FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Edgewood Valley Country Club
DOCKET NO.: 14-26434.001-C-2 through 14-26434.004-C-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Edgewood Valley Country Club, the appellant, by attorney George Michael Keane, Jr., of Keane and Keane in Chicago; the Cook County Board of Review; and Lyons Twp. H.S.D. #204, intervenor, by attorney Ares G. Dalianis of Franczek P.C. in Chicago.

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 **Cook** County Board of Review is warranted. The correct ***open space assessed valuation*** of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
14-26434.001-C-2	18-29-101-007-0000	32,670	0	$ 32,670
14-26434.002-C-2	18-29-102-001-0000	152,735	506,583	$ 659,318
14-26434.003-C-2	18-29-300-005-0000	44,078	0	$ 44,078
14-26434.004-C-2	18-29-301-001-0000	174,152	0	$ 174,152

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook 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 (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a 172.92 acre, or 7,532,525 square foot, not-for-profit country club located in Lyons Township, Cook County. The country club consists of four parcels of land. Due to the nature of the appellant's request for relief, the Board will describe each parcel in detail. The descriptions of each parcel are derived from the appraisal submitted by the appellant, the testimony of the appraiser at hearing, and the property record cards and face sheets submitted by the board of review. The subject contains a golf course, and each of the four parcels contain a portion of the golf course. Moreover, according to the printouts from the Cook County

Assessor's website, submitted by the appellant, all four parcels receive "open space valuation" treatment pursuant to Section 10-155 of the Property Tax Code. 35 ILCS 200/10-155.

Description of Parcel #1

Parcel #1 is identified by PIN 18-29-101-007-0000, and contains 653,400 square feet of land. Parcel #1 is classified as class 4 property under the Cook County Real Property Assessment Classification Ordinance (the "Classification Ordinance"). As of January 1, 2014, the Classification Ordinance defined class 4 property as "Real estate owned and used by a not-for-profit corporation in furtherance of the purposes set forth in its charter unless used for residential purposes. If such real estate is used for residential purposes, it shall be classified in the appropriate residential class." Cook County, Ill., Code of Ordinances §74-63(4) (in effect as of October 18, 2013).[1] Under the Classification Ordinance, class 4 property is assessed at 25.00% of the property's market value. Cook County, Ill., Code of Ordinances §74-64(4).[2] The Assessor has further classified Parcel #1 as a class 4-35 property, which the Assessor defines as a "not-for-profit golf course improvement." There are no structures on Parcel #1.

Description of Parcel #2

Parcel #2 is identified by PIN 18-29-102-001-0000, and contains 2,524,868 square feet of land. Of this land, 2,465,995 square feet is classified as class 4 property under the Classification Ordinance, and class 4-35 property by the Assessor. The remaining 58,873 square feet of land is classified as class 5a property under the Classification Ordinance, and class 5-00 property by the Assessor. Under the Classification Ordinance, Class 5a property is defined as "All real estate not included in Class 1, Class 2, Class 3, Class 4, Class 5b, Class 6b, Class C, Class 7a, Class 7b, Class 8, Class 9, Class S or Class L of this section." Cook County, Ill., Code of Ordinances §74-63(5). Class 5a property is assessed at 25.00% of the property's market value. Cook County, Ill., Code of Ordinances §74-64(5). The Assessor defines class 5-00 property as "commercial land."

Parcel #2 contains six improvements. All six improvements are classified as class 4 property under the Classification Ordinance, and class 4-35 property by the Assessor.

Improvement #2-1 is a two-story masonry building with 25,083 square feet of building area, and a 2,687 square foot addition, for a total building area of 27,770 square feet. The appraisal states that Improvement #2-1 is a one and part-two story building with 35,052 square feet of building area. According to the appraisal, Improvement #2-1 is "finished to a relatively high degree with

[1] The Board notes that on October 11, 2017, Cook County adopted ordinance 17-5209, which redefined class 4 property as "Real estate owned and used by a not-for-profit corporation in furtherance of the purposes set forth in its charter unless used for residential purposes ***or operating as a golf course and/or driving range***. If such real estate is used for residential purposes, it shall be classified in the appropriate residential class." Cook County, Ill., Ordinance 17-5209 (effective October 11, 2017) (emphasis added). Unless otherwise noted, when citing to the Classification Ordinance in this Final Administrative Decision, the Board is referencing the Classification Ordinance as it existed on January 1, 2014 (i.e., the Classification Ordinance as it existed after the changes made on October 18, 2013).

[2] Cook County Ordinance 17-5209 also lowered the level of assessment for class 4 property to 20.00% of the property's market value. Cook County, Ill., Ordinance 17-5209 (effective October 11, 2017).

offices near the entrance, men's and women's locker rooms, dining rooms and a full kitchen." The Assessor and the appraisal term Improvement #2-1 as the "clubhouse."

Improvement #2-2 is a one-story masonry building with 2,400 square feet of building area. The Assessor terms Improvement #2-2 as "golf cart garage" and "golf cart storage," while the appraisal terms this improvement a "cart storage garage."

Improvement #2-3 is a one-story masonry building with 5,328 square feet of building area. The appraisal states that this improvement has 5,760 square feet of building area, and contains men's and women's locker rooms, a club room with a small kitchen, and a snack shop. The Assessor terms Improvement #2-3 as a "locker room/food (snack shop)," while the appraisal terms this improvement a "pool house."

