



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

APPELLANT: Stembridge Builders  
DOCKET NO.: 06-00374.001-R-1  
PARCEL NO.: 07-01-22-401-015-0000

The parties of record before the Property Tax Appeal Board are Stembridge Builders, the appellant, by attorney Kevin M. Gensler, of Dommermuth Brestal Cobine & West, Ltd., Naperville; and the Will County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Will County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$35,282  
IMPR: \$0  
TOTAL: \$35,282**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a part one-story and part two-story single family dwelling with 3,358 square feet of living area. The subject property is located in South Pointe Unit 2 subdivision in Naperville, Wheatland Township, Will County.

A consolidated hearing was held for the following appeals identified by docket numbers: 06-00364.001-R-1, 06-00365.001-R-1, 06-00367.001-R-1, 06-00369.001-R-1, 06-00370.001-R-1, 06-00371.001-R-1, 06-00373.001-R-1, 06-00374.001-R-1, 06-00375.001-R-1, 06-00376.001-R-1 and 06-00377.001-R-1.

The appellant filed the appeal requesting the subject's improvement assessment of \$34,700 be reduced to \$0. In a memorandum the appellant challenged the improvement assessment asserting the Wheatland Township Assessor was attempting to assess the subject property prior to the issuance of an occupancy permit. The appellant argued this is contrary to sections 9-160 and 9-180 of the Property Tax Code (35 ILCS 200/9-160 & 9-180). The appellant contends that an occupancy permit must be issued prior to the improvements being assessed on the property. The

appellant stated that section 9-180 of the Property Tax Code provides in part that:

The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year.

The relevant provision of section 9-160 of the Property Tax Code provides:

On or before June 1 in each year other than the general assessment year, in all counties with less than 3,000,000 inhabitants . . . the assessor shall list and assess all property which becomes taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements. The assessment shall also include or exclude, on a proportionate basis in accordance with the provisions of Section 9-180, all new or added buildings, structures or other improvements, the value of which was not included in the valuation of the property for that year. . . .

The appellant argued that an occupancy permit must be issued prior to the assessment of the improvement and the assessor can assess a property as improved from the date of occupancy. The appellant asserted in the brief that an occupancy permit had not been issued for the above referenced parcel number, and therefore, the property should not be assessed as improved.

The appellant asserted that Section 5-2A-1 of the City of Naperville Municipal Code specifically states that no new, remodeled or moved building or structure shall be occupied until a permit for such occupancy has been issued by the Director of Community Development. The appellant further asserted that section 9-165 of the Property Tax Code (35 ILCS 200/9-165) states in part that:

"Occupancy permit" means the certificate or permit, by whatever name denominated, which a municipality or county, under its authority to regulate the construction of buildings, issues as evidence that all applicable requirements have been complied with and

requires before any new, reconstructed or remodeled building may be lawfully occupied.

The appellant argued that a person may not occupy a residence lawfully until an occupancy permit has been issued. The appellant argued that based on this language the assessor's interpretation that the language in section 9-180 that "the improvement was inhabitable and fit for occupancy" allows them to assess the property prior to issuance of an occupancy permit is in error.

At the hearing Harold Stenbridge, President of Stenbridge Builders the owner of the subject property, was called as a witness. He testified the lumber for the subject dwelling was delivered on March 6, 2006. He further testified that the dwelling was not completed until either the end of January 2007 or the beginning of February 2007. In support of this testimony the appellant provided a copy of a payment ledger to Edward Hines Lumber Co. and a copy of a plumber's bill dated January 1, 2007, which would indicate when the house was completed.

The board of review submitted its "Board of Review Notes on Appeal wherein its final assessment of the subject totaling \$69,982 was disclosed. The subject has a land assessment of \$35,282 and an improvement assessment of \$34,700.

In support of this assessment the board of review submitted a narrative statement from Kelli Lord, Wheatland Township Assessor. She stated that upon field inspection on 1/27/2006 the subject dwelling was observed to be completed and the improvement was added to the tax rolls at that time. At the hearing the board of review's representative offered to stipulate to an improvement assessment of \$17,024. The appellant did not agree to the proposed assessment.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds a reduction in the subject's assessment is supported by the evidence in the record.

The appellant argued the subject property should have a \$0 improvement assessment. The only testimony with respect to construction of the subject dwelling was provided by Harold Stenbridge, President of Stenbridge Builders the owner of the subject property. He testified the lumber for the subject dwelling was delivered on March 6, 2006. He further testified that the dwelling was not completed until either the end of January 2007 or the beginning of February 2007. In support of this testimony the appellant provided a copy of a payment ledger to Edward Hines Lumber Co. and a copy of a plumber's bill dated January 1, 2007, which would indicate when the house was completed.

The board of review offered no testimony to refute the testimony provided by Stenbridge. The board of review submitted a narrative provided by the township assessor that upon field inspection on 1/27/2006 the subject dwelling was observed to be completed and the improvement was added to the tax rolls at that time. The Board finds, based on this record, that the home could not have been complete as of January 27, 2006, when the lumber to construct the home was not delivered until March 2006. The Board further finds that in reviewing a copy of the property record card of the subject property provided by the board of review there is a notation that "'06 Partial Based on 25% of value" and "used 10/1/06." There was also a written statement dated October 6, 2006 from the Wheatland Township Assessor explaining that the property was assessed as of 08/31/06, which was incorrect, and the date that should have been used was 9/30/06 and the partial assessment should be reduced to \$34,700. The Board finds the board of review did not submit a copy of the subject's property record card with any assessment calculations to demonstrate to this Board how the prorated assessment was calculated. The Property Tax Appeal Board finds that the evidence provided by the board of review with respect to the completion of the subject dwelling was inconsistent and not credible.

Based on this record, the Board finds that the testimony of Stenbridge was more credible in establishing that construction on the subject dwelling did not commence until March 2006 and the subject dwelling was not complete until late January or early February 2007. Therefore, the Board finds the subject dwelling should not have been assessed in 2006 and the improvement assessment should be reduced to \$0.

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.

*Ronald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario M. Louie*

Member

*Shawn R. Lerbis*

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: December 3, 2010

*Allen Castrovillari*

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 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 the subsequent year 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.

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.