



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

APPELLANT: John Boedeker for ADJ, LLC
DOCKET NO.: 15-06857.001-C-3
PARCEL NO.: 02-03.0-202-002

The parties of record before the Property Tax Appeal Board are John Boedeker for ADJ, LLC, the appellant, by attorney Grey Chatham, of Chatham & Baricevic, in Belleville; the St. Clair County Board of Review by its attorney Thomas R. Ysursa of Becker, Hoerner, Thompson & Ysursa, P.C. in Belleville; and Collinsville C.U.S.D. #10, intervenor, by attorney Dana Edwards of Guin Mundorf, LLC in Collinsville, and Southwestern IL College, intervenor, by attorney Garrett P. Hoerner of Becker, Paulson, Hoerner & Thompson P.C., in Belleville.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby issues a **dismissal due to lack of jurisdiction** of the appeal of this **St. Clair** County property and finds it has no jurisdiction to determine the assessed valuation of the property:

LAND: \$ No jurisdiction
IMPR.: \$ No jurisdiction
TOTAL: \$ No jurisdiction

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property purportedly consists of an office/warehouse/distribution center building. The subject is located in Fairmont City, Canteen Township, St. Clair County.

The appellant through legal counsel, Grey Chatham, filed a single "2015, 2016, 2017 (one month)" Commercial Appeal¹ with the Property Tax Appeal Board (PTAB). The pleading was postmarked on March 28, 2018. The basis of appeal was recent appraisal. On the appeal petition, the appellant reported that the appeal was being made from the final, written decision of the St. Clair County Board of Review dated March 13, 2015; no documentation of this final decision was supplied with the appeal. The appeal submission included the following:

- A copy of the four-page Commercial Appeal recorded as Docket No. 14-03532.001-C-3 with a "received" stamp of April 9, 2015 by the PTAB.

¹ As each tax year assessment appeal is to be filed separately on an individual petition, the Property Tax Appeal Board docketed the submission for tax year 2015 only. As detailed herein, tax years 2016 and 2017 would similarly be untimely filings for which jurisdiction would be lacking before the Property Tax Appeal Board.

- A copy of the Stipulation of Assessment(s) By The Parties executed by the appellant and St. Clair County Board of Review in Docket No. 14-03532.001-C-3 agreeing to a 2014 tax year assessment for the subject property of \$633,333.
- A copy of the Notice of Hearing of the PTAB issued on March 21, 2017 establishing a hearing date of June 14, 2017 for Docket No. 14-03532.001-C-3 at the offices of the St. Clair County Board of Review.
- A copy of the "Board of Review – Notes on Appeal" completed by the St. Clair County Board of Review in Docket No. 14-03532.001-C-3 depicting a final equalized assessment of the subject property for tax year 2014 of \$997,600.
- An appraisal prepared by James F. Collier, a Certified General Appraiser, opining a market value for the subject property of \$1,600,000 as of January 1, 2014.

By letter dated August 30, 2018, the PTAB notified the St. Clair County Board of Review of this pending appeal known as Docket No. 15-06857.001-C-3 and granted a 90-day extension of time to file a response. (86 Ill.Admin.Code §1910.40).

On November 14, 2018, through its retained counsel the St. Clair County Board of Review filed a Request for Dismissal contending that there is no jurisdiction for the appellant's appeal filed in this matter on March 28, 2018 for the tax years referenced in the petition. The pleading argued that appeals may be filed before PTAB within 30 days of the issuance of a final decision of a local board of review (35 ILCS 200/16-160) or, alternatively, within 30 days of the issuance of a favorable decision of the PTAB (35 ILCS 200/16-185). The board of review acknowledged that a favorable decision was issued by the PTAB in Docket No. 14-03532.001-C-3 on July 21, 2017 (see Exhibit A).

In light of the foregoing provisions of the Property Tax Code and the date the PTAB favorable decision was issued, the board of review contends that the appellant failed to comply with either time limitation for the appeal of assessment years 2015, 2016 or 2017. Citing Spiel v. Property Tax Appeal Board, 309 Ill.App.3d 373, 722 N.E.2d 306 (2d Dist. 1999). As such, the board of review contends the PTAB is deprived of subject matter jurisdiction over the appellant's petition.

On November 20, 2018, the board of review filed its own dismissal request in this matter contending the appeal was untimely filed by the appellant. In citing to the prior PTAB decision issued on July 21, 2017, the board of review cited to the language entitled "Important Notice" providing in pertinent part (capitalization as shown):

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.

The board of review argued that the appellant did not file an appeal within 30 days from the PTAB Final Decision and instead filed this petition for the subsequent year on March 28, 2018 (postmark date), thereby missing the deadline. In light of the foregoing, the board of review requested dismissal of this pending appeal.

On May 15, 2019, intervening taxing district Collinsville Community Unit School District No. 10 (CUSD #10) filed its Request for Dismissal on the grounds that the appellant was untimely in the filing of the appeal. Contending that an appeal for subsequent tax years would have to be filed within 30 days of the decision issued on July 21, 2017 in Docket No. 14-03532.001-C-3, since the appellant's instant appeal was not filed until March 26, 2018, well past the statutory deadline, this appeal should be dismissed.

Intervening taxing district Southwestern Illinois College adopted the dismissal motion filed by intervenor CUSD #10.

