



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

APPELLANT: DSI Manteno Owner, LLC
DOCKET NO.: 14-04151.001-C-3, 15-06856.001-C-3, 16-00248.001-C-3,
& 17-00124.001-C-3
PARCEL NO.: 03-02-26-201-192

The parties of record before the Property Tax Appeal Board are DSI Manteno Owner, LLC, the appellant, by attorney Thom Moss, of Bickes, Wilson & Moss in Decatur; the Kankakee County Board of Review; and Manteno Community Unit School Dist. No. 5, intervenor, by attorney Scott L. Ginsburg of Robbins Schwartz Nicholas Lifton & Taylor, Ltd. in Chicago.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby **grants** the Motion to Dismiss filed by the Kankakee County Board of Review and Manteno Community Unit School Dist. No. 5, the intervenor, and further finds the assessed value of the property as established by the **Kankakee** County Board of Review for each of the assessment years in question remains the same as follows:

LAND:	\$52,964
IMPR.:	\$1,635,201
TOTAL:	\$1,688,165

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeals from decisions of the Kankakee County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessments for the 2014, 2015, 2016 and 2017 tax years. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeals.

Pursuant to Section 1910.78 of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code 1910.78) the appeals were consolidated for purposes of ruling on the Motion to Dismiss filed by the board of review and the intervening school district.

Background

The subject property consists of a certified supportive living facility commonly known as Heritage Woods, located in Manteno, Illinois, and was the subject matter of an appeal before the Property Tax Appeal Board (PTAB) for the 2013 tax year under PTAB Docket No. 13-00178.001-C-3. In that appeal the PTAB issued a decision lowering the assessment of the

subject property. The intervening school district, Manteno Community Unit School Dist. No. 5, timely filed a Petition for Administrative Review in the Appellate Court of Illinois, Third District, in Appeal No. 3-18-0384. In Manteno Community Unit School Dist. No. 5 v. Illinois Property Tax Appeal Board, 2020 IL App (3d) 180384, the appellate court issued an opinion on August 17, 2020, reversing the judgement of the PTAB and directed that the local board [of review's] assessment be reinstated.

This consolidated matter is before the PTAB on the Motion to Dismiss Pursuant to PTAB rule 1910.63(b) filed by the Kankakee County Board of Review and the intervenor, Manteno Community Unit School District No. 5. In summary, the board of review and intervenor argued that the appellate court had ruled that the evidence filed by DSI Manteno Owner, LLC (DSI), the appellant, in the tax year 2013 appeal with the PTAB failed to meet the PTAB's minimal burden of proof standard and the court affirmed the original assessment as established by the Kankakee County Board of Review. They argued that the evidence in the 2014, 2015, 2016 and 2017 appeals is virtually identical to the evidence that the appellate court rejected in the 2013 appeal, namely an appraisal prepared by Keith Honegger.

In the 2013 appeal the appellate court stated that the "restricted use appraisal the PTAB received from Honegger was predicated on DSI's understated numbers for real estate income, together with excludable, but overstated, numbers for service income DSI collects from private-pay residents. . . Thus, Honegger's restricted use appraisal may have reflected DSI's book-keeping practices but did not "truly reflect [] the income-earning capacity" of Heritage Woods. . . ." Manteno Community Unit School Dist. No. 5 v. Illinois Property Tax Appeal Board, 2020 IL App (3d) 180384 at ¶81. The court concluded that Honegger's valuation methodologies and opinions were flawed and unreliable due to the understated real estate income from private pay residents and the assumption that one-bedroom units at Heritage Woods do not have the capacity to generate real estate income from two occupants. The court stated that "DSI did not sustain its burden of proof with Honegger's restricted use appraisal, which was based on a flawed method for applying the income capitalization approach to fair cash value. See 86 Ill. Adm. Code 1910.63(a), (b), (e) (2000)." Id. at ¶87. The court concluded that DSI, by relying on Honegger's restricted use appraisal, failed to sustain its burden of proof. Id. at ¶89. Thus, the court reversed the judgement of the PTAB and directed that the local board's assessment be reinstated.

