FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Jodi Peoria MF LLC
DOCKET NO.: 21-06340.001-C-1
PARCEL NO.: 08-25-378-011

The parties of record before the Property Tax Appeal Board are Jodi Peoria MF LLC, the appellant, by attorney Elizabeth Megli, of Livingston, Barger, Brandt & Schroeder LLP in Bloomington; and the Peoria County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds ***No Change*** in the assessment of the property as established by the **Peoria** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$18,700
IMPR.:	$0
TOTAL:	$18,700

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Peoria County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2021 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 parties appeared before the Property Tax Appeal Board on June 13, 2024 for a hearing at the Property Tax Appeal Board's office in Springfield pursuant to prior written notice dated March 15, 2024. Appearing at the hearing on behalf of the appellant was attorney, Elizabeth Megli, of Livingston, Barger, Brandt & Schroeder LLP; and appearing on behalf of the Peoria County Board of Review was Greg Fletcher, chairman of the board of review. This appeal was consolidated with Docket Numbers 21-06335.001-C-1, 21-06336.001-C-1, 21-06337.001-C-1, 21-06341.001-C-1, 21-06342.001-C-1, 21-06344.001-C-1, and 21-06351.001-C-1 for hearing purposes by agreement of the parties.

The subject property consists of a vacant residential lot containing approximately 0.31 of an acre, or 13,504 square feet, of land area and is located in Dunlap, Radnor Township, Peoria County.

The appellant indicated both a contention of law and assessment inequity as the bases of the appeal. In support of the contention of law argument, the appellant submitted a brief asserting the subject parcel is vacant residential land within the Summer Ridge Subdivision that was platted and developed by Summer Ridge, LLC, but on which no residence has yet been built. The appellant contended Summer Ridge, LLC originally had five members, including R. Michael Hundman, who was a member of Summer Ridge, LLC when the subject property was transferred to the appellant in December 2020. The appellant asserted Hundman and his spouse are the sole members of the appellant. Based on these facts, the appellant argued a developer's preferential assessment under Section 10-31 of the Property Tax Code (35 ILCS 200/10-31) should apply to the subject parcel as it was not sold to an unrelated purchaser given Hundman's ownership in both Summer Ridge, LLC and the appellant.

The appellant submitted a copy of its complaint and evidence submitted to the board of review, and presented a copy of a notice of property tax assessment for the 2021 tax year which depicts a prior tax year assessment of $240 for the 2020 tax year.

At hearing, the appellant called R. Michael Hundman as a witness. Hundman testified he, Bill Johnston, Tom Oaks, John Hoffman, and BJ Armstrong, were the original members of Summer Ridge, LLC. Hundman could not recall whether Johnston's son or daughter was also member and whether these persons owned their interests individually or through business entities. Hundman testified Summer Ridge, LLC had a loan with Heartland Bank that was secured by a mortgage on the subject property and by guaranties of the members. Hundman asserted Heartland Bank deemed itself insecure under the loan when member, Johnston, had financial issues. Hundman testified the members each worked out their own agreements with Heartland Bank with respect to their individual guaranties of the Summer Ridge, LLC loan. With respect to his personal liability, Hundman stated he proposed to Heartland Bank a transfer of the real estate owned by Summer Ridge, LLC (including the subject parcel) to the appellant for a payment of $250,000 and Heartland Bank agreed to release its mortgage on the property for this sum. Hundman testified that he was a member of Summer Ridge, LLC at the time of this transaction.

Hundman identified the Real Estate Transfer Declaration included with the board of review's evidence as relating to this December 2020 transaction. Hundman testified all of the real estate owned by Summer Ridge, LLC at that time was transferred to the appellant in this transaction. Hundman explained the appellant was an existing limited liability company owned by Hundman and his spouse, which owned other property in Peoria prior to the December 2020 transaction. Hundman stated he was unsure of the amounts paid by others on the Summer Ridge, LLC loan and did not know the loan balance at time of the December 2020 transaction.

On cross-examination, Hundman testified Summer Ridge, LLC is correctly identified as the seller on the Real Estate Transfer Declaration, the appellant is correctly identified as the buyer on the Real Estate Transfer Declaration, and that the appellant paid money for the real estate described in the Real Estate Transfer Declaration. Hundman clarified a balance was still owing under Heartland Bank's loan to Summer Ridge, LLC at the time of the December 2020 transaction. Hundman testified he received K1 statements relating to his interest in Summer Ridge, LLC.

