



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

APPELLANT: Stembridge Builders  
DOCKET NO.: 06-00375.001-R-1  
PARCEL NO.: 07-01-22-303-013-0000

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 no change 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: \$56,410  
TOTAL: \$91,692**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a part one-story and part two-story single family dwelling with 2,953 square feet of living area. The subject has a basement and a three-car attached garage. The property is located in the South Pointe Unit 1 Subdivision, 5624 Bergamot Court, 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.

On the Residential Appeal form the appellant indicated that it was requesting a reduction in the subject's land assessment from \$35,282 to \$6,154 based on a contention of law. Submitted with the appeal form was a copy of an Agreement for Temporary Occupancy Permit for Sixty Days dated August 29, 2006. The permit identified certain items that needed to be completed and further indicated the dwelling was to be occupied on September

15, 2006. The appellant's evidence also included a copy of the subject's property record card that indicated the subject parcel was purchased in May 2003 for an indicated price of \$105,467. The front of the property record card also indicated the subject had a partial assessment in 2006.

The appellant also submitted a memorandum challenging 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 that construction of the dwelling began in 2005 and was completed in the late summer of 2006. No other evidence or testimony was provided by the appellant with respect to this appeal.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$91,692 was disclosed. The subject has a land assessment of \$35,282 and an improvement assessment of \$56,410. The board of review also submitted a copy of the subject's property record card that indicated the subject had a partial assessment in 2006.

The board of review submitted a written statement from Kelli Lord, Wheatland Township Assessor, which stated that the land assessment should be lowered to \$81,330. However, at the hearing the board of review representative, John Trowbridge, stated that was in error. Trowbridge further stated that the board of review stood by the arguments made in the previous appeals.

In testimony provide in this consolidated hearing, Lord testified that in Wheatland Township they do have partial assessments and value what is in place as of January 1. She further indicated that they also prorate the assessment on a home when it is completed. Lord indicated the partial assessment is calculated by valuing the property as a full value and then applying a percentage, which is done throughout the township.

Lord further testified that Wheatland Township does not use occupancy permits to make a determination when a single-family

dwelling is complete but relies on the field inspectors to make a determination when a home is complete. She further indicated that a property is determined to be habitable when it is 100% done. She further explained that in Wheatland Township an improvement has to be at least 60% complete as of January 1, there has to be some structure to it, in order to have a partial assessment. She indicated if the improvement is less than 60% complete as of January 1, she does not value it.

The board of review's representative, John Trowbridge, had previously testified in the consolidated hearing that it is the practice in Will County to assess something as of January 1 even if it is not complete; to the extent it adds value to the property. He also testified a pro-rated assessment is one placed on an improvement at the date of occupancy.

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 not supported by the evidence in the record.

With respect to the land assessment, the Board finds the record disclosed the parcel was purchased in 2003 for an indicated price of \$105,467. The subject has a land assessment of \$35,282, which reflects a market value of approximately \$105,920 using the 2006 three year level of assessment for Will County of 33.31%. The Property Tax Appeal Board finds the subject's land assessment is reflective of the 2003 purchase price, indicating the parcel is not overvalued for assessment purposes. The Board finds this record does not support a reduction in the subject's land assessment.

The Board further finds there is no evidence in the record to support a reduction to the subject's improvement assessment. The record contains a temporary occupancy permit for the subject property issued on August 29, 2006. The Board finds section 9-180 of the Property Tax Code allows for a prorated assessment by providing 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.

(35 ILCS 200/9-180). Testimony provided by the Will County Board of Review was that partial assessments on homes under construction are made when the dwellings are at least 60% complete as of January 1 and prorated full assessments are made from the time when the improvement is complete.

The Board finds the appellant did not otherwise challenge the improvement calculations or question the market value of the subject improvement as reflected by the assessment.

Based on this record the Board finds a reduction in the subject's improvement assessment is not 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.

*Ronald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

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.