



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

APPELLANT: Realty Associates Properties, LLC
DOCKET NO.: 15-06087.001-I-3
PARCEL NO.: 02-25-401-025

The parties of record before the Property Tax Appeal Board are Realty Associates Properties, LLC, the appellant; the DuPage County Board of Review; the Glenbard Twp. H.S.D. #87, intervenor, by attorney Ares G. Dalianis of Franczek Radelet P.C. in Chicago; Marquardt S.D. #15, intervenor, by attorney Michael T. Canna of Canna and Canna, Ltd. in Orland Park; Addison Fire Protection District, Addison Park District, Addison Public Library and Village of Addison, intervenors, by attorney Scott L. Ginsburg of Robbins, Schwartz, Nicholas, Lifton & Taylor, in Chicago.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby **dismisses** the assessment appeal of the property as established by the **DuPage** County Board of Review. The correct assessed valuation of the property is:

LAND: \$ dismissed
IMPR.: \$ dismissed
TOTAL: \$ dismissed

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2015 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 a part one-story and part two-story, masonry-constructed single-industrial building containing 95,625 square feet of building area. The improvement was constructed in 1982. The property has a 7.11-acre site and is located in Addison, Bloomingdale Township, DuPage County.

The appellant filed an Industrial Appeal petition through attorney Brian P. Liston of Liston & Tsantilis, P.C. in Chicago, Illinois with the Property Tax Appeal Board that was postmarked on April 20, 2016. As part of this original filing, counsel requested an extension of time to submit

evidence in support of the appeal. After three extensions of time, the appellant through legal counsel timely filed evidence asserting that the fair market value of the subject is not accurately reflected in its assessed value. The evidence consisted of two Vacancy-Occupancy Affidavits for 2014 and 2015 along with an appraisal of the subject property prepared by Joseph M. Ryan, MAI, of LaSalle Appraisal Group, Inc. The appraisal estimated the fee simple market value of the subject property as of January 1, 2014 to be \$3,800,000.

On April 13, 2017, the Property Tax Appeal Board notified the DuPage County Board of Review of this pending appeal and forwarded the appellant's evidence. The board of review was granted 90 days to file its evidence in response to the appeal.

On May 3, 2017, the DuPage County Board of Review filed its Certificate advising that applicable taxing districts had been notified of the pendency of this appeal as of April 27, 2017.

On May 3, 2017, intervenor Glenbard Township High School Dist. 87 through attorney Ares G. Dalianis requested leave to intervene in this matter. The Property Tax Appeal Board forwarded copies of the appellant's appeal to this intervenor and granted an extension of time to August 10, 2017 to file its evidence in response to the appeal.

On May 5, 2017, intervenors Addison Fire Protection District, Addison Park District, Addison Public Library and the Village of Addison through their attorney Scott L. Ginsburg requested leave to intervene in this matter. The Property Tax Appeal Board forwarded copies of the appellant's appeal to these intervenors and granted extensions of time to August 10, 2017 to file their evidence in response to the appeal.

On May 11, 2017, intervenor Marquardt School Dist. #15 through attorney Michael T. Canna requested leave to intervene in this matter. The Property Tax Appeal Board forwarded copies of the appellant's appeal to this intervenor and granted an extension of time to August 23, 2017 to file its evidence in response to the appeal.

On June 20, 2017, the DuPage County Board of Review filed its "Board of Review – Notes on Appeal" and evidence in response to the appeal.

On July 31, 2017, Attorney Brian P. Liston filed a Motion for Leave and Notice of Withdrawal as Counsel. Attorney Liston asserted that while he has represented Realty Associates Properties, LLC, the appellant in this proceeding, he has been "unable to establish a responsive line of communication or receive timely direction from Realty Associates Properties, LLC." Counsel withdrew as attorney of record for the appellant and provided proof of service and notice of filing upon all parties of record along with the contact address of the appellant Realty Associates Properties, LLC in Baltimore, Maryland. Attorney Liston further suggested that the appellant be granted no less than 60 days to retain other counsel.

On August 16, 2017, the Property Tax Appeal Board issued a letter to the appellant's address of record as stated by Attorney Liston. The letter acknowledged receipt of Attorney Liston's Motion and Notice of Withdrawal as Counsel and granted the appellant a 30-day extension to retain counsel in this pending appeal.

