



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

APPELLANT: Ponds of Palos Townhouse Association
DOCKET NO.: 21-29751.001-R-2 through 21-29751.018-R-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Ponds of Palos Townhouse Association, the appellant, by attorney John P. Fitzgerald, of Fitzgerald Law Group, P.C. in Burr Ridge; the Cook County Board of Review; the C.H.S.D. #230, Green Hills Public Library District, and Palos C.S.D. #118, intervenors, by attorney Mallory A. Milluzzi of Klein, Thorpe, & Jenkins, Ltd., in Chicago.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds it **lacks jurisdiction** in this matter and, the Board of Review's Motion to Dismiss is **granted**.

Statement of Facts

The Board finds the appellant, Ponds of Palos Townhouse Association, timely filed a Residential Appeal petition postmarked on August 19, 2022 from a Final Decision issued by the Cook County Board of Review dated July 25, 2022 with a final transmittal date for Palos Township for tax year 2021 of August 17, 2022.¹

On November 3, 2022 the Cook County Board of Review was notified of this appeal and given 90 days to file its response. On November 30, 2022 the Cook County Board of Review filed its Motion to Dismiss for lack of standing in the above captioned appeal and the appellant responded. The Board finds that this matter has been fully briefed and that the parties have had ample opportunity to present their respective arguments.

The subject matter of the appeal consists of eighteen parcels improved with nine (9) two-story buildings constructed in 2005, each of which is improved with two (2) townhouse units. The subject property is located in Ponds of Palos Townhouse Association, Palos Heights, Palos Township, Cook County.

This appeal was filed by Ponds of Palos Townhouse Association, the appellant. The appeal challenges the assessment of each parcel (townhouse unit) based on overvaluation. In support of this argument, the appellant submitted a copy of the Cook County Board of Review's final decision for tax year 2021, an Addendum listing each of the assessments for each PIN under appeal along with the appellant's claims for each PIN under appeal, a brief and an appraisal prepared by Andrew G. Hartigan, a Certified General Real Estate Appraiser. Mr. Hartigan's appraisal sets forth an

¹ An appeal must be postmarked within 30 days of the final transmittal date. (35 ILCS 200/16-160 (2022)).

aggregate opinion of value of the subject parcels, utilizing both the sales comparison and income approaches to value, of \$4,600,000 as of January 1, 2020.

The Cook County Board of Review ("BOR") filed its "Board of Review Notes on Appeal" and this Motion to Dismiss. According to the BOR, the appeal involves the assessments of eighteen (18) residential townhomes which are individually owned in fee simple. Moreover, according to the BOR, five of the eighteen townhomes have sold since 2018 and one additional townhome sold in 2015.

The BOR argued that Ponds of Palos Townhouse Association is neither an owner nor a taxpayer for any of these properties and therefore, lacks standing to file this appeal.²

The BOR argues that the appellant does not have standing to bring these appeals on behalf of the taxpayers/owners pursuant to section 16-160 of the Property Tax Code ("Code") (35 ILCS 200/16-160) and section 1910.10(c) of the rules of the Property Tax Appeal Board ("PTAB"). (86 Ill.Admin.Code §1910.10(c)). The BOR argued these two provisions require the appeal to be filed by the taxpayer or owner of the property, and that because the Ponds of Palos Townhouse Association is not the taxpayer or owner it has no standing to bring this appeal.

Based on these arguments the BOR requested dismissal of the appeal.

In response, the appellant asserted it has standing to file the appeal "as the representative of the individual unit owners who are taxpayers of the subject property." Appellant contends that condominium associations have standing to appeal." (Citing: *Hidden Creek Condominium Association v. PTAB*, 414 Ill.App.3d 955 (1st Dist. 2011) and *The Lofts at 1800 Condominium Association v. PTAB*, 2021 IL App (1st) 201697-U). According to the appellant, each of these cases held that a condominium association can have standing to file a property tax appeal with the PTAB. Appellant further argues it has a direct and substantial interest in the subject property as "it represents the interests of the individual unit owners who are taxpayers of the subject property." Additionally, the appellant contends that it is responsible for the management and maintenance of the subject property and "therefore has an interest in ensuring that the assessment of the subject property is fair and accurate."

