



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

APPELLANT: Sheridan Court Assoc.
DOCKET NO.: 15-24784.001-R-2 through 15-24784.019-R-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Sheridan Court Assoc., the appellant(s), by attorney Spiro Zarkos, of Verros Berkshire, PC in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board (the Board) hereby finds it **lacks standing** in this matter and, therefore, the **case is dismissed**, the Board of Review's Motion to Dismiss for Lack of Standing is **granted**. As a result, there is **no change** in the assessment of the property as established by the **Cook** County Board of Review

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
15-24784.001-R-2	14-28-118-021-0000	12,838	30,761	\$43,599
15-24784.002-R-2	14-28-118-022-0000	12,682	30,940	\$43,622
15-24784.003-R-2	14-28-118-023-0000	12,682	30,883	\$43,565
15-24784.004-R-2	14-28-118-024-0000	12,682	30,940	\$43,622
15-24784.005-R-2	14-28-118-025-0000	12,682	30,940	\$43,622
15-24784.006-R-2	14-28-118-027-0000	12,932	30,651	\$43,583
15-24784.007-R-2	14-28-118-028-0000	12,675	30,926	\$43,601
15-24784.008-R-2	14-28-118-029-0000	12,675	30,926	\$43,601
15-24784.009-R-2	14-28-118-030-0000	12,675	30,894	\$43,569
15-24784.010-R-2	14-28-118-031-0000	12,675	30,864	\$43,539
15-24784.011-R-2	14-28-118-033-0000	12,838	33,230	\$46,068
15-24784.012-R-2	14-28-118-034-0000	12,589	32,879	\$45,468
15-24784.013-R-2	14-28-118-035-0000	12,589	32,879	\$45,468
15-24784.014-R-2	14-28-118-036-0000	12,589	33,418	\$46,007
15-24784.015-R-2	14-28-118-037-0000	12,589	33,418	\$46,007
15-24784.016-R-2	14-28-118-038-0000	12,854	33,163	\$46,017
15-24784.017-R-2	14-28-118-039-0000	12,152	33,654	\$45,806
15-24784.018-R-2	14-28-118-040-0000	1,763	0	\$1,763
15-24784.019-R-2	14-28-118-041-0000	11,372	34,577	\$45,949

Subject only to the State multiplier as applicable.

ANALYSIS

The subject properties consist of 19 individually owned residential dwellings with an association known as the Sheridan Court Association that maintains and administers the property. The appellant, Sheridan Court Association, filed its appeal based on lack of assessment equity for 19 parcels. The subject properties are located in Chicago, Lake View Township, Cook County.

The Board finds the appellant, Sheridan Court Association, timely filed its appeal on March 3, 2016 following a Final Decision issued by the Cook County Board of Review on February 2, 2016. On May 3, 2016 the Cook County Board of Review was notified of this appeal and given 90 days to file its response.

On August 3, 2016 the Cook County Board of Review filed its Notes on Appeal and evidence in this matter. On November 2, 2016 the parties were given notice that all evidence was received. On July 13, 2018 this matter was then set for hearing on September 5, 2018. The board of review submitted a Motion to Dismiss for Lack of Standing on September 4, 2018 and the appellant requested a postponement of the hearing to respond to this motion. This response was received on September 10, 2018 and the board of review replied on October 1, 2018.

The Cook County Board of Review argues that it has properly filed this motion under Section 1910.64 of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.64 (b))which states:

that all other motions [other than motions for extensions of time in which to file evidence] shall be in writing setting forth the arguments and authorities relied upon to permit the Board to make a decision with or without oral argument, at its discretion.

The board of review then argues that this motion is timely filed, and the issue has not been waived because it is based on an affirmative defense and not subject matter jurisdiction, which is a distinct legal doctrine under Illinois law. The board argues that the Illinois Supreme Court ruled “issues of standing and ripeness do not implicate our subject matter jurisdiction.” Lebron v. Gottlieb Memorial Hosp., 237 Ill.2d 217,252-253, 930 N.E.2d 895, 916 (2010).