Improvement #2-4 is a one-story masonry building with 4,021 square feet of building area. The appraisal states that this improvement has 3,069 square feet of building area. At hearing, the appellant's appraiser, Joseph M. Ryan, MAI, testified that this improvement is utilized as a retail shop that primarily sells golf related items such as golf clubs, shirts, and golf tees. The Assessor terms Improvement #2-4 as a "pro shop & caddy house," while the appraisal terms this improvement a "pro shop."

Improvement #2-5 is a one-story masonry building with 1,242 square feet of building area. The Assessor terms Improvement #2-5 as "employee living quarters."

Improvement #2-6 is a one-story masonry building with 3,408 square feet of building area. The appraisal states that this improvement has 2,491 square feet of building area, and is a residential building being used as a tennis shop and storage. The Assessor terms Improvement #2-6 as a "tennis pro shop & employee living quarters," while the appraisal terms this improvement the "employee residence."

Parcel #2 also contains several structures that are classified as class 4 property under the Classification Ordinance, and class 4-90 by the Assessor, which is defined as "not-for-profit minor improvement." These structures include a paved parking lot, a swimming pool, tennis courts, light poles, fences, and canopies.

Description of Parcel #3

Parcel #3 is identified by PIN 18-29-300-005-0000, and contains 871,200 square feet of land. Of this land, 870,048 square feet is classified as class 4 property under the Classification Ordinance, and class 4-35 property by the Assessor. The remaining 1,152 square feet of land is classified as class 5a property under the Classification Ordinance, and class 5-00 property by the Assessor.

According to the property record cards submitted by the board of review, Parcel #3 contains five improvements. All five improvements are classified as class 4 property under the Classification Ordinance, and class 4-35 by the Assessor. Improvement #3-1 is an unfinished steel building with 4,455 square feet of building area that the Assessor terms a "shed." Improvement #3-2 is a masonry building with 4,718 square feet of building area that the Assessor terms a "garage." Improvement #3-3 is a masonry building with 1,152 square feet of building area that the

Assessor terms "employee living quarters." Improvement #3-4 is a steel building with 90 square feet of building area that the Assessor terms a "shed." Improvement #3-5 is a frame building with 240 square feet of building area that the Assessor terms a "shed." The property record cards for Improvements #3-3, #3-4, and #3-5 are not dated.

The appellant asserts that Parcel #3 has only two improvements, a "metal building" and a "block building," and that both of these buildings house equipment and supplies for maintaining the golf course. Mr. Ryan testified that the buildings on Parcel #3 house golf course maintenance equipment, such as lawnmowers and a fertilizer tank. A black and white photograph of Improvement #3-1 is included in the appraisal.

Description of Parcel #4

Parcel #4 is identified by PIN 18-29-301-001-0000, and contains 3,483,057 square feet of land. Parcel #4 is classified as class 4 property under the Classification Ordinance, and class 4-35 property by the Assessor. There are no structures on Parcel #4.

APPELLANT'S CONTENTIONS OF LAW

The appellant makes two contentions of law as the bases for the appeal. First, the appellant argues that the Board should determine which improvements on Parcels #2 and #3 have a substantial nexus to the golf course, and that those improvements which the Board determines have such a nexus, should be valued as open space. The appellant asserts that certain improvements on Parcel #2 have a substantial nexus to the golf course, and should be valued as open space. These improvements include, what the appellant terms, the "proshop [sic]" and the "golf cart storage building." The appellant asserts that the "pool and bath house and the tennis courts and buildings are not part of the golf course nor necessary for its operation," and, therefore, should not be valued as open space. With regards to the "clubhouse," the appellant argues that "[a]bsent a more precise standard or legislative direction, determining what portion of the clubhouse is an integral part of the open space golf course and prorating the clubhouse value cannot be done at this time. Thus, about 5% of the improvement value here should be removed from the assessment of this parcel[, which] would reduce that component from $540,245 to about $513,233.[3] The Board notes that, in the Addendum to Petition submitted with the appellant's petition, the appellant has not requested a reduction in Parcel #2's improvement assessment.

The appellant asserts that all of the improvements on Parcel #3 have a substantial nexus to the golf course, such that they should be valued as open space. The appellant argues that these buildings are "used to house the equipment and supplies used solely in the maintenance of the golf course and associated landscaped areas," and, thus, the improvements "should be included in the open space value." As stated *supra*, the appraisal echoed the appellant's argument concerning these buildings' use.

After the Board determines which improvements on Parcels #2 and #3 have a substantial nexus to the golf course, the appellant argued that those improvements which have such a nexus should be valued at $0.

[3] As stated *infra*, this building's improvement assessment is $321,441.

The appellant's second contention of law argues that certain land on the subject is improperly classified under the Classification Ordinance. The appellant argues that, since the subject's land receives open space valuation treatment, it is improperly classified as class 4 and class 5 property under the Classification Ordinance. Instead, the appellant asserts, most of the subject should be classified as class 1 property under the Classification Ordinance, which is defined as "unimproved real estate," and is assessed at 10.00% of the property's market value. Cook County, Ill., Code of Ordinances §74-63(1) (definition) and §74-64(1) (level of assessment).

As to Parcels #1 and #4, the appellant argues that, since these parcels do not have any improvements, they fit squarely within the definition of class 1 property under the Classification Ordinance of "unimproved real estate." Cook County, Ill., Code of Ordinances §74-63(1). The appellant refers to Gaelic Park in Chicago in support of this argument. This property, the appellant asserts, is similar to the subject, as it is a not-for-profit facility, has a clubhouse with a banquet hall on one parcel, and landscaped playing fields on the remaining three parcels. The land on the latter three parcels is valued as open space, and is classified as class 1 land, despite two of those parcels having minor improvements, such as parking lots and maintenance sheds. Thus, the appellant argues, that the subject is not being uniformly classified when compared to Gaelic Park.