Finally, the appellant relies on the fact that the General Assembly recently passed Public Act 102-1000, which allows associations like the subject to have standing in PTAB proceedings as of January 1, 2023. In conclusion, based on case law applicable to condominium associations and the recent legislative change to the Property Tax Code, the appellant requests denial of the motion.

Preliminary Matter

Before this Board addresses the merits of the parties' arguments, we must first address the cases cited by the appellant in its brief. The appellant cited to the following cases:

² The BOR acknowledges the recently enacted Public Act 102-1000 (codified in 35 ILCS 200/16-160) which will allow an association like this appellant to have standing before the Property Tax Appeal Board. However, by its own terms, this statutory provision did not become effective until January 1, 2023.

1. "Hidden Creek Condominium Association v. Property Tax Appeal Board, 414 Ill.App. 3d 955 (1st Dist. 2011)." App. Br. Pgs. 2, 3 and 4.
2. "The Lofts at 1800 Condominium Association v. Property Tax Appeal Board, 2021 IL App (1st) 201697-U." App. Br. Pgs. 2 and 3.
3. "1010 Lake Shore Association v. Property Tax Appeal Board. 64 N.E.3d 1238 (Ill. App. Ct 2016)." App. Br. Pg 3.
4. "Hidden Creek Condo. Ass'n v. Lake County Board of Review, 26 N.E.3d 1289 (Ill. App. Ct. 2015)." App. Br. Pg. 3.

After a diligent search, the PTAB is unable to find these cases cited by the appellant. All citations were entered into Lexis with negative results. A search was conducted in Lexis for "Hidden Creek Condo" with the search being limited to only Illinois' jurisdiction, which resulted in one case meeting this criteria - *Groves of Hidden Creek Condominium II Ass'n v. Groves of Hidden Creek Community Ass'n*, 2014 IL App (1st) 132395-U. See Attachment 1. Again, for the *Lofts at 1800* case a search was conducted for the citation with negative results. A Lexis search for "Lofts at 1800" was conducted and only two cases meet this criteria, both of which were cases from the Northern District of Illinois. See Attachment 2. An additional search for "1800 Condo" was conducted. The results were three cases from the State of Florida. See Attachment 3. A search for the citation to the *1010 Lake Shore Association* case reveals the citation is actually to *Simek v. Nolan*, 64 N.E.3d 1237 (Ind. Ct. App. 2016). See Attachment 4. A search for the alleged citation to the "*Hidden Creek Condo Ass'n*" case is actually a citation to *State v. Adams*, 2014-Ohio-5854, 26 N.E.3d 1283 (Ct. App.). See Attachment 5.

Conclusion of Law

After reviewing the record, considering the arguments of the parties and for the reasons stated below, the PTAB finds that the Ponds of Palos Townhome Association is not the taxpayer nor the owner of the subject property. Additionally, the Townhome Association is not a condominium association as defined by statute. 765 ILCS 605/1, *et seq.* Therefore, the PTAB does not have jurisdiction to hear this appeal and dismisses this matter.

Limits of PTAB's Jurisdiction

PTAB is a legislatively created administrative body whose authority is derived from the Property Tax Code. 35 ILCS 200/7-5 *et seq.*; *Cook County Bd. of Review v. Property Tax Appeal Bd.*, 339 Ill.App.3d 529, 538 (1st Dist. 2003). As an administrative agency, PTAB has "no inherent or common law powers, and any authority that the agency claims must find its source within the provisions of the statute by which the agency was created..." *Illinois Dep't of Revenue v. Illinois Civil Serv. Comm'n*, 357 Ill. App. 3d 352, 827 N.E.2d 960 (2005).

Although the term "jurisdiction" is not strictly applicable to an administrative body, it is used to designate the authority of the administrative body to act. Thus, in the administrative law context, the term "jurisdiction" has three aspects: (1) personal jurisdiction (i.e., the agency's authority over the parties and intervenors involved in the proceedings); (2) subject-matter jurisdiction (i.e., the agency's power over the general class of cases to which the particular case belongs); and (3) an agency's

scope of authority under its statute. The third aspect is considered the inherent power of an agency to make or enter the particular order involved.

