



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

APPELLANT: Brett Kline
DOCKET NO.: 16-01785.001-R-1
PARCEL NO.: 12-15-486-016

The parties of record before the Property Tax Appeal Board are Brett Kline, the appellant, by Greg Earl, Attorney at Law, in Geneva; and the Kane County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby **Dismisses** the assessment complaint.

Findings of Fact

On November 20, 2017, the Property Tax Appeal Board received a Motion to Dismiss filed by the Kane County Board of Review claiming a lack of jurisdiction because the appeal was not timely filed. The board of review contends the appellant's appeal was postmarked on February 23, 2017, therefore it was not timely filed pursuant to Section 16-160 of the Property Tax Code. (35 ILCS 200/16-160). The board of review argued it issued a decision pertaining to the subject property on January 23, 2017. The decision notice advised the appellant of the right to appeal to the Property Tax Appeal Board within 30 days of the postmark on the notice or by February 22, 2017.

On December 18, 2017, the Board received the response to the Motion to Dismiss from appellant's counsel. The appellant's attorney argued the "Statute on Statutes' 'mailbox rule' provides that a document is deemed 'filed' as of the date of mailing via United States mail," citing BLTREJV3 Chicago, LLC v. Kane County Bd. Of Review, 18 N.E. 3d 144, 147, 385 Ill.Dec 144 (2014). Appellant's counsel argued the court held that the mailbox rule only applied to filings that were sent via the United States Postal Service ("USPS") and were deemed filed at the time of mailing. Petitioner, via his counsel, states in an affidavit marked as Exhibit A that the appeal was tendered to the USPS on February 22, 2017 by placing the appeal in the USPS mailbox at 26 S. 3rd Street, Geneva, Illinois. Therefore, the appeal should be considered timely filed.

RULING ON MOTION TO DISMISS

After considering the merits, the Property Tax Appeal Board hereby **GRANTS** the Motion to Dismiss for a lack of jurisdiction. The Board finds the appellant did not timely file an appeal before the Property Tax Appeal Board within the 30-day requirement of the Notice of Final

Decision issued by the Kane County Board of Review pursuant section 16-160 of the Property Tax Code. Section 16-160 of the Property Tax Code provides in pertinent part:

[F]or 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** [Emphasis Added] . . . appeal the decision to the Property Tax Appeal Board for review. (35 ILCS 200/16-160).

Section 1910.30(a) of the rules of the Property Tax Appeal Board provides in part:

In counties with less than 3,000,000 inhabitants, petitions for appeal shall be filed **within 30 days after the postmark date or personal service date of the written notice of the decision of the board of review.** [Emphasis Added]. (86 Ill.Admin.Code §1910.30(a)).

Section 1910.60(a) of the rules of the Property Tax Appeal Board provides in 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 within 30 days after the postmark date or personal service date of written notice of the decision of the board of review or the postmark date or personal service date of the written notice of the application of final, adopted township equalization factors by the board of review.** [Emphasis Added]. (86 Ill.Admin.Code §1910.60(b)).

Section 1910.25(b) of the rules of the Property Tax Appeal Board provides in part:

Petitions, evidence, motions, and all other written correspondence sent by United States Mail to the Property Tax Appeal Board shall be considered filed as of the postmark date in accordance with Section 1.25 of the Statute on Statutes [5 ILCS 70/1.25]. Petitions, evidence, motions, and all other written correspondence sent to the Property Tax Appeal Board by a delivery service other than the United States Mail shall be considered as filed with the Property Tax Appeal Board on the date sent as indicated on the tracking label. Petitions, evidence, motions and all other written correspondence sent by electronic means shall be considered filed on the date received by the Property Tax Appeal Board based on the time stamp of the electronic transmission. (86 Ill.Admin.Code §1910.60(a)).

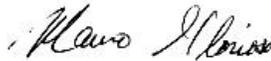
The Property Tax Appeal Board finds this appeal was not timely filed from the written Notice of Final Decision issued by the Kane County Board of Review so as to confer jurisdiction upon the Property Tax Appeal Board. The Board finds the Notice of Final Decision issued by the Kane

County Board of Review pertaining to the subject property was dated January 23, 2017. Pursuant to Section 16-160 of the Property Tax Code (35 ILCS 200/16-160) the appellant had 30 days to file an appeal with the Property Tax Appeal Board or by February 22, 2017. The Board finds this appeal was postmarked on February 23, 2017, one day after the statutory deadline. Therefore, the Property Tax Appeal Board lacks jurisdiction over the subject matter of this appeal. As a result, the Property Tax Appeal Board hereby **GRANTS** the Motion to Dismiss filed by the Kane County Board of Review.

In Application of County Collector v. Klopfer, 265 Ill.App.3d 485, 637 N.E. 2d 679 (1st Dist. 1994), the Court held that credible testimony that a document was mailed on a certain date should be allowed to support an argument that the postmark is erroneous, for purposes of statute establishing general rule that documents mailed to a state agency are considered filed on postmark date on envelope except if postmark date is illegible or erroneous, in which case date of mailing is date of filing if that date is established by competent evidence. Proof of the date of mailing alone is insufficient to trigger an exception to the general rule that the date of the postmark is deemed the date of filing. The Board finds there was no dispute raised that the postmark date on the envelope on which the appeal was mailed using the United States Post Office was illegible or erroneous. (See Wickman v. Property Tax Appeal Bd., 387 Ill.App.3d 414, 899 N.E. 2d 1227 (2nd Dist. 2008). The Board finds the record is clear that the envelope on which the appeal was mailed depicts a postmark date of February 23, 2017.

The Board further find the appellant's reliance in BLTREJV3 Chicago, LLC v. Kane County Bd. Of Review, 2014 IL App (2d) 140164, 18 N.E. 3d 144, (2014) to be misplaced. This case involved tax appeals filed before a local board of review. The Court found that since the tax appeals were sent using FedEx rather than United States mail, the mailbox rule did not apply.

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

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: June 19, 2018



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year or years of the same general assessment period, as provided in Sections 9-125 through 9-225, are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for such subsequent year or years directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.

PARTIES OF RECORD

AGENCY

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