As to Parcel #2, the appellant argues that any land that is part of the golf course or driving range, which the appellant asserts is 47.96 acres, should be classified as class 1 property under the Classification Ordinance. The remaining land on Parcel #2 (ten acres according to the appellant), which contains the various improvements, should remain as class 4 land.

As to Parcel #3, the appellant argues that, since the only improvements upon this parcel are maintenance buildings that have a substantial nexus to the golf course, all of the land on this parcel should be classified as class 1 property under the Classification Ordinance.

APPELLANT'S APPRAISAL

The appellant also submitted an appraisal written by Mr. Ryan and Reed L. Carnahan, both of the LaSalle Appraisal Group, Inc. The appraisal used the cost and sales comparison approaches to value in estimating the subject's fair market value to be $3,650,000 as of January 1, 2014. Mr. Ryan testified as an expert witness at hearing, and explained his analysis found in the appraisal report. As discussed in more detail *supra*, Mr. Ryan also provided factual descriptions of various improvement upon the subject. The appraisal states that Mr. Ryan inspected the subject on June 2, 2014.

In the appellant's brief, counsel for the appellant states that "for purposes of this appeal, the current open space value of $8,712/[acre] is not disputed."

Based on this evidence and argument, the appellant requested that the subject's assessment be reduced to $636,451. This requested assessment reflects an approximately 60% reduction in the land assessment for each of the four parcels, and a 100% reduction for Parcel #3's improvement assessment. The appellant did not request a specific monetary reduction for Parcel #2's improvement assessment, but did argue for such a reduction.

BOARD OF REVIEW'S EVIDENCE

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $939,393 was disclosed. According to the face sheets submitted by the board of review, the land and improvements upon the subject have the following market values and assessed values:

Parcel #1 (18-29-101-007-0000)	Market Value	Assessed Value
Class 4 Land	$ 130,680	$ 32,670

Parcel #2 (18-29-102-001-0000)	Market Value	Assessed Value
Class 4 Land	$ 493,199	$ 123,299
Class 5 Land	$ 117,746	$ 29,436
Improvement #2-1	$ 1,285,766	$ 321,441
Improvement #2-2	$ 44,810	$ 11,202
Improvement #2-3	$ 373,003	$ 93,250
Improvement #2-4	$ 44,245	$ 11,061
Improvement #2-5	$ 30,368	$ 7,592
Improvement #2-6	$ 43,496	$ 10,874
Other structures	$ 204,671	$ 51,163
Total for Parcel #2	**$ 2,637,304**	**$ 659,318**

Parcel #3 (18-29-300-005-0000)	Market Value	Assessed Value
Class 4 Land	$ 174,009	$ 43,502
Class 5 Land	$ 2,304	$ 576
Improvement #3-1	$ 39,258	$ 9,814
Improvement #3-2	$ 28,421	$ 7,105
Improvement #3-3	$ 48,444	$ 12,111
Improvement #3-4	$ 183	$ 45
Improvement #3-5	$ 402	$ 100
Total for Parcel #3	**$ 293,021**	**$ 73,253**

Parcel #4 (18-29-301-001-0000)	Market Value	Assessed Value
Class 4 Land	$ 696,611	$ 174,152

This assessment reflects a fair market value of $3,757,572 when applying the 2014 statutory level of assessment for class 4 and class 5 property under the Classification Ordinance of 25.00%. In support of this market value, the Notes on Appeal included raw sales information on five properties suggested as comparable to the subject. These properties are all golf courses, and sold between October 2009 and December 2014 for prices ranging from $717,000 to $5,967,360.

At the hearing, the board of review did not call any witnesses and rested its case upon its written evidence submissions. As a result of its analysis, the board of review requested confirmation of the subject's assessment.

INTERVENOR'S EVIDENCE

The intervenor submitted a Technical Review Appraisal prepared by Eric W. Dost, MAI. In the review appraisal, Mr. Dost identified several alleged errors and omissions in the Ryan Appraisal that, in Mr. Dost's opinion, rendered its conclusion of value not credible. Mr. Dost testified at hearing regarding his analysis in the review appraisal, over objection from the appellant, who argued that "There's no value estimate. Mr. Ryan's appraisal only supports the assessed value. It doesn't change it. We're not asking for a reduction based on it." The Board overruled the appellant's objection, as the review appraisal went to Mr. Ryan's credibility, and, thus, allowed Mr. Dost to testify as an expert witness.

APPELLANT'S REBUTTAL SUBMISSION

In written rebuttal, the appellant argued that the board of review and intervenor's evidentiary submissions did not address the appellant's contentions of law. Moreover, counsel for the appellant states that "[i]t should be noted that while Appellant submitted an appraisal, the market value is not at issue. All adjustments to the appealed assessment are based upon correcting the classification of the unimproved land or determining which improvements are part of the Open Space use, so as to be included in the Open Space valuation and not otherwise added to the assessment. The appraisal was presented to support the current value of the subject."

Conclusions of Law

The appellant makes two contentions of law as the bases of the appeal. "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. The appellant argued the improvements on Parcels #2 and #3 that have a substantial nexus to conserving the golf course should be valued as open space land. The appellant further argued that land which is valued as open space should be classified as class 1, and, thus, assessed at 10.00% of such land's market value. The Board finds that the appellant has proven, by a preponderance of the evidence, that the subject's assessment is incorrect, and that a reduction is warranted.