Armstead v. Sheahan, 298 Ill. App. 3d 892, 894–95 (1998) (Internal citations omitted).

The question presented by this motion is – Does the PTAB have jurisdiction to hear an appeal from a townhome association?

Owner, Taxpayer or Taxing District

Section 16-160 of the Property Tax Code provides in part that:

[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 . . . 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 . . . 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 . . . appeal the decision to the Property Tax Appeal Board for review. . . .(Emphasis added.)

35 ILCS 200/16-160. In accordance with this statutory authority, section 1910.10(c) of the rules of the PTAB provides that:

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.)

86 Ill.Admin.Code 1910.10(c). 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]

When determining if the party initiating a case before the PTAB is an owner or a taxpayer, the appellate court has 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.

Kankakee County Board of Review v. Property Tax Appeal Board, 316 Ill.App.3d 148. 152 (3rd Dist. 2000) (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 Tax Code, Administrative Rules, and case law clearly provide that only a taxpayer, owner or taxing body with a tax revenue interest may initiate an appeal before the PTAB to challenge a decision of the board of review relating to the assessment of the property.

We can easily dispense with the notion that the Ponds of Palos Townhome Association is not a taxing district. Therefore, this provision of the statute resting jurisdiction in the PTAB is not triggered. The Townhome Association concedes by its own argument that it filed this appeal as "the representative of the individual unit owners who are taxpayers of the subject property." App. Br. Pg. 3. The PTAB takes this as an admission that the Townhome Associations in not the owner nor the taxpayer. Therefore, PTAB lacks the jurisdiction to hear this appeal since the legislature, at least prior to January 1, 2023, did not give the PTAB that authority.

Condominium Associations

The Appellant seems to be arguing that the Ponds of Palos Townhome Association should be treated as a condominium association and that if the appellant is treated as such, the PTAB would have jurisdiction. We say "seems" because the appellant cites to cases that do not appear to exist. But, *in arguendo*, if the law as stated by the appellant is correct, despite the incorrect citations and party names, this argument fails because the Townhome Association is not a condominium association. The Condominium Property Act requires condominium associations to have the word "condominium" in its name or to have the words "a condominium" following its names. 765 ILCS 605/4(c). Since the Ponds of Palos Townhome Association is not a condominium association, the appellant's uncited argument is without merit.

The fact that the Townhome Association is not subject to the Condominium Community Act is important because the Association does not benefit from 765 ILCS 605/10. Section 605/10 explicitly gives condominium associations authority to represent individual owners in connection with the assessments of their taxes. Whether or not that gives PTAB jurisdiction to hear a condominium association appeal is irrelevant because this Town Association is not governed by this statute.

The PTAB acknowledges that this decision may be read to be in contradiction with its decision in *Stonecreek Townhome Association*, Docket No. 16-36976. We do not need to revisit the wisdom of that decision, nor do we need to overrule it here – nor can we. *Stonecreek* and the instant appeal are distinguishable. Each decision of the PTAB "is necessarily fact specific and based upon the particular record of each case." *Board of Educ. of Ridgeland School Dist. No. 122, Cook County v. Property Tax Appeal Bd.*, 2012 IL App (1st) 110461, ¶ 33. In *Stonecreek*, the appellant

presented sound legal arguments based on citable case law and statutes. The Appellant in this matter has not.

Public Act 102-1000

The appellant argues that Public Act 102-1000 "provides further support for its position" that the PTAB has jurisdiction to hear this appeal. We find this argument to be without merit. To the contrary, we find the enactment of Public Act 102-1000 to work against the appellant's argument.

Public Act 102-1000 amended the Property Tax Code, the PTAB's enabling statute, to give the PTAB jurisdiction over an appeal filed by "common interest community association," a "unit owners association" as defined by the Condominium Property Act, or a "master association" as defined by the Condominium Property Act. See 35 ILCS 200/16-160 (LexisNexis, Lexis Advance through P.A. 102-1140, of the 2022 Regular Session of the 102nd Legislature). The change in statute was not effective until January 1, 2023. It is clear, the General Assembly did not expand PTAB's jurisdiction over appeals filed by these types of associations until after January 1, 2023. So, prior to January 1, 2023, the General Assembly had not given the PTAB the jurisdiction to hear this appeal.

