



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

APPELLANT: Onwentsia Club  
DOCKET NO.: 06-00614.001-C-3 through 06-00614.004-C-3  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Onwentsia Club, the appellant, by attorneys Brian E. Cohen and Timothy Miller of Novack and Macey, LLP in Chicago; and the Lake County Board of Review by Lake County Assistant State's Attorney Karen Fox.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the *open space assessment* of the property as established by the **Lake** County Board of Review is warranted.<sup>1</sup> The correct assessed valuation of the property is:

<b>DOCKET NO</b>	<b>PARCEL NUMBER</b>	<b>LAND</b>	<b>IMPRVMT</b>	<b>TOTAL</b>
06-00614.001-C-3	12-32-400-004	79,992	0	\$79,992
06-00614.002-C-3	12-33-300-003	309,077	70,079	\$379,156
06-00614.003-C-3	12-33-300-006	179,925	40,114	\$220,039
06-00614.004-C-3	12-33-300-007	351,556	1,493,858	\$1,845,414

Subject only to the State multiplier as applicable.

**BACKGROUND**

The property is part of a private golf club containing a total of approximately 180 acres of land. The subject property under appeal consists of four parcels identified by four separate property index numbers (PINs) comprising a total of approximately 132 acres. The PINs under appeal are improved with various building improvements such as a clubhouse, parking lot, tennis courts, swimming pool, dorm, tennis house, platform

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<sup>1</sup> The PTAB granted reductions to parcel numbers 12-32-400-004 and 12-33-300-007.

tennis, an old riding arena and old stables. The property is located in Lake Forest, Shields Township, Lake County.

The appellant is contesting the assessment for the 2006 tax year concerning the proper application of the preferential open space assessment as set forth in section 10-155 of the Property Tax Code (hereinafter "the Code"). Section 10-155 of the Code provides in part:

§10-155. Open space land; valuation. In all counties, in addition to valuation as otherwise permitted by law, land which is used for open space purposes and has been so used for the 3 years immediately preceding the year in which the assessment is made, upon application under Section 10-160, shall be valued on the basis of its fair cash value, estimated at the price it would bring at a fair, voluntary sale for use by the buyer for open space purposes.

Land is considered used for open space purposes if it is more than 10 acres in area and:

(d) conserves landscaped areas, such as public or private golf courses. . .

Land is not considered used for open space purposes if it is used primarily for residential purposes.

If the land is improved with a water-retention dam that is operated primarily for commercial purposes, the water-retention dam is not considered to be used for open space purposes despite the fact that any resulting man-made lake may be considered to be used for open space purposes under this Section. (35 ILCS 200/10-155).<sup>2</sup>

On March 23, 2010, the Property Tax Appeal Board (hereinafter "the PTAB") issued a decision confirming the assessment of the subject property as established by the Lake County Board of Review. In that decision the PTAB found that only the landscaped area used as the golf course was entitled to the open space assessment while the land that was under certain structural improvements at the golf course such as the tennis courts, the swimming pool, clubhouse, parking lot and the like were not to receive the open space designation and preferential open space assessment allowed under section 10-155 of the Code.

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<sup>2</sup> P.A. 95-70 §5, effective January 1, 2008, added the final paragraph.

The appellant timely filed a petition for administrative review challenging the decision of the Property Tax Appeal Board. In Onwentsia Club v. Illinois Property Tax Appeal Board, 2011 IL App (2d) 100388, 953 N.E.2d 1010, 352 Ill.Dec. 329, (hereinafter "Onwentsia I") the court vacated the decision of the PTAB and remanded the matter with directions.

In Onwentsia I the court broadly construed the word "conserve" in section 10-155(d) to mean "to keep in a safe or sound state . . ." or "to preserve." 2011 IL App (2d) 100388 at ¶10, 953 N.E.2d at 1013. The court in construing section 10-155 of the Code stated:

[T]he plain language of the statute indicates that the legislature intended to grant open-space status not only to land that actually constitutes a landscaped area, but also to land that facilitates the existence of (*i.e.*, conserves) a landscaped area. Id.

