The appellant argued that had the legislature intended for property that was purchased before December 31, 2011, to lose its preferential assessment as of January 1, 2012, it would have expressly stated that intention in the statute.

The appellant argued the board of review interpretation and application of the statutes results in the retroactive application of Section 10-30 of the Code in the absence of express language and fails to carry out the purpose of the statutes. Citing Kennedy Brothers, Inc. v. Property Tax Appeal Board, 158 Ill.App.3d 154, 510 N.E.2d 1275 (1987), the appellant contends a legislative enactment cannot be given retroactive effect absent a clear expression of legislative intent to do so. Additionally, the appellant asserted, absent express language declaring otherwise, an amendatory act is ordinarily construed as being prospective in its operation.

The appellant requested the assessed value for the subject property be the same as what it was from 2010 to 2013

The board of review submitted its "Board of Review Notes on Appeal" disclosing the assessment for each lot as reported in the previous table. The board of review provided a statement requesting the assessments be confirmed per Section 10-31 of the Code (35 ILCS 200/10-31) and Public Act 96-480. The board of review indicated the property had been purchased on February 23, 2010 and received a developer's preferential assessment until being corrected into 1/3 of market value in 2014.

Included with its submission was a copy of a memorandum dated October 19, 2009, from Kara Moretto, Manager of the Local Government Services Bureau of the Illinois Department of Revenue, to the Chief County Assessment Officers. The memorandum discussed Public Act 96-480 and new Section 10-31 of the Code. In summary Moretto stated that, "Public Act 96-480 extends what has been the traditional developer's preferential assessment to sales of lots, qualifying transfers to mortgage holders, and subdivisions or portions thereof that are replatted."

The memorandum provided in part that:

"The preferential assessment [allowed by section 10-31] **is** removed when one of the following events occur:

1) A habitable structure is completed (excludes qualifying model homes under Section 10-25 of the Property Tax Code.)
2) Any lot, including a vacant lot, either alone or in conjunction with any contiguous property, is used for any business, commercial or residential purpose.

The preferential assessment **is not** removed in the following circumstances:

1) A subdivided lot is sold (whether it is sold to another developer or to another individual or entity).
2) The property is transferred to the mortgage holder
   a) as part of a foreclosure proceeding, or
   b) in lieu of foreclosure.
3) A subdivision or portion of a subdivision is replatted.

Note: The three circumstances listed above are a change from the traditional developers' relief assessment under Section 10-30 (i.e., any of these events would trigger a reassessment)."

The board of review requested the assessment be sustained.

Conclusion of Law

The appellant is contesting the assessment based on a contention of law regarding the applicability of Sections 10-30 and 10-31 of the Code (35 ILCS 200/10-30, 10-31) to the subject lots. The rules of the Property Tax Appeal Board are silent with respect to the standard of proof when a contention of law is raised. Section 10-15 of the Illinois Administrative Procedure Act provides:

> Sec. 10-15. Standard of proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence. (5 ILCS 100/10-15).

Therefore, the standard of proof in this appeal is the preponderance of the evidence. The Board finds the appellant met this burden of proof and a reduction in the assessments of the lots is appropriate.

Through the enactment of Public Act 96-480 the General Assembly temporarily amended Section 10-30 of the Code by enacting Section 10-31. (35 ILCS 200/10-30, 10-31). Section 10-31, in relevant part, states:

> (b) Except as provided in subsection (c) of this Section, the assessed valuation of property so platted and subdivided shall be determined based on the assessed value assigned to the property when last assessed prior to its last transfer or conveyance. An initial sale of any platted lot, including a lot that is vacant, or a transfer to a holder of a mortgage, as defined in Section 15-1207 of the Code of Civil Procedure, pursuant to a mortgage foreclosure proceeding or pursuant to a transfer in lieu of foreclosure, does not disqualify that lot from the provisions of this subsection (b).
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> (c) Upon completion of a habitable structure on any lot of subdivided property, or upon the use of any lot, either alone or in conjunction with any contiguous property, for any business, commercial or residential purpose: (i) the provisions of subsection (b) of this Section shall no longer apply in determining the assessed valuation of the lot, (ii) each lot shall be assessed without regard to any provision of this Section, and (iii) the assessed valuation of the remaining property, when next determined, shall be reduced proportionately to reflect the exclusion of the property that no longer qualifies for valuation under this Section. Holding or offering a platted lot for initial sale shall not constitute a use of the lot for business, commercial or residential purposes unless a habitable structure is situated on the lot or unless the lot is otherwise used for a business, commercial or residential purpose. The replatting of a subdivision or portion of a subdivision does not disqualify the replatted lots from the provisions of subsection (b).
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> (d) This Section applies on and after the effective date of this amendatory Act of the 96th General Assembly and through December 31, 2011." 35 ILCS 200/10-31(b)(c)(d).