The appellant consistently stated throughout the proceedings that the subject's market value was not an issue in the appeal. In the appellant's brief, counsel for the appellant stated that "for purposes of this appeal, the current open space value of $8,712/[acre] is not disputed." In rebuttal, counsel for the appellant stated "[i]t should be noted that while Appellant submitted an appraisal, the market value is not at issue. All adjustments to the appealed assessment are based upon correcting the classification of the unimproved land or determining which improvements are part of the Open Space use, so as to be included in the Open Space valuation and not otherwise added to the assessment. The appraisal was presented to support the current value of the subject." At hearing, in arguing an objection, counsel for the appellant stated, "There's no value estimate. Mr. Ryan's appraisal only supports the assessed value. It doesn't change it.

We're not asking for a reduction based on it." As such, the Board finds that the subject's market value is not at issue in this appeal. Therefore, all evidence addressing the subject's market value is irrelevant, and was given no weight by the Board. This evidence included the adjustments and value conclusions found in the appellant's appraisal, the intervenor's review appraisal insofar as it attacks the adjustments and value conclusions found in the appellant's appraisal, and the board of review's sale comparables. However, the appraisal's factual description of the subject and the improvements thereon, as well as Mr. Ryan's testimony concerning those descriptions, is relevant. Moreover, the intervenor's review appraisal and Mr. Dost's testimony are relevant insofar as they attack Mr. Ryan's credibility regarding the description of the subject. Thus, these two documents and the witness's corresponding testimony were considered by the Board for those limited purposes.

CONTENTION OF LAW #1 – OPEN SPACE VALUATION

The Illinois Constitution states as follows:

> SECTION 4. REAL PROPERTY TAXATION
>
> (a) Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law.

Ill. Const. art. IX, § 4(a).

In accordance with the authority granted to it in this section of the Illinois Constitution, the General Assembly has provided procedures for ascertaining the value of property in Illinois for *ad valorem* real estate tax purposes. Generally, property is valued at its fair cash value, which is defined as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." 35 ILCS 200/1-50 and 9-155. There are several exceptions to this general rule, such as solar energy systems (35 ILCS 200/10-10), residential developments that are platted (35 ILCS 200/10-30(b)), rehabilitated historic residences (35 ILCS 200/10-45 and 10-50), certain airports (35 ILCS 200/10-90), and farmland (35 ILCS 200/10-115). See Commonwealth Edison Co. v. Property Tax Appeal Bd., 378 Ill.App.3d 901, 915-16 (2d Dist. 2008) (providing a similar list of valuation procedures for certain properties and concluding that "the legislature mandated certain specific valuation methods for 'special' properties falling within the enumerated categories set forth above."). All of these types of properties, among others, are required by statute to be valued at a value other than their fair cash value.

One of those exceptions is at issue in this appeal: open space valuation. The statute describing open space valuation states as follows:

> Open space land; valuation. In all counties, in addition to valuation as otherwise permitted by law, land which is used for open space purposes and has been so used for the 3 years immediately preceding the year in which the assessment is made, upon application under Section 10-160, shall be valued on

> the basis of its fair cash value, estimated at the price it would bring at a fair, voluntary sale for use by the buyer for open space purposes.
>
> Land is considered used for open space purposes if it is more than 10 acres in area and:
>
> (a) is actually and exclusively used for maintaining or enhancing natural or scenic resources,
>
> (b) protects air or streams or water supplies,
>
> (c) promotes conservation of soil, wetlands, beaches, or marshes, including ground cover or planted perennial grasses, trees and shrubs and other natural perennial growth, and including any body of water, whether man-made or natural,
>
> (d) conserves landscaped areas, such as public or private golf courses,
>
> (e) enhances the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces, or
>
> (f) preserves historic sites.
>
> Land is not considered used for open space purposes if it is used primarily for residential purposes.
>
> If the land is improved with a water-retention dam that is operated primarily for commercial purposes, the water-retention dam is not considered to be used for open space purposes despite the fact that any resulting man-made lake may be considered to be used for open space purposes under this Section.

35 ILCS 200/10-155.

The appellant argues that some of the improvements on Parcel #2, and all of the improvements on Parcel #3, should be valued as open space under section 10-155, and not based on their fair cash value under section 9-155. Whether such improvements fall within the gambit of the open space valuation statute is a mixed question of law and fact, which requires the Board to examine "the legal effect of a given set of facts." Onwentsia Club v. Illinois Property Tax Appeal Board, 2011 IL App (2d) 100388, ¶ 8 ("Onwentsia I") ("The sole issue in this appeal is whether petitioner's property was properly denied open-space status where certain improvements existed. Assessing the character of petitioner's property and determining whether it falls within the statutory definition of open space presents a mixed question of law and fact, as it involves 'an examination of the legal effect of a given set of facts.'"). "A mixed question of law and fact is one in which the historical facts are admitted or established and the rule of law undisputed. Consequently, the only issue is whether the facts satisfy the settled statutory standard, or whether the rule of law as applied to the established facts is or is not violated." Du Page County Airport Authority v. Department of Revenue, 358 Ill.App.3d 476, 482 (2d Dist. 2005).