Hundman further testified the appellant is registered to do business in Illinois and that he and his spouse, Lesa Hundman, receive K1 statements relating to their interests in the appellant. Hundman testified that Summer Ridge, LLC paid the real estate taxes and insurance on the subject prior to its transfer to the appellant and now these items are paid by Hundman and his spouse or their business entities. Hundman clarified he and Armstrong were members of Summer Ridge, LLC in December 2020, but was unsure whether Johnston was also still a member at that time.

Upon questioning by the Administrative Law Judge ("ALJ"), Hundman testified Summer Ridge, LLC was formed in 2006 as a manager-managed limited liability company, with Johnston acting as the initial manager and Armstrong and Hundman acting as managers at the time of the December 2020 transaction. Hundman recalled Johnston owned a 40% to 50% interest in Summer Ridge, LLC with the remaining members each owning interests from 10% to 15%. Hundman could not recall whether Heartland Bank declared a default under the loan or accelerated the loan, but confirmed that there was no foreclosure action. Hundman testified the money paid by the appellant in December 2020 went to Heartland Bank and he understood this sum did not pay the loan balance in full, with some of the debt likely written off. Hundman stated the $250,000 sum was based on his estimate of the market value of the property. Hundman clarified both he and his spouse signed guaranties to secure the Summer Ridge, LLC loan from Heartland Bank.

On re-direct examination by Megli, Hundman explained Summer Ridge, LLC's expenses were typically paid with cash contributions from the members, which he stated is a common practice for developer entities with non-income producing assets. On re-cross examination, Hundman acknowledged the loan documents had not been submitted as evidence in this appeal.

In support of the assessment inequity argument, the appellant submitted information on three equity comparables located within the same subdivision as the subject and containing from 0.22 to 0.26 of an acre, or from 9,583 to 11,326 square feet, of land area. The comparables each have a land assessment of $110.

At hearing, Hundman testified he is familiar with the comparables, but did not recall having assisted in their selection as comparables. Hundman described the comparables as lots in the Summer Ridge Subdivision that had once been owned by Summer Ridge, LLC, but had each been subsequently transferred to a member of Summer Ridge, LLC. Hundman testified it is common for a developer entity to transfer developed lots to its members. Hundman recalled these comparables were transferred in 2015, but he was not certain which member received these lots, including whether he was the member who received them.

On cross examination, Hundman stated he was uncertain of the tax year for which the land assessments depicted in the spreadsheet are presented, but agreed no sale prices are depicted on the appellant's spreadsheet. On re-direct examination, Hundman testified the comparables retained their developer's preferential assessments after the 2015 transfers from Summer Ridge, LLC to its members.

In closing argument, the appellant contended the evidence demonstrates that both Hundman and his spouse were liable for the subject property before and after the December 2020 transaction,

either through member contributions or personal guaranties. The appellant argued the evidence shows the December 2020 transaction was not an arm's length sale. Based on this evidence, the appellant requested a reduction in the subject's assessment to $110.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $18,700 or $1.38 per square foot of land area. In support of its contention of the correct assessment the board of review submitted information on three equity comparables located in Dunlap, Edwards, and Peoria, none of which are located within the same neighborhood as the subject. The parcels range in size from 0.28 to 0.88 of an acre, or from approximately 12,197 to 38,333 square feet, of land area and have land assessments ranging from $15,420 to $23,540 or from $0.40 to $1.93 per square foot of land area.[1]

The board of review submitted a brief contending that the subject was purchased by the appellant on December 30, 2020, together with a copy of the Real Estate Transfer Declaration for this transaction, which indicates it was a short sale and the aggregate purchase price was $250,000. It was not indicated that the property was advertised for sale and it was not indicated that it was a sale between related individuals or corporate affiliates. The board of review argued in its brief that this sale occurred between two separate entities. Due to this sale, the board of review concluded that the subject property does not qualify for a developer's preferential assessment under Section 10-30 of the Property Tax Code (35 ILCS 200/10-30).

The board of review submitted a copy of the Illinois Department of Revenue Publication 134 Developer's Preferential Assessment for Subdivisions Property Tax Code, Section 10-30. The board of review also submitted a copy of the Board's final administrative decision in Docket Number 09-01750.001-C-1, which the board of review argued in the brief supports its contention that a developer's preferential assessment terminates after a sale. In that appeal, the Board sustained the removal of the developer's preferential assessment after an initial sale of the property from the original developer to another entity, despite the appellant's contention that the entities were related through common ownership.