Finally, the board of review argues that petitioner, Sheridan Court Association, is not the owner or taxpayer to be allowed to properly file an appeal before the Property Tax Appeal Board. 86 Ill.Admin.Code §1910.60(a))

The board of review further cites a prior decision of the Property Tax Appeal Board in Docket Number 13-29612.001-R-2 et al., issued on September 18, 2015, finding that a townhome association is not a taxpayer, owner or taxing body and does not have standing to file an assessment appeal. (Hickory Rowhomes Homeowners Association, Docket No. 13-29612.001-R-2 through 13-29612.011-R-2, dated 9-18-15). After determining that the townhome association was not the taxpayer or owner of the 11 parcels on appeal, the Property Tax Appeal Board found in light of its rules that only a "taxpayer," or "those granted statutory standing" may file an appeal before the Property Tax Appeal Board. Since a townhome association did not qualify as any of those entities, the appeal was dismissed.

In response to the motion, the appellant argued that the motion was not timely raised and, therefore, the board of review waived the right to raise a lack of standing defense as required under Section 1910.40(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.40 (b)) states:

If the board of review objects to the Board's jurisdiction, it must submit a written request for dismissal of the petition prior to the submission of the Board of Review Notes on Appeal and accompanying documentation.

The appellant argued the rule on its face that a written request to dismiss must be filed within the 90 days after notice of the appeal is given and filed prior to the submission of Notes on Appeal and accompanying evidence. 86 Ill.Admin.Code §1910.40 (b). The appellant argued that the board of review's failure to follow this rule resulted in its forfeiture of any right to object to standing.

The appellant then argued that the motion should be denied because the board of review allowed Sheridan Court Association to file an appeal and be granted relief at the county level and that the board of review submitted Notes on Appeal. The appellant argued that these affirmative actions show that the board of review acknowledged the appellant had an interest in the outcome of the controversy. The appellant argued that the Lebron case supports that these actions show that the board of review did not assert a lack of standing in the underlying appeal. Lebron at 252.

Sheridan Court Association argued it has statutory authority to act for the owners/member of the association because the rules address "other similar entities" as included in ownership. The appellant argued it is an entity with an interest in the outcome of the controversy as created by the Common Interest Community Association Act (CIC Act). The appellant argued that the CIC Act defines community associations as "real estate other than a condominium or cooperative with respect to which any person by virtue of his or her ownership of a partial interest or unit therein is obligated to pay for the maintenance, improvement, insurance premiums or real estate taxes of common areas described in a declaration which is administered by an association. 765 ILCS 160/1-1 et. al.

The appellant argues that standing is granted under the CIC Act by the duties enumerated under the act which includes "(j) the board shall have standing and capacity to act in a representative capacity in relation to matters involving the common areas or more than one unit, on behalf of the members or unit owners as their interests may appear." Id. The Sheridan Court Association By-Laws empowers the association to act on the behalf of its members in any matter where the respective interests of the members are deemed similar and non-adverse to each other and, the appellant argued, this includes filing an appeal before the Property Tax Appeal Board.

The appellant argued that the Hickory Rowhomes Homeowners Association Appeal, 13-29612.001-R-2, differs from the instant appeal in that the appellant did not respond to the board of review's timely motion to dismiss and so the Property Tax Appeal Board did not address whether that appellant had statutory authority to represent its members. The appellant argued that the Property Tax Appeal Board rules allows for its representation as "other similar entities"

under Section 1910.30(d) of the rules Property Tax Appeal Board. 86 Ill.Admin.Code §1910.30(d).

Next the Sheridan Court Association argued that caselaw supports a broader use of the term “owner” under Kankakee County Board of Review v. Property Tax Appeal Board, which held that “title refers only to a legal relationship to the land, while ownership is comparable to control and denotes an interest in the real estate other than of holding title thereto. 316 Ill.App.3d 148, 152 (3rd Dist. 2000). The appellant likened the associations ownership to a trust beneficiary which controls the management of property.

Finally, the appellant argued that public policy and administrative practicality require the appellant’s standing based on the official rules of the board of review and the Property Tax Appeal Board. The appellant argued the board of review’s rules allow for condominium associations and “the like” as needing an attorney for representation and that both the board of review and the Property Tax Appeal Board would prefer an appeal filed by an association than hundreds of separate appeals filed by individual taxpayers.