Conclusion

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 takes judicial notice of Docket Nos. 08-22568, 09-25824, 10-20257, 11-21566, 12-21271, 13-20284, 14-26811, 15-20745, 17-22830 and 18-20446 involving the same appellant, Ponds of Palos Townhouse Association, and the BOR wherein the parties either entered into a stipulation concerning these same parcels or proceeded with the matter to a written decision being issued by PTAB on the merits. Additionally, for tax years 2019 and 2020, the parcels were appealed under the names of the individual property owners. The Board finds in the prior tax year appeals, the issue of jurisdiction was not raised by the BOR prior to the execution of the stipulation and/or issuance of a decision by the PTAB on the merits.

The facts before the PTAB demonstrate that the owners of the respective PINs did not file a tax year 2021 appeal to the PTAB. Rather a consolidated appeal for 18 individual townhome dwellings was filed for tax year 2021 by the Ponds of Palos Townhouse Association. The record clearly demonstrates that the Townhouse Association is not the taxpayer, owner or a taxing body with a tax revenue interest that has standing to initiate the appeals before the PTAB to challenge the 18 parcels contained within the decision of the Cook County Board of Review as it pertains to the assessment of the subject PINs.

For this 2021 tax year appeal, based on the conclusion that Ponds of Palos Townhouse 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; this appeal is **dismissed for lack of jurisdiction**.

(Continue to Next Page)

Attachment 1

The screenshot shows the Lexis+ search interface. At the top, the search results are for "Hidden Creek Condo" in Natural Language. The left sidebar contains filters for Cases (1), Statutes and Legislation (0), Practical Guidance (0), Secondary Materials (0), and Administrative Materials (0). Below this is a "Search Within Results" section with "Include" and "Exclude" options and a search input field. The "Court" filter is set to "Illinois" (1). The main content area displays a search result for "Groves of Hidden Creek Condo. II Ass'n v. Groves of Hidden Creek Cmty. Ass'n" from the Appellate Court of Illinois, First District, Fifth Division, dated Jun 20, 2014. The snippet includes the text "... and all UNKNOWN OWNERS, and NON-RECORD CLAIMANTS, Counter-Defendants-Appellants. Groves of Hidden Creek Condo. II Ass'n v. Groves of Hidden Creek Cmty. Ass'n 1-13-2395 ...". Below the result is a "Searches related to 'Hidden Creek Condo'" section with a grid of related terms: great bay condominium, belvedere condominium, greenbriar condominium, heywood condominium, cypress point condominium, and sunflower condominium. At the bottom, there is a feedback bar with questions like "How was your visit to LexisNexis today?" and "How easy was it to complete your task?" with various rating options.