At hearing, the board of review called Dave Ryan, Supervisor of Assessments, as its witness. Ryan testified that in developing the subject's 2021 tax year assessment he consulted the Illinois Department of Revenue Publication 134 Developer's Preferential Assessment for Subdivisions Property Tax Code, Section 10-30, to which he was referred by the Illinois Department of Revenue,[2] and looked at final administrative decisions of the Board for other properties, including the decision that was submitted by the board of review with its evidence. Based on his review of the foregoing, Ryan stated he determined the developer's preferential assessment for the subject should be removed. Ryan asserted Section 10-30, not Section 10-31, of the Property Tax Code is the relevant provision for the developer's preferential assessment.

[1] The Board notes the board of review also submitted information on comparable sales, which the Board finds are not responsive to either of the appellant's bases for this appeal and shall not be further considered herein.

[2] Ryan's testimony regarding conversations with the Illinois Department of Revenue drew an objection from the appellant as hearsay, which the ALJ sustained. Ryan's testimony regarding his conclusion regarding liability for the subject property drew an objection from the appellant as a legal conclusion, which the ALJ sustained. Ryan's testimony regarding his conclusions of ownership for homeowner exemptions based on addresses drew an objection from the appellant for relevance, which the ALJ sustained after the board of review made no counterargument to this objection.

On cross examination, Ryan explained he determines whether a sale has occurred by investigating transfers of real estate, typically by reviewing the Real Estate Transfer Declaration for the transaction. Ryan testified he does not typically investigate the ownership of business entities to a transaction unless the circumstances warrant it.

Upon questioning by the ALJ, Ryan testified the subject had a developer's preferential assessment prior to the December 2020 transaction, which was based on its assessment as farmland. Ryan acknowledged that some properties may erroneously continue to have a developer's preferential assessment after a sale, but was uncertain whether the appellant's comparables incorrectly have a developer's preferential assessment. Ryan stated he has followed the Illinois Department of Revenue's guidance.[3] On re-direct examination, Ryan testified he has been in the Supervisor of Assessments position since 2003.

In closing argument, the board of review contended Summer Ridge, LLC and the appellant are separate entities with different ownership. The board of review argued the subject was purchased by the appellant for a negotiated purchase price based on its market value. Based on this evidence, the board of review requested the subject's assessment be sustained.

In written rebuttal, the appellant submitted a brief contending the December 2020 transfer caused no change in the underlying ownership of the subject as Hundman was an owner of both Summer Ridge, LLC and the appellant and suggesting these two entities are alter egos. The appellant distinguished the Board's final administrative decision in Docket Number 09-01750.001-C-1, arguing the December 2020 transaction did not occur for the purpose of bringing in additional investors for further development like the transaction in that appeal.

The board of review filed written rebuttal on August 29, 2022, which the Board finds was not timely filed within 30 days of the Board's letter dated June 30, 2022 notifying the parties of their 30-day rebuttal period. Thus, the Board shall not further consider the board of review's rebuttal evidence filed herein. (See 86 Ill. Admin. Code § 1910.66).

Conclusion of Law

The appellant's argument is based in part on a contention of law regarding the interpretation and application of section 10-31 of the Property Tax Code (35 ILCS 200/10-31). The standard of proof on a contention of law is a preponderance of the evidence. (See 5 ILCS 100/10-15). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant seeks a reduction in the subject's assessment pursuant to Section 10-31 of the Property Tax Code. Pursuant to Section 10-31(d), this Section was effective from August 14, 2009 through December 31, 2011. 35 ILCS 200/10-31(d). The Board finds Section 10-31 was not effective as of the January 1, 2021 assessment date at issue in this appeal and no reduction in the subject's assessment is warranted pursuant to Section 10-31.

[3] Ryan's testimony regarding his reliance on the Illinois Department of Revenue guidance to assess property drew an objection from the appellant as hearsay, which was overruled by the ALJ as relating to his prior testimony.

The Board finds Section 10-30 of the Property Tax Code (35 ILCS 200/10-30), which was identified by the board of review, is the applicable provision for a developer's preferential assessment that was effective as of the January 1, 2021 assessment date. Pursuant to Section 10-30(d), this Section was effective before August 14, 2009 and was effective again beginning January 1, 2012. 35 ILCS 200/10-30(d).

Paragraphs (a) and (b) of Section 10-30 prescribe a developer's preferential assessment as follows:

> (a) In counties with less than 3,000,000 inhabitants, the platting and subdivision of property into separate lots and the development of the subdivided property with streets, sidewalks, curbs, gutters, sewer, water and utility lines shall not increase the assessed valuation of all or any part of the property, if:
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> (1) The property is platted and subdivided in accordance with the Plat Act;
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> (2) The platting occurs after January 1, 1978;
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> (3) At the time of platting the property is in excess of 5 acres; and
>
> (4) At the time of platting the property is vacant or used as a farm as defined in Section 1-60.
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> (b) Except as provided in subsection (c) of this Section, the assessed valuation of property so platted and subdivided shall be determined each year based on the estimated price the property would bring at a fair voluntary sale for use by the buyer for the same purposes for which the property was used when last assessed prior to its platting.