The appellant submitted the By-Laws of Sheridan Court Association and the Official Rules of the Cook County Board of Review in support of these arguments. The board of review also argued that the board of review and the Property Tax Appeal Board are governed by completely different statutes and the Property Tax Appeal Board is a body of record while the board of review is not.

The board of review replied to this response and argued that the appellant’s reference to the county level appeal is irrelevant as all appeals before the Property Tax Appeal Board are de novo proceedings 86 Ill.Admin.Code §1910.50 (a).

The board of review cites a prior order of the Property Tax Appeal Board in Docket Number 11-23192.001-R-1, issued October 6, 2017, ruling that the board of review’s motion was proper and timely and that Section 1910.64 of the Property Tax Appeal Board Rules is the correct application for a motion to dismiss for lack of standing. (Lake Maryanne Homeowner’s Association, Docket No. 11-23192.001-R-1 through 11-23192.008-R-1, order dated October 6, 2017). The board of review argued that under the Property Tax Appeal Board Rules only jurisdiction issues may be time-barred and that standing issues may be raised at any time before trial.

The board of review further argued that the CIC Act differs from the Condominium Property Act in how standing is conferred on an association and that the CIC Act states “[t]he board shall have standing and capacity to act in a representative capacity in relation to matters involving the common areas or more than one unit, on before of the members or unit owners as their interests may appear.” 765 ILCS 160/1-30 (j). However, it is the Condominium Property Act that specifically grants the condominium association board with the standing to act on behalf the unit owners in seeking relief in connection with the assessment or levy of taxes. 765 ILCS 605/10 (c). The board of review argues that the CIC Act does not include this language. It argued that ownership for condominiums is determined by percentage of ownership while the townhomes in this appeal are individually owned and only these individually owned homes are under appeal.

After reviewing the record, the Property Tax Appeal Board finds that the appellant does not have standing and appellant's appeal is dismissed.

First the Board finds that the board of review properly filed its motion pursuant to Section 1910.64 of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.64 (b))which states:

that all other motions [other than motions for extensions of time in which to file evidence] shall be in writing setting forth the arguments and authorities relied upon to permit the Board to make a decision with or without oral argument, at its discretion.

The board finds that the board of review's motion is based on lack of standing is proper for the Board to review and rule on this motion.

Second, the Board finds only taxpayers and those granted statutory standing may pursue an appeal (citing Kankakee County Board of Review v. Property Tax Appeal Board, 316 Ill.App.3d 148 (3rd Dist. 2000); First National Bank v. Mid Central Food Sales, Inc., 129 Ill.App.3d 1002 (1st Dist. 1965)).

The Board further finds Section 16-160 of the Property Tax Code (35 ILCS 200/16-160) states in relevant part:

In counties with 3,000,000 or more inhabitants, beginning with assessments made for the 1996 assessment year for residential property of 6 units or less and beginning with assessments made for the 1997 assessment year for all other property, and for all property in any county other than a county with 3,000,000 or more inhabitants, **any taxpayer** dissatisfied with the decision of a board of review or board of appeals as such decision pertains **to the assessment of his or her property for taxation purposes, or any taxing body that has an interest in the decision of the board of review** or board of appeals on an assessment made by any local assessment officer, **may**, (i) in counties with less than 3,000,000 inhabitants within 30 days after the date of written notice of the decision of the board of review or (ii) in assessment year 1999 and thereafter in counties with 3,000,000 or more inhabitants within 30 days after the date of the board of review notice or within 30 days after the date that the board of review transmits to the county assessor pursuant to Section 16-125 its final action on the township in which the property is located, whichever is later, **appeal the decision to the Property Tax Appeal Board for review.** . . . [Emphasis added]

Section 1-150 of the Property Tax Code (35 ILCS 200/1-150) defines a taxing district as:

Any unit of local government, school district or community college district with the power to levy taxes.