The court concluded that the fact that a particular piece of land has some improvement upon it - including in some cases a building - does not preclude the land from being deemed open space. 2011 IL App (2d) 100388 at ¶11, 953 N.E.2d at 1014. In broadly construing the statute, the court determined that an improvement does not defeat the open space status unless the improvement is a commercial water-retention dam or a residential use. 2011 IL App (2d) 100388 at ¶14, 953 N.E.2d at 1014-1015. The court stated that, "the requirement that land *conserve* a landscaped area is broader and more inclusive than actually *being* a landscaped area." 2011 IL App (2d) 100388 at ¶14, 953 N.E.2d at 1015.

The court in Onwentsia I ultimately held "that land, even if it contains an improvement, may be granted open-space status if it conserves landscaped areas." 2011 IL App (2d) 100388 at ¶16, 953 N.E.2d at 1015. The court explained that "[a] golf course typically requires certain appurtenances in order to function, such as parking areas, a building in which to conduct the course business (*i.e.*, a clubhouse), and perhaps a building to support the physical maintenance of the course." Id. The court reasoned that "[s]ince they facilitate the existence of the golf course, and the course conserves landscaped areas, such improvements also can be said to conserve landscaped areas." Id.

The court explained that if an improvement contributes to the nature of the land as a landscaped area, it fits within the statutory definition of open space. The court stated that to the extent improved land facilitates a golf course being a golf course, it conserves a landscaped area. The court ultimately stated the PTAB applied an incorrect standard and should have considered whether the land, improved or not (so long as not improved with a residence or commercial water-retention dam), conserves a landscaped area (that is, facilitates the existence of such an area). 2011 IL App (2d) 100388 at ¶18, 953 N.E.2d at 1016.

The court stated that if the PTAB determines that an improvement in this case conserves a landscaped area by facilitating the existence of the golf course, it should grant open-space status to that portion of the taxpayer's property. 2011 IL App (2d) 100388 at ¶19, 953 N.E.2d at 1016. On remand the PTAB was directed to evaluate the improvements to determine whether they conserve landscaped areas by facilitating the existence of the golf course. 2011 IL App (2d) 100388 at ¶21, 953 N.E.2d at 1017.

Pursuant to the remand, the PTAB evaluated the improvements to determine whether they conserved landscaped areas by facilitating the existence of the golf course and issued its decision on March 23, 2012. The PTAB found that the improvements on the various parcels under appeal including the clubhouse, the swimming pool, tennis facilities, golf learning center, parking lots, caddy shack, maintenance buildings/sheds, driveways and the halfway house for the golf course all facilitate the existence of the golf course. The PTAB found that each of these improvements facilitates the subject property being and remaining a golf course and providing green space in this urban area. Therefore, the PTAB found, in light of the court's remand, that these improvements at issue conserve landscaped areas and are considered open space for assessment purposes. The only improvement that the Board found that did not facilitate the existence of the golf course was the dorm or apartment building on the subject property due to the fact section 10-155 of the Code specifically states in part that, "Land is not considered used for open space purposes if it is used primarily for residential purposes."

The Lake County Board of Review timely filed a petition for administrative review challenging the decision of the PTAB. In Lake County Board of Review v. Property Tax Appeal Board, 2013 IL App (2d) 120429, 989 N.E.2d 745, 371 Ill.Dec. 155,

(hereinafter "Onwentsia II") the court again vacated the decision of the PTAB and remanded the matter with directions.

In Onwentsia II the court held the PTAB's application of the relevant portion of section 10-155 of the Code was overbroad. The court explained that:

Nothing in the statute indicates that the legislature intended to create an enormous tax shelter whereby any parcel of property associated in some way with a golf course would escape taxation. Moreover, it is axiomatic that we are to construe tax exemptions "narrowly and strictly in favor of taxation" (citation omitted) and the burden to prove a tax exemption lies with the taxpayer (citation omitted). **Accordingly, we hold that "conserve" as it is used in section 10-155 of the Code (citation omitted) must be construed narrowly, and in turn, there must be some substantial nexus between the land for which the exemption is claimed and the landscaped area it is claimed to conserve. That is to say, the improvement in question must directly relate to and thus facilitate the existence of the golf course.** Onwentsia II, 2013 IL App 2d 120429 ¶10 (Emphasis added).