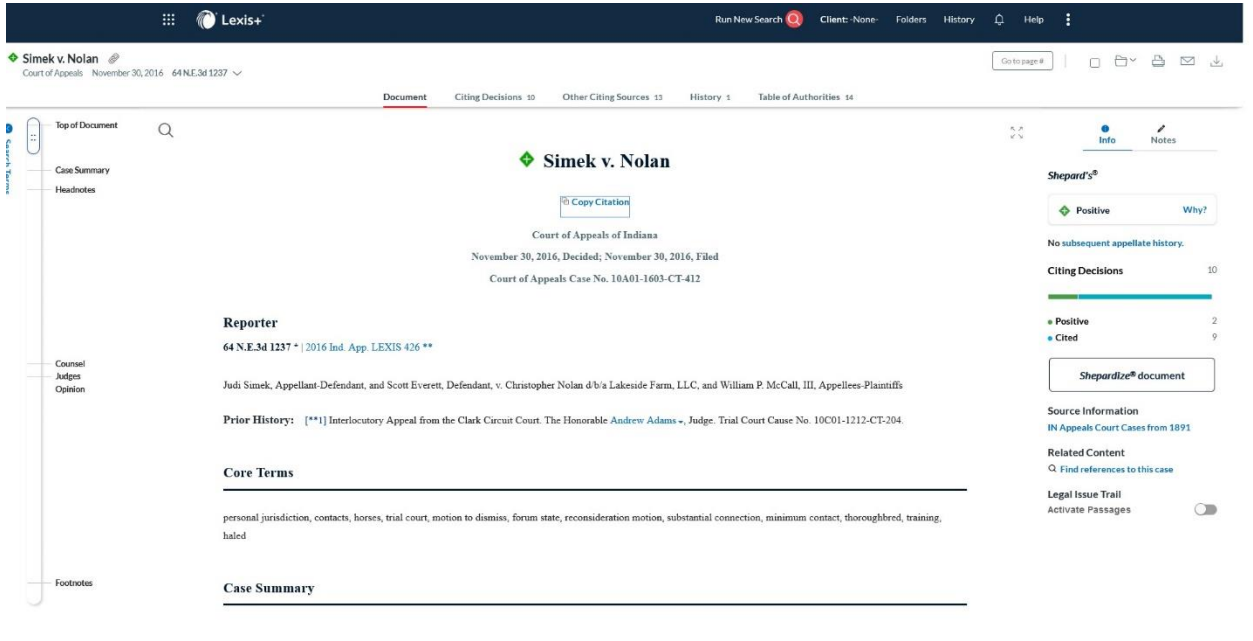
Attachment 2

The screenshot shows the Lexis+ search interface. At the top, the search results are for "Lofts at 1800" in Natural Language. The left sidebar contains a navigation menu with categories like Cases (2), Statutes and Legislation (0), Practical Guidance (0), Secondary Materials (0), and Administrative Materials (0). Below this is a "Search Within Results" section with "Include" and "Exclude" radio buttons and a search input field. A vertical list of filters is on the left, including Court, Case Type, Motion Type, Timeline, Published Status, Sources, Practice Area & Topics, Attorney, Law Firm, Most Cited, Keyword, and Judge. The main content area displays two search results for "Mogan v. City of Chicago". The first result is dated Sep 12, 2022 (LEXIS 164432) and mentions "Lofts at 1800 W. Roscoe St.". The second result is dated Jan 18, 2022 (LEXIS 8226) and includes an overview of a condominium owner's suit. A pagination control shows "1" of 1 results. At the bottom, there is a feedback bar with questions like "How was your visit to LexisNexis today?" and "How easy was it to complete your task?", with options for Successful, Neutral, Unsuccessful, Very Easy, Easy, Hard, and Very Hard, and a "Snooze for 2 mins" button.

Attachment 3

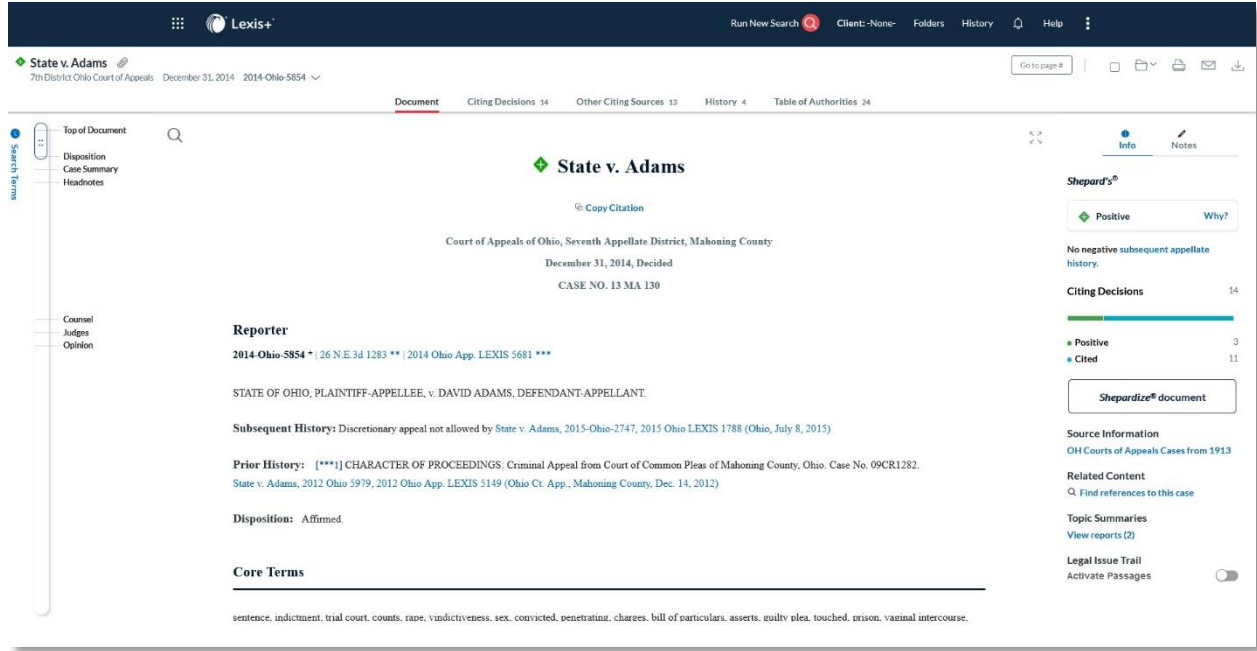
The screenshot shows the Lexis+ search interface. At the top, the search results are for "1800 Condo" in Natural Language. The left sidebar contains a "Cases" filter with 3 results, and a "Search Within Results" section with various filters like Court, Case Type, and Motion Type. The main content area displays three search results, each with a title, court information, and a snippet of the case text. The first result is "Assaf v. Tower 1800 Condo, Inc." (Aug 03, 2011), the second is "Assaf v. Tower 1800 Condo, Inc." (Feb 09, 2010), and the third is "Say Serv. v. Tower 1800 Condo, Inc." (Jan 10, 1984). A pagination bar at the bottom shows page 1 of 1. At the very bottom, there is a feedback bar with a survey question: "How was your visit to LexisNexis today?" and "How easy was it to complete your task?" with various response options.