The "settled statutory standard" for section 10-155 is set forth in several appellate court opinions. In Knox County Bd. of Review v. Illinois Property Tax Appeal Bd., 185 Ill.App.3d 530 (3d Dist. 1989), the court found that "the improvements to open space land that enhance or conserve the natural scenic beauty of that land, such as greens, tees and fairways, are not separately assessable under the Act." Id. at 534. In Lake County Bd. Of Review v. Property Tax Appeal Bd., 192 Ill.App.3d 605 (2d Dist. 1989), the court stated that the open space statute "afford[s] a uniform

valuation to all land actually used for one or more of the open-space purposes enumerated therein regardless of whatever other actual use or improvements the land supports." Id. at 618. The Second Appellate Court narrowed this holding 16 years later in Golf Trust America, L.P. v. Soat, 355 Ill.App.3d 333 (2d Dist. 2005), stating that, while the "actual use" of the open space land could not be considered in its valuation, "other aspects of such properties (*i.e.*, size and location within the county) could affect the value of open space properties." Id. at 340.

In Consumers IL Water Co. v. Vermillion County Bd. of Review, 363 Ill.App.3d 646 (4th Dist. 2006), the appellant constructed a dam, which created a lake. Id. at 648. In that case, the Board found that the land, including the lake, was subject to open space valuation under section 10-155, but that the dam, as an improvement, was not subject to open space valuation. Id. at 649. The Fourth District Appellate Court reversed the Board's decision as to the dam, finding that the term "land," as defined in section 1-130 of the Property Tax Code, refers to both the land itself and any improvements upon the land. Id. at 651. Thus, the dam, an improvement, was also subject to the open space valuation so long as it met the other statutory criteria delineated in section 10-155. Id. at 652. The court found that to be the case, as "those improvements are contributing to the open space nature of the land." Id. The court also reiterated the Third District Appellate Court's holding in Knox, that "section 10-155 of the [Property Tax] Code [citation] provides a single assessment value, and thus improvements do not have their own assessment value." Id.

In Onwentsia I, the appellant, a golf course, sought to have the improvements upon the golf course (such as the clubhouse and maintenance sheds) be valued as open space under section 10-155. Onwentsia I, 2011 IL App (2d) 100388, ¶¶ 3, 8. The court, again, clarified that "the fact that a particular piece of land has some improvement upon it—including in some cases a building—does not preclude the land from being deemed open space." Id. at ¶ 11. However, the court further found that improvements which "facilitate the existence of the golf course…can also be said to conserve landscaped areas." Id. at ¶ 16 (citing Consumers IL, 363 Ill.App.3d at 652). Thus, "improved areas might be entitled to open-space status if they conserve a landscaped area." Onwentsia I, 2011 IL App (2d) 100388, ¶ 18. The court expressly limited its inquiry to the meaning of section 10-155, and stated that, on remand to the Board, the improvements upon the appellant's golf course should be "evaluated to determine whether they conserve landscaped areas by facilitating the existence of the golf course." Id. at ¶ 21. Such an evaluation, according to the court, "requires a fact-intensive inquiry that would be better performed by the [Board]." Id. at ¶ 19.

In Lake County Board of Review v. Illinois Property Tax Appeal Board, 2013 IL App (2d) 120429 ("Onwentsia II"), the court narrowed its holding from Onwentsia I, stating, "we hold that 'conserve' as it is used in section 10-155 of the [Property Tax] Code [citation] must be construed narrowly, and, in turn, there must be some substantial nexus between the land for which the exemption is claimed and the landscaped area it is claimed to conserve. That is to say, the improvement in question must directly relate to and thus facilitate the existence of the golf course." Onwentsia II, 2013 IL App (2d) 120429, ¶ 10. Despite finding that "[t]he precise contours of 'conserve' are difficult to articulate outside some particular factual context," id. at ¶ 11, and previously finding that such an evaluation "requires a fact-intensive inquiry that would be better performed by the [Board]," Onwentsia I, 2011 IL App (2d) 100388, ¶ 19, the court

found it "easy" to classify certain improvements on the appellant's golf course.[4] Onwentsia II, 2013 IL App (2d) 120429, ¶ 11. In doing so, the court found that the swimming pool, tennis facilities, and riding arena and stables do not facilitate the existence of the golf course, and, thus, there was no substantial nexus between those improvements and the golf course such that they should be valued as open space.[5] Id. at ¶ 11. With regards to the halfway house[6] and the caddy shack, the court found these two improvements "relate directly to and thus facilitate the existence of the golf course," and that they should be valued as open space. Id. The court found whether improvements such as maintenance buildings, parking lots, driveways, and the clubhouse "conserve" a landscaped area depends on what parts of the Onwentsia County Club they serve. Id. The court further found that improvements with multiple uses present "special challenges," id. at ¶ 14, and that "[i]n some cases, considering the primary use of the improvement may provide insight into whether it 'conserves' a landscaped area," but that the Board "remains free to consider other factors as they are relevant." Id. at ¶ 15. Finally, the court commented that an improvement that generates revenue, which is then used to maintain the golf course, must be analyzed without regard to such revenue generation. Id. at ¶ 16. Looking to the improvement's revenue and how it is spent, the court stated, would be too broad of an approach and may lead to absurd results not intended by the General Assembly. Id.

[4] The Board notes that two of the three Second District Appellate Court judges that decided Onwentsia I also decided Onwentsia II, and that the Hon. Donald C. Hudson wrote the court's opinions for both cases.

[5] While the Second District Appellate Court found this classification "easy," the Board, on remand, took a more measured approach in analyzing these improvements. In the Board's third Final Administrative Decision in the Onwentsia saga, the Board, contrary to the appellate court's apparent factual finding, decided that the riding arena and stables did, in fact, conserve the golf course, as they: (1) housed equipment used to maintain the golf course, such as fairway mowers and turf vehicles; (2) are used to repair the golf course maintenance equipment, as well as other components of the golf course, such as the irrigation system and tee markers; and (3) stored items that facilitate the golf course, such as fertilizer and herbicides. Onwentsia Club, 06-00614, pg. 22 (Prop. Tax Appeal Bd. October 24, 2014) (final admin. decision). As such, the Board found the riding arena and stables qualified for the open space valuation in section 10-155. Id.