It is undisputed that the subject met the requirements of Section 10-30(a) and had a developer's preferential assessment under Section 10-30(b) prior to its transfer in December 2020. The appellant presented a notice of property tax assessment for the 2021 tax year which depicts the subject's assessment of $240 for the 2020 tax year, which Ryan testified reflected its assessment as farmland.

Section 10-30(c) provides for termination of the developer's preferential assessment as follows:

> (c) Upon completion of a habitable structure on any lot of subdivided property, or upon the use of any lot, either alone or in conjunction with any contiguous property, for any business, commercial or residential purpose, **or upon the initial sale of any platted lot, including a platted lot which is vacant**: (i) the provisions of subsection (b) of this Section shall no longer apply in determining the assessed valuation of the lot, (ii) each lot shall be assessed without regard to any provision of this Section, and (iii) the assessed valuation of the remaining property, when next determined, shall be reduced proportionately to reflect the exclusion of the property that no longer qualifies for valuation under this Section. Holding or offering a platted lot for initial sale shall not constitute a use of the lot for business, commercial or residential purposes unless a habitable structure is situated on the lot or unless the lot is otherwise used for a business, commercial or residential purpose. (emphasis added).

The parties dispute whether the December 2020 transaction constituted an initial sale that terminates the developer's preferential assessment. The appellant argued the December 2020 transaction was not a sale due to common ownership of Hundman in both Summer Ridge, LLC and the appellant and due to common liability of Hundman and his spouse for the property before and after the December 2020 transfer. The board of review argued the December 2020 transaction was a sale as the two entities are separate and distinct business entities with different ownership, consideration was paid for the property, transfer taxes were reported due on the Real Estate Transfer Declaration, and the property was transferred from Summer Ridge, LLC to the appellant.

The Board finds an initial sale of the subject property occurred in December 2020. The Board finds the evidence shows Summer Ridge, LLC and the appellant are separate and distinct business entities. Hundman testified these two entities were formed at different times and each has different ownership and management. Moreover, the Board finds the appellant's common liability argument to be unpersuasive. Hundman testified that the members and/or guarantors of Summer Ridge, LLC each reached their own agreements with respect to the Heartland Bank loan, indicating Hundman and his spouse were never solely liable for the property before the property was transferred to the appellant. Contrary to the appellant's suggestion that these two entities are alter egos, Hundman testified the property was transferred to the appellant to protect and preserve it from a mortgage foreclosure action by Heartland Bank, which presumes the appellant is a separate business entity that is not liable for Summer Ridge, LLC's debts. The Board finds the evidence further shows the subject property was transferred and consideration of $250,000 was paid, which Hundman testified reflected his estimation of its market value.

Based on this record, the Board finds the subject property was not entitled to a developer's preferential assessment under Section 10-30 of the Property Tax Code for the 2021 tax year.

The appellant also contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not justified.

The record contains six equity comparables for the Board's consideration. Hundman testified these comparables retained a developer's preferential assessment following their 2015 transfers from Summer Ridge, LLC to its members. Ryan testified that some properties may incorrectly continue to have a developer's preferential assessment after a sale, but he was uncertain whether the developer's preferential assessment for these properties should have been removed. Notwithstanding Ryan's admission that some properties may be incorrectly assessed with a developer's preferential assessment, the Board finds only the assessment of the subject property is before it in this appeal and that would not be proper to extend a developer's preferential assessment to the subject after it has terminated pursuant to Section 10-30, only because other properties may incorrectly continue to receive this preferential assessment.

The Board finds the best evidence of assessment equity to be the board of review's comparables, which have varying degrees of similarity to the subject in site size and location, suggesting adjustments to these comparables would be needed to make them more equivalent to the subject. There is no evidence in the record to suggest that any of these comparables has a developer's preferential assessment. These comparables have land assessments ranging from $15,420 to $23,540 or from $0.61 to $1.93 per square foot of land area. The subject's land assessment of $18,700 or $1.38 per square foot of land area falls within the range established by the best comparables, and appears to be well supported based on the board of review's comparable #3, which is the most similar to the subject in site size and location, and has a land assessment of $23,540 or $1.93 per square foot of land area. Based on this evidence, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's land was inequitably assessed and no reduction in the subject's land assessment is warranted.

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:

C E R T I F I C A T I O N

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: August 20, 2024

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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