Attachment 4



The screenshot displays the Lexis+ interface for the case **Simek v. Nolan**. The top navigation bar includes the Lexis+ logo, a search bar, and menu items for Run New Search, Client, Folders, History, and Help. The case title and date (November 30, 2016) are shown in the header. The main content area is divided into sections: **Reporter** (64 N.E.3d 1237), **Prior History** (Interlocutory Appeal from the Clark Circuit Court), **Core Terms** (personal jurisdiction, contacts, horses, trial court, motion to dismiss, forum state, reconsideration motion, substantial connection, minimum contact, thoroughbred, training, haled), and **Case Summary**. A right-hand sidebar provides **Shepard's®** analysis, showing a **Positive** rating and **Citing Decisions** (10). The interface also includes a left-hand navigation pane with options like Top of Document, Case Summary, Headnotes, Counsel Judges Opinion, and Footnotes.

Attachment 5



The screenshot shows the Lexis+ interface for the case **State v. Adams**. The header includes the Lexis+ logo, search options, and navigation tabs like "Document", "Citing Decisions 14", "Other Citing Sources 13", "History 4", and "Table of Authorities 34".

Case Information:
State v. Adams
7th District Ohio Court of Appeals | December 31, 2014 | 2014-Ohio-5684

Reporter:
2014-Ohio-5854 * | 26 N.E.3d 1283 ** | 2014 Ohio App. LEXIS 5681 ***

STATE OF OHIO, PLAINTIFF-APPELLEE, v. DAVID ADAMS, DEFENDANT-APPELLANT.

Subsequent History: Discretionary appeal not allowed by State v. Adams, 2015-Ohio-2747, 2015 Ohio LEXIS 1788 (Ohio, July 8, 2015)

Prior History: [***] CHARACTER OF PROCEEDINGS. Criminal Appeal from Court of Common Pleas of Mahoning County, Ohio. Case No. 09CR1282. State v. Adams, 2012 Ohio 5979, 2012 Ohio App. LEXIS 3149 (Ohio Ct. App., Mahoning County, Dec. 14, 2012)

Disposition: Affirmed.

Core Terms
sentence, indictment, trial court, counts, rape, vindictiveness, sex, convicted, penetrating, charges, bill of particulars, asserts, guilty plea, touched, prison, vaginal intercourse.

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Topic Summaries: View reports (2)
Legal Issue Trail: Activate Passages (toggle)

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:

April 18, 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

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