[6] The Second District Appellate Court, citing Wikipedia, defined "halfway house" as "[a] building, generally between the 9th and 10th holes, providing light snacks and refreshments for golfers during their round." Onwentsia II, 2013 IL App (2d) 120429, ¶ 11, FN 2. However, see Lee F. Peoples, The Citation of Wikipedia in Judicial Opinions, 12 Yale J.L. & Tech 1, 29 (2010) ("Courts should be careful when turning to Wikipedia to conduct *sua sponte* and *ex parte* research into the facts of cases before them. Judges who conduct this type of research run the risk of violating the litigants' due process rights, the law of evidence, the cannons of judicial ethics, and the traditions of the American legal system."); see also, Jodi L. Wilson, Proceed with Extreme Caution: Citation to Wikipedia in Light of Contributor Demographics and Content Policies, 16 Vand. J. Ent. & Tech. L. 857, 899 (2014) ("Given the ripple effects of relying on any source, 'good enough' should not be acceptable in the legal context. If a proposition is important enough to merit inclusion and nonobvious enough to require supporting authority, then the sources cited to support even uncontroversial or tangential propositions should be able to withstand a critical analysis of their authoritative value.

Moreover, finding a better source than Wikipedia should not be that difficult. By design, Wikipedia is an echo chamber. Pursuant to Wikipedia's verifiability policy and its no-original-research policy, any information included in a Wikipedia article must come from a reliable, published source. Thus, if the proposition cannot readily be found in another source, perhaps one cited by the Wikipedia article itself, then the article may violate Wikipedia's own policies. This violation, of course, calls the authoritative value of the article further into question.").

Having set forth the statutory provision and relevant case law, the Board now turns to the fact intensive inquiry of determining which improvements on Parcel #2 and #3, if any, qualify for open space valuation.

With regard to Parcel #2, the Board is first confronted with a procedural issue. The appellant has argued that Improvements #2-1, #2-2, and #2-4 all have a substantial nexus to the golf course such that these improvements should be valued as open space. In following the court's directives in Knox and Consumers IL, the appellant has argued that improvements which are valued as open space should not have an assessment separate and apart from the land, rendering the improvement assessment for such buildings $0. But, curiously, when looking to the Addendum to Petition of the appellant's petition, the appellant has not sought a reduction in the improvement assessment for Parcel #2. Even more curiously, in the brief, the appellant requested that Improvement #2-1's improvement assessment be reduced from $540,245 to "about" $513,233, while the improvement assessment for Improvement #2-1 currently sits at $321,441. The Board finds that the appellant's failure to request a reduction in the improvement assessment for Parcel #2 precludes the Board from granting such a reduction.

"In appeals in which multiple PINs are consolidated into a single petition, the assessed values and the relief requested for each individual PIN must be separately listed." 86 Ill.Admin.Code § 1910.30(c).

> The petition shall in all cases state the assessed value of the land, and the assessed value of the improvements (structures), and the total assessed value as placed on the property by the board of review. The petition must also state the assessed valuation of the land, and the assessed value of the improvements (structures), and the total assessed value that the contesting party claims to be correct. The contesting party may only amend the assessment claimed to be correct by filing an appeal petition denoted as "Amended" setting forth the assessed valuation of the land, the assessed value of the improvements, and the total assessed valuation that the contesting party considers correct upon the completion of the filing of the documentary evidence in accordance with extensions granted pursuant to subsection (g). No amendment to the contesting party's assessment request will be accepted after the expiration of the extension of time to submit evidence that has been granted pursuant to subsection (g).

86 Ill.Admin.Code § 1910.30(j). "Rules adopted by an administrative agency pursuant to statutory authority 'have the force of law and the administrative agency is bound by the rules.'" 1411 North State Condominium Association v. Illinois Property Tax Appeal Board, 2016 IL App (1st) 143757, ¶ 39 (quoting Department of Corrections v. Illinois Civil Service Comm'n, 187 Ill.App.3d 304, 308 (1st Dist. 1989)). The record does not reflect any request from the appellant to amend the improvement assessment requested for Parcel #2 pursuant to Rule 1910.30(j). As such, the appellant has argued for certain relief, but has not requested that relief, and did not amend the petition to request the relief that was argued. Thus, the Board must determine if its rules, which have the force of law, allow it to grant relief argued for, but not requested. Based on the principles of statutory construction, the Board finds that it is precluded from doing so.

> The primary rule of statutory construction is to ascertain and give effect to the legislature's intent. To determine the legislature's intent, a court first looks to the statute's language, according that language its plain and commonly understood meaning. If possible, the court must give effect to every word, clause, and sentence; it must not read a statute so as to render any part inoperative, superfluous, or insignificant; and it must not depart from the statute's plain language by reading into it exceptions, limitations, or conditions the legislature did not express.