The court could perceive no nexus between the swimming pool, tennis facilities, and riding arena and stables and the golf course such that they could be said to facilitate the golf course's existence in any way. The court further stated that the halfway house and the caddy shack relate directly to and thus facilitate the existence of the golf course. The court asserted that on remand, the PTAB should treat them accordingly. Onwentsia II, 2013 IL App 2d 120429 ¶11.

The court found it less clear with respect to the maintenance buildings, parking lots, driveways and the clubhouse. It explained that, "To a large extent, whether such improvements "conserve" a landscaped area depend upon what portions of the Onwentsia Club they serve." Onwentsia II, 2013 IL App 2d 120429 ¶12.

Although not setting forth an exhaustive list of relevant factors to consider in determining whether different parts of an improvement conserves open space, the court did indicate the plain language of section 10-155 of the Code provided direction in how to proceed. The court stated:

One of the exceptions set forth in section 10-155 is as follows: "Land is not considered used for open space purposes if it is *used primarily* for residential purposes." (Emphasis added.) (citation omitted) Thus, the legislature manifested an intent to classify improvements with regard to their primary use. (citation omitted) Onwentsia II, 2013 IL App 2d 120429 ¶15.

The court also rejected the taxpayer's argument that consideration should be given to the fact that the generation of revenue by the clubhouse facilitates the existence of the golf course because the revenue is used to maintain the golf course. The court found this rule would be too broad and lead to absurd results. Onwentsia II, 2013 IL App 2d 120429 ¶16.

The court remanded the matter to the PTAB to consider whether the maintenance buildings, parking lots, driveways and clubhouse should received the preferential open space assessment. The court asserted that: "The PTAB should determine on remand whether there is some substantial nexus . . . between the improvements at issue and the golf course such that the improvements relate directly to the course and facilitate its existence." Onwentsia II, 2013 IL App 2d 120429 ¶18.

Pursuant to the court's remand the PTAB allowed the parties to submit additional evidence and set the matter for hearing on February 10, 2014.

### **HEARING SUMMARY**

#### APPELLANT'S PRESENTATION

At the beginning of the hearing appellant's counsel, Timothy J. Miller, made the following concessions based on the appellate court's findings in Onwentsia II. With respect to the tennis hut and the east and west tennis courts located on parcel number (PIN) 12-33-300-003 (hereinafter "003") counsel conceded these are not entitled to open space treatment. With respect to PIN 12-33-300-006 (hereinafter "006") appellant's counsel conceded the pool deck and what is referred to as the wigwam located on this parcel are not entitled to open space treatment. With respect to PIN 12-33-300-007 (hereinafter "007") appellant's counsel conceded the dormitory, tennis house and platform tennis facilities located on this parcel are not entitled to open space treatment. (Transcript pp. 11 - 15.)

WITNESSES ON BEHALF OF ONWENTSIA

DAVID CREANEY

The first witness called by the appellant was David Creaney, head turf equipment technician and shop manager for Onwentsia. He has worked at Onwentsia since January 17, 2011. Creaney is in charge of repairing and maintaining all the turf equipment and the facilities that go along with them. Examples of the equipment include fairway machines, tractors, greens mowers and weed whips. Green identified Appellant's Ex. P (Owenstia Club 2011 Aerial) as an aerial photo of the Onwentsia Club. He identified areas A, B, C, D, E and G on the exhibit as the grounds maintenance department and where he does most of his work.