On August 28, 2017, the Property Tax Appeal Board received a letter in this matter dated August 25, 2017 and written by Charles L. Bauermann, CPA, of Bauermann Consulting Corp., on behalf of "his client" Realty Associates Properties, LLC. The letter reflected service both upon James G. Robinson at the address of record for Realty Associates Properties, LLC and the law firm of Liston & Tsantilis. The Bauermann letter began by acknowledging the withdrawal request of Attorney Liston and the reasons set forth in the motion. Bauermann stated, in part, "As the new contact person for the client in March 2017 after resignation of the client's internal CPA, I acknowledge that in March in other appeals matters subsequently resolved, counsel had warned me of the possibility of its withdrawal. In an end of day Friday in July, counsel again warned of withdrawal if I did not reply. The problem this time was a collapse of my e-mail system, but I replied early Saturday morning with instructions. On Monday, I was notified of counsel's withdrawal."

The Bauermann letter further contends that "several unusual factors" led to the lack of responsiveness of both the client and the CPA. He then outlined a request that was made of counsel "of what it would require from client re representation for counsel to reconsider its withdrawal. Client and I know what those issues are but asked for confirmation to provide some comfort to counsel." Attorney Liston has reportedly denied Bauermann's requests.

After noting the existence of a number of appeals before various tribunals, recognizing Attorney Liston's familiarity with the issues, various existing deadlines, "retaining new counsel on a long distance basis in this short period of time adds to transition difficulties" and given the potential harm to the appellant on the existing appeals and for future tax years:

Client respectfully requests that the tribunal instruct Liston & Tsantilis to reverse its withdrawal and continue to represent its client in the matters before the Appeal Board or which are subject to appeal for underassessment.

The letter then referred to four parcel numbers, three of which are at issue in open pending appeals with the Property Tax Appeal Board under five separate docket numbers, including the instant appeal.

Each of the intervenors timely through their respective attorneys of record filed requests for extension of time to file evidence in response to the appeal. By letters dated September 15, 2017 extensions of time to file evidence were granted to the respective intervening parties.

A copy of the Bauermann letter was forwarded to Attorney Liston by the Property Tax Appeal Board by a letter dated October 6, 2017 along with an extension of time to October 21, 2017 to file a response, if any. No response was received from Attorney Liston.

On October 10, 2017 all intervenors through their respective attorneys filed a Joint Motion for Dismissal for Want of Attorney Representation Pursuant to PTAB Rules 1910.30(D) and 1910.70(C) or for Ruling on Deadline for Appellant to Retain Counsel. The certificate of service prepared by Attorney Ginsburg reflects that copies of the motion were mailed to Attorney Liston, the PTAB, the DuPage County Board of Review and to Attorneys Dalianis and Canna. Noting that intervenors were not served with documentation of any deadline for Realty Associates Properties, LLC to retain new counsel and not having received an entry of appearance by new

counsel for the appellant, the intervenors cites to procedural rules of the Property Tax Appeal Board that mandate limited liability companies must be represented by an Illinois licensed attorney before the Property Tax Appeal Board at all stages. (86 Ill.Admin.Code §1910.30(d) and 1910.70(c)) Since the appellant lacks counsel and the appeal cannot proceed further without new counsel for the appellant, the intervenors request that the appeal be dismissed pursuant to Sections 1910.30(d) and 1910.70(c) of the Board's procedural rules. In the alternative, the intervenors request a deadline be established for the appellant to retain new counsel of record and that the deadline for intervenors' evidence be extended an additional 90 days beyond the deadline for the appellant to retain counsel.

On October 23, 2017, the Property Tax Appeal Board forwarded a copy of the aforesaid dismissal motion to Attorney Liston and established a deadline of November 7, 2017 for a response, if any.

Contrary to the instructions of the August 16, 2017 letter, new counsel has not entered their appearance in this matter on behalf of the appellant, Realty Associates Properties, LLC. Moreover, no response has been filed to the intervenors' dismissal motion.

Conclusion of Law

After reviewing the record, the Property Tax Appeal Board finds that this appeal should be dismissed. The Property Tax Appeal Board finds that Realty Associates Properties, LLC, as a *pro se* limited liability company-appellant, does not have standing before the Board in accordance with Sections 1910.30(d) and 1910.70(c) of the procedural rules of the Property Tax Appeal Board which require a limited liability company to be represented at all stages before the Property Tax Appeal Board by a person licensed to practice law in the State of Illinois. (86 Ill.Admin.Code §1910.30(d) and §1910.70(c)) On the existing record, the appellant must be barred from any hearing and the appeal dismissed in accordance with Sections 1910.69(a) and (e) and/or 1910.70(a-c) of the rules. (86 Ill.Admin.Code §1910.69(a) & (e) and §1910.70(a-c))