People v. Ellis, 199 Ill.2d 28, 39 (2002) (citations omitted). To grant a reduction in Parcel #2's improvement assessment would render Rule 1910.30(c) and the second sentence of Rule 1910.30(j) inoperable. If the Board could simply look at the evidence and determine the correct assessment based on that evidence, there would be no reason for an appellant to request a particular assessment for any parcel of property; however, that is not what those rules require. On the contrary, they require a specific requested assessment for each parcel that is appealed to the Board, which must include the parcel's land assessment, improvement assessment, and total assessment. 86 Ill.Admin.Code §§ 1910.30(c) and 1910.30(j). Other rules then require evidence to be submitted in support of the requested assessment, and establish the applicable burden of proof. See 86 Ill.Admin.Code § 1910.65; 86 Ill.Admin.Code § 1910.63(e). Moreover, to grant a reduction in Parcel #2's improvement assessment would render the last two sentences of Rule 1910.30(j) inoperative as well. It would be unnecessary for an appellant before the Board to amend the requested assessment if the Board could simply grant relief in excess of that requested assessment. In accordance with the Illinois Supreme Court's edict on statutory construction, the Board will not read any word, clause, or sentence of its rules into inoperative obscurity, nor will it read into those rules any exceptions not expressed by their plain language. To grant any reduction in Parcel #2's improvement assessment would violate these well-established principles of statutory construction. Thus, the Board finds that the appellant has forfeited any request for a reduction in the improvement assessment for Parcel #2.

Turning to the improvements on Parcel #3, the parties dispute the number of improvements on this parcel. The appellant and Mr. Ryan assert that there are only two improvements on Parcel #3: Improvements #3-1 and #3-2. The property record cards submitted by the board of review show that there are five improvements on this parcel. The property record cards submitted by the board of review were not dated, and the board of review did not present any further evidence, or witness testimony, to corroborate the information provided on the property record cards. Contrarily, Mr. Ryan inspected the subject on June 2, 2014, and identified only Improvements #3-1 and #3-2 in the appraisal. Mr. Ryan also testified as to these two improvements' characteristics and their use. The appraisal also included a black and white photograph of Improvement #3-1. As such, the Board finds Mr. Ryan more credible on this point, and finds that the appellant has proven, by a preponderance of the evidence, that Parcel #3 contains only two improvements: Improvements #3-1 and #3-2.

At hearing, Mr. Ryan offered unrebutted testimony that these maintenance sheds house golf course maintenance equipment, such as lawnmowers and a fertilizer tank. Based on this testimony, and in accordance with the appellate court's directives in Onwentsia I and Onwentsia II, the Board finds that the appellant has proven, by a preponderance of the evidence, that the improvements on Parcel #3 have a substantial nexus to the golf course, such that they should be

granted the open space valuation found in section 10-155. See Onwentsia II, 2013 IL App (2d) 120429, ¶ 12 ("For example, a maintenance building where the lawnmowers that cut the golf course are kept would facilitate the existence of the golf course…").

As stated in Knox and Consumers IL, the improvements upon open space land that meet the "substantial nexus" test later set forth in Onwentsia II, shall not have an assessment separate and apart from the assessment based on the open space valuation of such land. Knox, 185 Ill.App.3d at 534 ("the improvements to open space land that enhance or conserve the natural scenic beauty of that land, such as greens, tees and fairways, are not separately assessable under the [Property Tax] Act."); Consumers IL, 363 Ill.App.3d at 652 ("We agree with petitioner that section 10-155 of the Code [citation] provides a single assessment value, and thus improvements do not have their own assessment value."). As the Board finds that Improvements #3-1 and #3-2 both have a substantial nexus to the golf course, the Board also finds that these improvements shall not have an assessment separate and apart from the assessment based on the open space valuation. As such, the Board finds that the improvement assessment for Parcel #3 should be reduced, and that it is properly set at $0.

CONTENTION OF LAW #2 – CLASSIFICATION

The appellant's second contention of law is that the land upon the subject which is valued as open space should be classified as class 1 property under the Classification Ordinance. In particular, the appellant argued that all of the land on Parcels #1, #3, and #4 should be classified as class 1 property, and that the portion of the land on Parcel #2 which encompasses the golf course should also be classified as class 1 property. The remaining portion of Parcel #2, which includes the improvements, should remain as class 4 property.

The Illinois Constitution states as follows:

> SECTION 4. REAL PROPERTY TAXATION
>
> (b) Subject to such limitations as the General Assembly may hereafter prescribe by law, counties with a population of more than 200,000 may classify or continue to classify real property for purposes of taxation. Any such classification shall be reasonable and assessments shall be uniform within each class. The level of assessment or rate of tax of the highest class in a county shall not exceed two and one-half times the level of assessment or rate of tax of the lowest class in that county. Real property used in farming in a county shall not be assessed at a higher level of assessment than single family residential real property in that county.

Ill. Const. art. IX, § 4(b). Furthermore:

> Classification of property. Where property is classified for purposes of taxation in accordance with Section 4 of Article IX of the Constitution and with such other limitations as may be prescribed by law, the classification must be established by ordinance of the county board. If not so established, the classification is void.

35 ILCS 200/9-150. In accordance with Article IX, Section 4(b) of the Illinois Constitution, and Section 9-150 of the Property Tax Code, Cook County has adopted an ordinance establishing a system for classifying property for *ad valorem* real estate tax purposes: the Classification Ordinance. For tax year 2014, the Assessor classified the subject's land as either class 4 or class 5 land. The appellant argued that the land upon the subject, except the land underlying the improvements on Parcel #2, should be classified as class 1 land.

The Classification Ordinance defines "class 1" property as "unimproved real estate." Cook County, Ill., Code of Ordinances §74-63(1). "Real estate" is defined as:

> only the land itself, whether laid out in town or city lots, or otherwise, with all things contained therein, but also all buildings, structures and improvements, and their permanent fixtures, of whatsoever kind, thereon, and all rights and privileges belonging or in anywise pertaining thereto. Included therein is any vehicle or similar portable structures used or so constructed as to permit its being used as a dwelling for one or more persons; if such structure is resting in whole on a permanent foundation.