Creaney testified he gets out on the golf course daily for purposes of his job to check the quality of the cut, condition of the mowers and the grass. During the golf season 20 to 25 people work on the course doing various jobs such as mowing the fairways, mowing the greens, trimming trees, raking bunkers, edging around bunkers and edging around ponds. Off season there are 10 people employed at the course doing such jobs as working on the turf equipment, repainting benches, repainting ball washers, repainting tee markers and rehabbing the equipment on the golf course.

Creaney testified building A is primarily used to store golf equipment. Creaney identified Appellant's Exhibits A-1 through A-4 as photographs taken inside the arena or the equipment storage shed which depict various pieces of equipment and material used in the care and maintenance of the golf course. Creaney identified Appellant's Exhibit Q, Equipment List, as the equipment inventory list of the equipment that is housed in the old riding arena (building A). The witness asserted the equipment listed on the inventory is used to maintain the golf course. He testified the arena helps him and his team keep and maintain the golf course.

The witness identified building D on Appellant's Ex. P as the stable buildings that are used to house different types of tools, pins, small equipment and offices. The offices are used by Kyle Haines, the assistant superintendent of the golf course. Creaney identified Appellant's Ex. D1 as a photograph depicting the interior of the stable building housing a green push blower, a red backpack blower, various tools used to maintain the course and a lunch table for staff.

Creaney identified Appellant's Ex. D2 as a photograph of the assistant superintendent's office. The witness explained the assistant superintendent helps to line up the employees in the morning to give them their particular jobs that relate to the golf course. Creaney identified Appellant's Ex. D3 as a photograph of one of the stable buildings housing the drinking fountains for winter storage. In the summer these fountains are located at different areas of the golf course for the golfers to get water. The storage cabinets depicted in the photograph are used to house extra safety glasses, extra helmets, gloves, ear plugs and mosquito repellent used on the golf course. Creaney identified Appellant's Ex. D4 as another photograph inside one of the stable buildings storing flag poles and trash pumps that are used following heavy rains to purge water from the bunkers. Creaney identified Appellant's Ex. D5 as a photograph inside one of the stables known as the "irrigation room" which houses all kinds of irrigation supplies needed to fix sprinkler heads on the golf course such as piping and tubing. Creaney identified Appellant's Ex. D6 as a photograph inside one of the stables housing seed, fungicides and herbicides used on the golf course. Creaney identified Appellant's Ex. D7 as another photograph inside the stable buildings housing irrigation heads and tractor tires. Creaney asserted that the stable buildings help him and his team conserve and maintain the golf course. He asserted the stables do not house horses.

Creaney identified building B on Appellant's Ex. P as the mechanic's shop. This building is being used to repair and maintain all the golf course equipment. Creaney identified Appellant's Ex. B1 as a photograph inside the mechanic's shop depicting a fairway mower, a turf vehicle and a fairway machine. Creaney identified Appellant's Ex. B3 as a photograph of the other side of the repair shop depicting fairway mower cutting heads and paint used to repaint items that get weather damaged or scratched such as benches, ball washers and tee markers. The witness identified Appellant's Ex. B4 as a photograph depicting the sharpening room where he is sharpening a fairway mower cutting head. Creaney identified Appellant's Ex. B5 as another angle of the repair shop depicting a welder, a tire rack for extra tires, cabinets which house miscellaneous tools and benches stacked inside the paint room that have been prepped and are ready to paint and then be placed back on the golf course.

Creaney identified building C on Appellant's Ex. P as the maintenance office where the workers gather each morning to receive jobs they are to perform on the golf course. Creaney

identified Appellant's Ex. C as a photograph inside the maintenance office building. Creaney asserted the maintenance building helps with the conservation and preservation of the golf course.

Creaney identified building E on Appellant's Ex. P as the wash area and fertilizer building. The witness testified the wash area is used to wash all the equipment after it has been used on the golf course. He also explained the building houses whatever the superintendent needs at the time to spray on the course. Creaney identified Appellant's Ex. E1 as a photograph of the wash area and Appellant's Ex. E3 as a photograph of the other half of the building depicting the sprayer/fertilizer room. Photograph E3 depicts various sprayers, fertilizers and other types of products applied to the golf course. Creaney asserted this building helps to conserve and maintain the golf course equipment.