The General Assembly clearly provided that Section 10-31 of the Code applies only on or after the effective date, August 14, 2009, up to and including December 31, 2011.

The appellant averred that the property was purchased from First Mid Illinois Bank in February 2010, and the lots in question were receiving the preferential developer's assessment of $250 per lot. The board of review acknowledged the subject lots were purchased in February 2010 and also concedes on its "Board of Review Notes on Appeal" that the property received the developer's preferential assessment until being corrected into 1/3 of market value in 2014. The board of review did not explain why the assessment was changed from the developer's

preferential assessment to an assessment based on the property's fair cash value of as of the January 1, 2014 assessment date.

At the time the appellant purchased the lots in February 2010, Section 10-31 of the Code was in place and the subject lots were receiving the preferential developer's assessment. Real property is assessed for taxation purposes "in the name of the owner and at the value as of January 1" of that year. People ex rel. Kassabaum v. Hopkins, 106 Ill.2d 473, 476 (1985), 478 N.E.2d 1332; 35 ILCS 200/9-95. The status of real property for taxation and the liability to taxation is fixed on January 1 of the tax year. Id. Based on this record, it appears that as of January 1, 2010, the property was being assessed in the name of First Mid Illinois Bank and was receiving the preferential developer's assessment. By the terms of Section 10-31(b) of the Code, the initial sale from First Mid Illinois Bank to the appellant in February of that year did not disqualify the lots from the provisions of subsection (b) providing that the assessed valuation of property so platted and subdivided shall be determined based on the assessed value assigned to the property when last assessed prior to its last transfer or conveyance, which in this case was $250. This $250 assessment per lot remained in place through the 2013 tax year.

As of the assessment date at issue, January 1, 2014, Section 10-31 of the Code was no longer in effect and Section 10-30 of the Code was applicable. Section 10-30 of the Code provides, in relevant part, that:

> (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.
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> (c) Upon completion of a habitable structure on any lot of subdivided property, or upon the use of any lot, either alone or in conjunction with any contiguous property, for any business, commercial or residential purpose, or upon the initial sale of any platted lot, including a platted lot which is vacant: (i) the provisions of subsection (b) of this Section shall no longer apply in determining the assessed valuation of the lot, (ii) each lot shall be assessed without regard to any provision of this Section, and (iii) the assessed valuation of the remaining property, when next determined, shall be reduced proportionately to reflect the exclusion of the property that no longer qualifies for valuation under this Section. Holding or offering a platted lot for initial sale shall not constitute a use of the lot for business, commercial or residential purposes unless a habitable structure is situated on the lot or unless the lot is otherwise used for a business, commercial or residential purpose.
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> (d) This Section applies before the effective date of this amendatory Act of the 96th General Assembly and then applies again beginning January 1, 2012. 35 ILCS 200/10-30(b)(c)(d).

The board of review did not allege that any of the events provided for in subsection (c) of Section 10-30 occurred that would allow for the removal of the preferential assessment. The record is void of any evidence that a habitable structure was completed on any of the lots; there was no evidence that any lot, either alone or in conjunction with any contiguous property, was

being used for any business, commercial or residential purpose; or that there was a sale of a platted lot during the 2013 tax year. Without the happening of one of the events provided for in Section 10-30(c) the lots in question are to be assessed as provided for in Section 10-30(b) of the Code for the 2014 tax year.

Based on this record the Property Tax Appeal Board finds that the subject lots are entitled to the preferential developer's assessment allowed by Section 10-30 of the Code and a reduction to the assessments of the subject lots commensurate with the appellant's request is appropriate.

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:

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: July 21, 2020

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.

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