Cook County, Ill., Code of Ordinances §74-62(b). The Classification Ordinance does not define "unimproved real estate," however, when considering the Classification Ordinance as a whole, it becomes clear that the subject is not "unimproved real estate." See Onwentsia I, 2011 IL App (2d) 100388, ¶ 11 ("considering the statute as a whole, as is proper…") (citing First American Bank Corp. v. Henry, 239 Ill.2d 511, 516 (2011)).

The Classification Ordinance defines "Real estate, improved" as:

> For purposes of this division and more particularly Section 74-63, real estate while under lease or license to a unit of local government for an annual rental or fee of not more than $1.00, shall not be deemed to be improved as a result of any alterations, additions or modifications consisting of the construction, landscaping, maintenance, or beautification of parks, parkways, parking lots, playgrounds, or similar public facilities operated or maintained for the public benefit. During the term of such lease or license, including extensions thereof, the real estate which is the subject of such lease or license shall be treated as though such alterations, additions, or modifications have not been made.

Cook County, Ill., Code of Ordinances §74-62(b). While this definition intends to define "real estate, improved," it reads more as an exception to a general rule that real estate which has been altered, added on to, or modified through any construction, *landscaping*, maintenance, or beautification process is improved real estate. Only if real estate is (1) improved, (2) a "park, parkway, parking lot, playground, or similar public facilit[y] operated or maintained for the public benefit," and (3) leased or licensed to a unit of local government for $1.00 or less, does the Classification Ordinance declare that such real estate "shall not be deemed to be improved." Id. Thus, declaring that real estate which has been altered through landscaping is deemed unimproved if it meets certain criteria, implies that Cook County, through the Classification Ordinance, has declared that real estate which has been altered through landscaping and *does not meet* that criteria is improved real estate.

The Board finds support for this interpretation from Onwentsia I, which conducted a similar analysis. In looking to section 10-155 and the definition of the term "land," the court found that land with a building can be considered open space land, so long as the building does not fall into one of the two statutory exceptions described therein (buildings used for residential purposes and commercial water-retention dams), and the building "conserves" a landscaped area. Onwentsia I, 2011 IL App (2d) 100388, ¶ 14. Finding that buildings which "conserve" a landscaped area (such as a golf course) are not expressly exempt from being valued as open space land, the court reasoned that such buildings could be considered open space land. Id.

Section 10-155 defines golf courses as being "landscaped areas." 35 ILCS 200/10-155(d) ("conserves landscaped areas, such as public or private golf courses"). Indeed, as the appellate court recognized in Onwentsia I, "golf courses are merely listed as an example of something that conserves landscaped areas." Onwentsia I, 2011 IL App (2d) 100388, ¶ 14. As such, a golf course, as a landscaped area, is an improvement under the Classification Ordinance.

Moreover, Illinois courts have described golf courses as being an improvement. See, e.g., Mortell v. Beckman, 16 Ill.2d 209, 210 (1959) ([the litigants] are members of the Kankakee Country Club, which owns a 76-acre tract *improved with a 9-hole golf course*…") (emphasis added); Bleck v. Cosgrove, 32 Ill.App.2d 267, 271 (2d Dist. 1961) ("The premises were *improved with a golf course* and a club house which included residence quarters for the defendant.") (emphasis added).

Furthermore, the Board is not persuaded by the appellant's contention that Gaelic Park in Chicago is so similar to the subject, that the subject's classification should mirror that of Gaelic Park. It is unclear whether the appellant is making this argument in support of the class change contention of law, which would be subject to the preponderance of the evidence burden of proof, 5 ILCS 100/10-15, or is, instead, making an argument regarding a lack of uniformity, which would be subject to the clear and convincing evidence burden of proof. 86 Ill.Admin.Code § 1910.63(e). However, the Board finds this distinction is of no consequence in this particular instance, as the appellant's argument fails under the less onerous preponderance of the evidence burden of proof. The appellant only submitted cursory information regarding Gaelic Park, and the Board is unable to determine whether the subject is similar to it or not. There was no evidence submitted regarding this property's use, and no evidence submitted regarding its classifications. Thus, the appellant has not proven, by a preponderance of the evidence, that the subject and Gaelic Park are so similar that their classifications should be similar.

In summary, section 10-155 states that a golf course is a landscaped area, and the Classification Ordinance implies that real estate altered by landscaping is an improvement. Therefore, the Board finds it would be improper to classify the subject golf course as class 1 "unimproved real estate" as it is actually improved real estate. Thus, the Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject's land should be classified as class 1 under the Classification Ordinance, and a reduction in the subject's land assessment is not warranted.

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: January 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.

PARTIES OF RECORD

AGENCY

State of Illinois
Property Tax Appeal Board
William G. Stratton Building, Room 402
401 South Spring Street
Springfield, IL 62706-4001

APPELLANT

Edgewood Valley Country Club, by attorney:
George Michael Keane, Jr.
Keane and Keane
225 West Washington Street
Suite 1301
Chicago, IL 60606

COUNTY

Cook County Board of Review
County Building, Room 601
118 North Clark Street
Chicago, IL 60602

INTERVENOR

Lyons Twp. H.S.D. #204, by attorney:
Ares G. Dalianis
Franczek P.C.
300 South Wacker Drive
Suite 3400
Chicago, IL 60606