Creaney identified building F on Appellant's Ex. P as the halfway house where golfers can use the restroom and get something to drink. He was of the opinion this supports the golf course.

Creaney identified building O on Appellant's Ex. P as the caddy shack and is used by caddies to get rain shelter and use the restroom. Creaney identified building P on Appellant's Ex. P as the practice facility where members can go and get a lesson, club fitting or some balls. He was of the opinion these buildings support the golf course and are used for no other purpose.

The witness identified item G on Appellant's Ex. P as the driveway area mainly used by the workers to get to the shop area, the golf maintenance department or if there are deliveries that need to get to the golf maintenance department. The driveway is also used by members going to the practice facility, to hit range balls or get a lesson. He asserted no one would use this drive to play tennis or to swim. Creaney indicated there was no other way to get to the maintenance area other than by this road.

Under cross-examination Creaney testified he did not know exactly when the riding arena and stables began to be used to store the grounds equipment and other materials but asserted it was way before he started. He also indicated that the golf season is anywhere from the middle of March through November.

The witness agreed that there are 10 workers during the off-season in the maintenance area refurbishing equipment.

WADE MILLER

The next witness called on behalf of the appellant was Wade Miller, general manager of Onwentsia Club. He has been the general manager since September 2013. Miller has been certified as a certified club manager through the Club Managers Association of America since 1997. Prior to his current employment he worked approximately seven years at the Oak Ridge Country Club in Minneapolis. His prior employment included three clubs in Michigan for approximately 21 years.

Miller oversees the day-to-day operation of the club which involves all of the department heads reporting to him. Miller is also involved with golf events hosted at the club including booking the events, overseeing the billing and the day to day functioning of the event. With respect to the members, he explained there are golf events for men, women, juniors and couples. He also testified that the club hosts qualifying events for major tournaments, both state and national. Additionally, the club has Monday golf events for charities and businesses. Some of the qualifying events, charity events and business events extend to golfers beyond the membership of the club. Some of the larger events could have as many as 150 golfers participating.

Miller also testified the Onwentsia Club has a caddy program. He explained the club has a long tradition of being a walk-in club and caddies are available for members between the hours of 8:00 AM and 4:00 PM. He stated the members are required to take a caddy. He explained that golfing is available at the club beyond 8:00 AM to 4:00 PM with times beginning around 7:00 [AM] to darkness.

Miller's office is located on the second floor of the clubhouse. He spends time in his office but is in all areas of the clubhouse and out on the golf course from time to time. He was of the opinion the entire clubhouse, to some extent, supports the golf course operation.

Miller further testified there are areas in the clubhouse with the sole purpose of supporting the golf operation of the club. He identified Appellant's Ex. M1 as a photograph of the bag room, which is located in the clubhouse. He testified this room

stores the members' golf bags and there was a door that connects to the golf pro shop. He also testified to the left of the picture is another door where the caddy master has an office and a desk to do his work. Miller testified that bags are stored in this room any time that members would be playing golf at the club.

Miller identified Appellant's Ex. M2 as a photograph of the golf pro shop located in the clubhouse. The pro shop has golf related merchandise for sale. The witness explained the golf pro shop has an entrance to the golf course. The witness testified the golf pro shop is profitable and the profits are used to support the operation of the club and the operation of the golf course.

Miller next identified Appellant's Ex. M3 as a photograph of the golf professional's office located in the clubhouse. The golf professional oversees the golf operation and is involved in the administration of events, planning events and budgeting. He also oversees the caddy master as well as the golf professional staff and everyone that works in the pro shop. Miller testified the golf professional reports to him. The witness indicated the room is related directly to the golf course.