Section 1910.70(a) of the rules of the Property Tax Appeal Board states in relevant part:

A party shall have the right to represent himself or herself and to be present at and participate in any hearing before the Property Tax Appeal Board. The right to participate shall include the rights to call, examine and cross-examine witnesses and to discuss any evidence properly submitted pursuant to this Part. A party may be represented at the hearing by any person who is admitted to practice as an attorney in this State. Accountants, tax representatives, tax advisers, real estate appraisers, real estate consultants and others not qualified to practice law in this State may not appear at hearings before the Board in a representative capacity, and may not conduct questioning, cross-examination or other investigation at the hearing. However, such persons may testify at hearings before the Board and may assist parties and attorneys in preparation of cases for presentation by those parties and attorneys for the Board at hearings. See 86 Ill.Admin.Code §1910.70(a)

Moreover, Section 1910.70(b) of rules of the Property Tax Appeal Board states:

As provided in subsection (a), only attorneys licensed to practice law in the State of Illinois shall be allowed to represent a party at a Property Tax Appeal Board hearing. See 86 Ill. Adm. Code §1910.70(b)

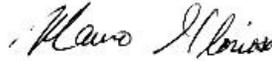
This undisputed record discloses that Realty Associates Properties, LLC, is the owner and taxpayer of the subject parcel. The owner was granted 30 days to obtain new counsel of record by a letter dated August 16, 2017. The sole response to that letter was submitted by Charles L. Bauermann, CPA, on behalf of the appellant requesting denial of the motion to withdraw filed by Attorney Brian P. Liston in this proceeding. Bauermann is not the owner of the subject parcel, is not the taxpayer of the subject parcel, and is not an attorney licensed to practice law in the State of Illinois.

The Board finds Bauermann does not have standing to represent the property owner in this appeal and based on the facts admitted to in the record concerning lack of communication with counsel, the Board finds there is no basis upon which to deny the withdrawal request of Attorney Brian P. Liston. Furthermore, the intervenors' dismissal motion appears to be meritorious on its face in light of the foregoing facts. Since dismissal of this appeal is the appropriate remedy for appellant's failure to retain new counsel as required by the Property Tax Appeal Board, on this record the intervenors' extension request is deemed moot, however, the intervenors were not entitled to any further extensions of time to submit evidence.¹

In conclusion, the Property Tax Appeal Board finds that the appellant Realty Associates Properties, LLC has failed to secure proper representation after the withdrawal of Attorney Liston despite having been given an opportunity to do so. Therefore, pursuant to Section 1910.69(a) and (e) of the rules of the Property Tax Appeal Board (86 Ill. Admin. Code §1910.69(a) and (e)) the appellant is found to be in default and the appeal is hereby **dismissed**.

¹ The letter issued September 15, 2017 to each of the intervenors established a final extension for the submission of evidence stating, in pertinent part, "NO FURTHER EXTENSIONS OF TIME TO SUBMIT EVIDENCE WILL BE GRANTED" to the respective intervenors.

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(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(b)) 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



Acting 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: January 16, 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

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

APPELLANT

Realty Associates Properties, LLC
10 East Lee St., Suite 2705
Baltimore, MD 21202

COUNTY

DuPage County Board of Review
DuPage Center
421 N. County Farm Road
Wheaton, IL 60187

INTERVENOR

Addison Fire Protection District, by attorney:
Scott L. Ginsburg
Robbins Schwartz Nicholas Lifton Taylor
55 West Monroe Street
Suite 800
Chicago, IL 60603

Addison Park District, by attorney:
Scott L. Ginsburg
Robbins Schwartz Nicholas Lifton Taylor
55 West Monroe Street
Suite 800
Chicago, IL 60603

Addison Public Library, by attorney:
Scott L. Ginsburg
Robbins Schwartz Nicholas Lifton Taylor
55 West Monroe Street
Suite 800
Chicago, IL 60603

Glenbard Twp. H.S.D. #87, by attorney:

Docket No: 15-06087.001-I-3

Ares G. Dalianis
Franczek Radelet P.C.
300 South Wacker Drive
Suite 3400
Chicago, IL 60606

Marquardt S.D. #15, by attorney:
Michael T. Canna
Canna and Canna, Ltd.
10703 West 159th Street
Orland Park, IL 60467-4531

Village of Addison, by attorney:
Scott L. Ginsburg
Robbins Schwartz Nicholas Lifton Taylor
55 West Monroe Street
Suite 800
Chicago, IL 60603