In the instant appeals the board of review and intervenor argued that DSI's evidence consists of Honegger appraisals in which he used valuation methods identical to the methods the appellate court rejected in the 2013 appeal. The board of review and intervenor contend that the evidence filed by the appellant failed to satisfy the burden of going forward as provided in Section 1910.30(b) of the rules of the Property Tax Appeal Board (86 Ill. Adm. Code 1910.30(b), as the appellate court ruled in the 2013 appeal, and the appeals should be dismissed.

In response the appellant contends that the PTAB can make adjustments to Honegger's findings on its own volition utilizing data and financial reports attached to Honegger's appraisals and also provided modifications to Honegger's appraisal to illustrate the methodology that the PTAB might employ. The appellant also argued that the legislature amended section 10-390 of the Property Tax Code through HB1769 and Public Act 102-16, dealing with the valuation of supportive living facilities by adding language stating, "For purposes of this Section, gross potential income must not exceed the maximum individual Supplemental Security Income (SSI)

amount, minus a resident's personal allowance as defined at 89 Ill. Admin. Code 146.205, multiplied by the number of apartments authorized by the supportive living facility certification." This amendment became effective June 17, 2021. The appellant argued that this amendatory language makes it clear that Honegger's original methodology was correct.

In response the board of review and intervenor contend that the appellant realizes that it cannot avoid using the documentary evidence filed in the 2014, 2015, 2016 and 2017 appeals but now advocates for an alternative reading of the same data. Additionally, they argued that the amended legislation cannot be given retroactive application without clear legislative intent to do so, which is absent in the legislation as the amendment provided it was to be effective immediately upon the date it was passed.

Conclusion

After reviewing the record in each appeal and considering the arguments of the parties, the PTAB hereby grants the Motion to Dismiss filed by the Kankakee County Board of Review and Manteno Community Unit School District No. 5. Section 1910.63 (a), (b) & (e) of the PTAB's rules provides in part:

- a) Under the principles of a de novo proceeding, the Property Tax Appeal Board shall not presume the action of the board of review or the assessment of any local assessing officer to be correct. However, any contesting party shall have the burden of going forward.
- b) Under the burden of going forward, the contesting party must provide substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property. Failure to do so will result in the dismissal of the appeal.
- e) When market value is the basis of the appeal, the value of the subject property must be proved by a preponderance of the evidence. . . .

86 Ill.Adm.Code 1910.63(a), (b), & (e).

The record in these appeals contains evidence submitted by the appellant, DSI, that is substantially the same as that provided by DSI in the 2013 appeal before the PTAB. On administrative review, the appellate court ultimately determined that the evidence provided by DSI in the 2013 appeal was insufficient to satisfy the burden of proof and reversed the decision of the PTAB and reinstated the assessment as established by the local board of review. Due to the similarity of the evidence presented by the appellant and the holding of the appellate court in Manteno Community Unit School Dist. No. 5 v. Illinois Property Tax Appeal Board, 2020 IL App (3d) 180384, the PTAB finds the appellant failed to satisfy the burden of proof with sufficient evidence to challenge the correctness of the assessment and the appeals for the 2014, 2015, 2016 and 2017 tax years are dismissed pursuant to Section 1910.30(b) of the rules of the PTAB (35 Ill.Adm.Code 1910.63(b)).

As a final point, the Board finds the amendatory language to Section 10-390 of the Property Tax Code provided by HB1769 and enacted through Public Act 102-16, effective June 17, 2021, does not provide that this amendment is to be applied retroactively. As such, the Board finds the amendment to Section 10-390 of the Property Tax Code is not applicable in determining the correct assessments of the subject property for the 2014, 2015, 2016 and 2017 tax years.

For these reasons the 2014, 2015, 2016 and 2017 appeals are hereby dismissed, and the files are closed. This is a final administrative decision of the Property Tax Appeal Board subject to review in the Circuit Court or the Appellate Court under provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and Section 16-195 of the Property Tax Code (35 ILCS 200/16-195).

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: January 17, 2023



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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