



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

APPELLANT: River Key Construction, Inc.
DOCKET NO.: 14-02908.001 -R-1
PARCEL NO.: 07-24-426-003

The parties of record before the Property Tax Appeal Board are River Key Construction, Inc., the appellant, by attorney Robert A. Calgaro, of Conde, Killoren, Bueschel & Calgaro 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:

LAND:	\$8,573
IMPR.:	\$8,833
TOTAL:	\$17,406

Subject only to the State multiplier as applicable.

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 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 88,454 square feet of land area improved with a boat barn and fence. The subject is located in Owen Township, Winnebago County.

The appellant contends the subject parcel is used as a boat storage area for the River Key Owners Association and should be reclassified as Association owned and receive an assessed value of \$1. The appellant also contends the subject is inequitably assessed in accordance with other association owned property. In support of these arguments the appellant submitted four comparables consisting of associated owned properties which each had an assessment of \$1. The appellant also submitted aerial photographs of the subject and the comparables along with a brief, brochure, tentative plat map, "River Key Owners Association" ledgers, and a Declaration of Covenants and Restrictions for River Key Subdivision. Appellant's argument depicts the subject parcel remains in the developer's name with no transfer of title recorded. The brochure

depicts a “Boat and Dock Storage Buildings (Owned by Lot Owners of River Keys).” The Tentative Plat River Key Subdivision depicts a “Boat & Dock Storage Buildings Owned By Lot Owners of River Key.” The Ledgers depict payment of taxes for the subject parcel by River Key Owners Association. The recorded Declaration of Conditions and Restrictions of River Key Subdivision, Section 2 states in relevant part:

The Association shall hold title to the Channel (Out Lot “A”) and to Lot 45 and shall be responsible for the enforcement of covenants and restrictions as contained herein for the management and maintenance, including construction of boat launch and additional improvements on Lot 45, being the lot designated for the private use of the lot owners. The Association shall be responsible for the maintenance of the subdivision sign located at the entrance to the subdivision and the boat storage facility.”

(Emphasis Added)

However, Section 2(g) of the Declaration of Condition and Restrictions states in relevant part:

Upon the sale of thirty lots or sooner at the election of the Developer, **the Developer shall convey Lot 45 and the channel to the Association. . . .**

(Emphasis Added)

Based on this evidence, the appellant requested the subject’s assessment be reduced to \$1.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject parcel of \$17,406. The board of review submitted a letter from the Owen Township Assessor, Trent Ferguson, stating the subject property was not owned by an Association and therefore does not qualify for the preferential assessment of an Association. In addition, the letter depicts the comparables submitted by the appellant were owned by various associations, and were therefore not comparable to the subject parcel. Based on this argument, the board of review requested confirmation of the subject’s assessment.

Conclusion of Law

The taxpayer contends assessment inequity as the basis of the appeal based on the subject parcel’s ownership. The Board finds nothing in this record depicts the subject parcel (presumably “the Channel” (Out Lot “A”) was conveyed to the River Key Owners Association as enumerated in Section 2(g) of the Declaration of Conditions and Restrictions of River Key Subdivision. The Board finds the payment of taxes, advertisements and/or use does not determine actual ownership. In its brief, appellant admits “[t]he parcel still remains in the developer’s name and no transfer of title has occurred with a recorded instrument.” Therefore, the Board finds the board of review’s argument that the subject is not owned by an “Association” is not sufficiently refuted. Further, the Board finds the use of “Association” properties to compare to the subject’s assessment which the Board has determined is not owned by the River Key Owners Association, because it was not properly conveyed as required, does not show by clear and convincing evidence the subject property is inequitably assessed.

Based on this analysis, the Board finds no reduction in the subject's assessment is warranted.

The appellant did not cite any provision of the Property Tax Code that would support its conclusion the subject parcel should receive a \$1 assessment. Section 10-35 of the Property Tax Code provides for a \$1 assessment of common areas. Section 10-35 state in part:

Residential property which is part of a development, but which is individually owned and ownership of which includes the right, by easement, covenant, deed or other interest in property, to the use of any common area for recreational or similar residential purposes shall be assessed at a value which includes the proportional share of the value of that common area or areas.

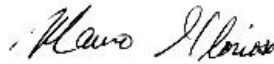
Property is used as a "common area or areas" under this Section if it is a lot, parcel, or area, the beneficial use and enjoyment of which is reserved in whole as an appurtenance to the separately owned lots, parcels, or areas within the planned development.

The common area or areas which are used for recreational or similar residential purposes and which are assessed to a separate owner and are located on separately identified parcels, shall be listed for assessment purposes at \$1 per year.

(35 ILCS 200/10-35)

In this appeal, the appellant failed to establish that the use of the boat storage area is reserved in whole as an appurtenance to the separately owned lots, parcels or areas in the River Key Subdivision. Therefore, the Board finds the subject property is not entitled to a \$1 assessment based on this record.

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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