Section 1910.10(c) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.10(c)) states:

Only a taxpayer or owner of property dissatisfied with the decision of a board of review **as such decision pertains to the assessment of his property for taxation purposes**, or a taxing body that has a tax revenue interest in the decision of the board of review on an assessment made by any local assessment officer, may file an appeal with the Board. [Emphasis added]

Section 1910.60(a) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.60(a)) further states in relevant part:

Any taxpayer or owner of property dissatisfied with a decision of the board of review as such decision pertains to the assessment of his or her property may appeal that decision by filing a petition with the Property Tax Appeal Board . . . [Emphasis added]

The court in Kankakee County Board of Review v. Property Tax Appeal Board, 316 Ill.App.3d 148 (3rd Dist. 2000), in determining whether a party that initiated an appeal before the Property Tax Appeal Board had standing as an owner or taxpayer, stated:

Title refers only to a legal relationship to the land, while ownership is comparable to control and denotes an interest in the real estate other than that of holding title thereto.

Id. at 152, citing (People v. Chicago Title & Trust Co., 75 Ill.2d 479 at 489 (1979)).

The Kankakee court further found:

Especially in tax law, "[t]he key elements of ownership are control and the right to enjoy the benefits of the property. Revenue collection is not concerned with the "refinements of title"; it is concerned with the realities of ownership."

Kankakee at 152.

The Board further finds Section 16-160 of the Property Tax Code (35 ILCS 200/16-160) and Section 1910.10(c) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.10(c)) are clear: only a "taxpayer", "owner" or "taxing district having an interest in the decision of the board of review" may file an appeal before the Property Tax Appeal Board. The Board further finds the appellant, Sheridan Court Association, is not a "taxpayer", "owner" nor a "taxing district" as defined in the Code, nor is it granted leave to file an appeal before the Board pursuant to the rules of the Property Tax Appeal Board.

The Board gives little weight to the appellant's argument that the appellant should be allowed to file an appeal before the Property Tax Appeal Board because an appeal was filed at the county level with the board of review. Section 1910.50(a) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(a)) states:

All proceedings before the Property Tax Appeal Board shall be considered de novo meaning the Board will consider only the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review or to any submissions not timely filed or not specifically made a part of the record.

Any appeal before the Property Tax Appeal Board is governed by the Property Tax Code and the rules established by the Board. The rules established at the county level do not apply.

Fourth, the Board finds the Common Interest Community Association Act (CIC Act) does not authorize the Sheridan Court Association to file a petition with the Property Tax Appeal Board. The Condominium Property Act specifically allows for representation in regard to separate taxation by authorizing “the board of managers acting on behalf of all unit owners [to] have the power to seek relief from or in connection with the assessment or levy of any such taxes.” (765 ILCS 605/10 (c)). The CIC Act is void of any language in regard to separate taxation and does not authorize any representation in connection with the assessment or tax levy. Moreover, the definition of a common interest community focuses on the common areas. 765 ILCS 160/1-5.

Fifth, the Board gives no weight to the appellant’s argument that public policy requires that the Sheridan Court Association be allowed to appeal individual home owners’ assessments. When individual appeals are filed, these appeals may be consolidated for hearing purposes to promote judicial economy if they involve the same property or common issues of law and fact. (86 Ill.Admin.Code §1910.78). The Board finds the taxpayers are not prohibited from filing an appeal on their own behalf and are required to follow the rules of the Property Tax Appeal Board in determining their access to an appeal.

Finally, pursuant to Section 1910.90(i) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.90(i)), the Board may take judicial notice of previous decisions issued by the Board.

Section 1910.90(i) of the rules of the Property tax Appeal Board states:

The Property Tax Appeal Board may take official notice of decisions it has rendered, matters within its specialized knowledge and expertise, and all matters of which the Circuit Courts of this State may take judicial notice.

The Board furthermore takes judicial notice of Docket Nos. 13-29612.001-R-2 through 13-29612.011-R-2 and 11-32192.001-R-1 through 11-32192.008-R-1.

Therefore, based on the conclusion that Sheridan Court Association is not a taxpayer, owner or taxing body, the Board finds the appellant does not have standing to file an assessment appeal and the Property Tax Appeal Board **grants** the Motion To Dismiss For Lack of Standing; **case dismissed**.

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

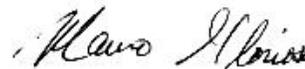
Member

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: October 15, 2019



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

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