The appellant on January 10, 2019 timely responded to the initial dismissal request filed by the board of review. In the pleading, counsel for the appellant contends that at the time originally scheduled for the hearing on the 2014 appeal, "Appellants were lead [sic] to believe that the agreed to disposition regarding the tax bill" would be for 2015-2017. Given this oral understanding appellant took no further action "with respect to the taxable years in question." Thus, appellants contend there was detrimental reliance upon the agreement with the board of review at the time of the hearing. The pleading also indicates a lawsuit was filed in St. Clair County "to assert the agreement that Appellant believed to have taken place." Appellant's pleading concludes arguing it would be in the best interest of justice if the PTAB were to adjudicate the matter as it would also be less costly and time consuming than continuation in the courts of St. Clair County. As such, the appellant requests an order denying dismissal.

After reviewing the appeal, the respective pleadings of the participants and the applicable statutory and procedural rules, the Property Tax Appeal Board finds that it does not have jurisdiction over the parties and the subject matter of the appeal.

The evidence is clear that a final decision was issued by the PTAB for tax year 2014 in Docket Number 14-03532.001-C-3 on July 21, 2017. Said decision was issued by the Board in accordance with the Property Tax Code and Section 1910.30(i) (86 Ill.Admin.Code §1910.30(i)). Section 16-185 of the Code provides in part that:

. . . 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 board of appeals or after adjournment of the session of the board of review or board of appeals at which assessments for the subsequent year or years of the same general assessment period, as provided in Sections 9-215 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. [Emphasis added.]

35 ILCS 200/16-185. Section 1910.30(b) of the rules of the property Tax Appeal Board also provides in pertinent part that:

. . . Petitions shall be filed for the subsequent year **within 30 days after the date of the written notice when the Property Tax Appeal Board rendered a decision** lowering the assessment of a particular parcel after the deadline for filing

complaints with the board of review, or after adjournment of the session of the board of review at which assessments for the subsequent year are being considered. (See Section 16-185 of the Code.) [Emphasis added.]

86 Ill.Admin.Code §1910.30(b).

The decision in Docket No. 14-03532.001-C-3, which lowered the assessment of the subject property, stated on pages 2 to 3 of the decision under a section entitled "IMPORTANT NOTICE" that a subsequent year appeal must be filed within 30 days of the date of the decision. It is undisputed that the appellant postmarked a Commercial Appeal to the PTAB on March 28, 2018. This petition asserted the appeal was being made "from the final, written decision of the St. Clair County Board of Review which has a date of notice of 3/13/15." However, as Section 16-160 of the Property Tax Code (35 ILCS 200/16-160) provides that an appeal must be filed within 30 days after the date of written notice of the decision of the board of review, the appellant's filing postmarked on March 28, 2018, was not filed within 30 days after the date of written notice by the St. Clair County Board of Review. More importantly, the appellant's 2015 appeal postmarked on March 28, 2018 was also past the statutory 30 day deadline for filing a subsequent year appeal based upon the Board's decision issued July 21, 2017. Therefore, the board of review and the two intervening taxing districts requested dismissal of this appeal.

The appellant's response does not dispute the untimely filing of this appeal, but requests relief "in the interests of justice" and as a cost and timing saving procedure. However, a precursor for the Property Tax Appeal Board being able to construe a statute in making a decision is jurisdiction, which the Property Tax Appeal Board finds it does not have under the facts of this appeal. The only power and authority the Property Tax Appeal Board has is to receive appeals from decisions of boards of review, conduct hearings and make a decision on the appeal. Geneva Community Unit School Dist. No. 304 v. Property Tax Appeal Board, 296 Ill.App.3d 630, 634 (2nd Dist. 1998). Furthermore, the only types of appeals provided for in the statute are those by a taxpayer dissatisfied with the assessment of his property or by a taxing body that has an interest in a decision of the BOR on an assessment made by a local assessment officer. Id. Such an appeal must be filed within specified time limits set forth in the Property Tax Code and applicable rules. As an administrative agency, the Property Tax Appeal Board has the authority to construe statutory provisions in making decisions and determinations. Spiel v. Property Tax Appeal Board, 309 Ill.App.3d 373, 377 (2nd Dist. 1999).

To be more specific, the Property Tax Code provides for three instances when a taxpayer may appeal an assessment directly to PTAB. First, a direct appeal may be taken where an appeal is based solely on the effect of an equalizing factor assigned to all property or to a class of property by the board of review. (35 ILCS 200/16-180). Second, a direct appeal is available where PTAB renders a decision lowering an assessment after the adjournment of the session of the board of review at which assessments for the subsequent year were being considered. (35 ILCS 200/16-185). Finally, a direct appeal may be taken where PTAB renders a decision lowering an assessment after the deadline for filing complaints with the board of review for the subsequent year [or years] has passed. (35 ILCS 200/16-185). Spiel at 379.

In conclusion, pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) 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 at which assessments for the

subsequent year or years of the same general assessment period 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. However, on this record, the Property Tax Appeal Board finds the final decision for tax year 2014 was issued by PTAB on July 21, 2017. The appellant first sought to appeal on March 28, 2018, approximately eight months after the issuance of the 2014 Final Administrative Decision of the PTAB. As such, the Property Tax Appeal Board finds that the appellant has not established a right to proceed with an appeal before this Board as there is no jurisdiction over this appeal. The instant appeal is hereby dismissed for lack of jurisdiction.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code. 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: March 16, 2021



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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