Miller identified Appellant's Ex. M10 as a photograph of the women's locker room located on the first floor of the clubhouse. This room is used by ladies who are at the club to play golf. He explained that members at the club to play tennis or use the racket court would not use this locker room. The witness asserted that the rackets building is a completely separate building across the parking lot and driveways from the clubhouse with its own men's and women's locker rooms. The witness asserted the room is related directly to the golf course.

Miller identified Appellant's Ex. M4 and Ex. M5 as photographs of the men's locker room located on the second floor of the clubhouse. This room is used by men who are at the club to play golf. He explained that men at the club to play tennis would not use this locker room. The witness contends the room relates directly with the golf course.

Miller identified Appellant's Ex. M6 and Ex. M7 as photographs of the club repair room, which is used by staff for such things as re-gripping a member's club, fix a broken shaft or other things a member would want done to their golf clubs. The witness testified the sole purpose of this room related to the golf club's operation of the course.

Miller testified he had his staff measure these rooms. The measurements of the rooms were contained on Appellant's Rebuttal Ex. #2. Miller indicated that more than half of the clubhouse located on property index number PIN 006 was solely used for the purpose of supporting the golf course.

Miller testified the subject property has a kitchen located in the clubhouse. The witness testified the club offers primarily lunch and dinner and caters to the needs of the membership through the food and beverage program. He explained golfers most frequently have lunch before golfing or dinner afterwards. He also explained that areas around the clubhouse are used by golfers and are also used during golfing events. For events lunch would be offered in the clubhouse and various rooms. After golf the players may use the locker rooms to shower and change for the afternoon and evening's events, which could include cocktails, hor d'oeuvres and dinner in the clubhouse. The witness explained the entire clubhouse could be used for larger groups but certainly the entire lower level would be used. Miller indicated the golf events generate a significant amount of revenue for the club and the club would not be able to host such events without the clubhouse. He asserted the clubhouse is needed to provide the ambience for the event as well as providing the facilities and access for high quality food and beverages.

Miller explained his office is located on the second floor in the northern portion of the clubhouse. Located near his office is a storage room, the controller's office, administrative staff offices and the beverage manager's office. He asserted that these offices support all the administration of the golf course. Miller explained that payment of all invoices for the golf course maintenance staff is handled in these offices. Miller also testified he had weekly formal meetings with the golf professional and the golf course superintendent in his office.

Miller identified letters K, N and M on Appellant's Ex. P as depicting the clubhouse. He explained that parking for the clubhouse is to the right of the K. He further testified the parking areas identified by the letters L, Q and R on Appellant's Ex. P. are used by members coming to the clubhouse, the locker rooms and to play golf. He also testified there is overflow parking for large events next to the tennis area which is designated by the letter T on Appellant's Ex. P.

Under cross-examination Miller explained during the off seasons they offer members lunch, dinner and sometimes breakfast. Other types of events offered for members include weddings and holiday parties. He estimated four or five weddings might be held at the clubhouse over a 12 month period. He also stated not-for-profit or corporate entities utilize the club for golf events in which they are required to pay guest fees for golf caddies as well as for food and beverages.

The witness also testified he has meetings in his office with other department heads besides the golf professional and golf course superintendent. He also explained that members pay for services of the golf repair room.

Miller explained that a coat and tie is required in the evening on the first floor of the clubhouse, but it is less formal during the day. He also testified that upstairs is more casual and outside at the wigwam, the food and beverage area, is casual.

Miller testified during the off-season the bar and dining facilities are utilized for the needs of the members to provide a high quality food and beverage operation during the time the club is open. The witness indicated members do bring guests with them.

Miller further explained that the area marked as T and U on Appellant's Ex. P are the outdoor paddle courts, indoor tennis courts, squash courts, locker room and food and beverage area. Members utilizing those services would park adjacent to those areas. He indicated that those playing tennis could use those areas around those marked as T, V and L for parking.

With respect to Appellant's Rebuttal Ex. 2, Miller testified the total area of the clubhouse measured 42,191 square feet. He also testified that the area he considered golf course specific measured 12,443 square feet. He testified the area highlighted in yellow on Appellant's Rebuttal Ex. 2 designate the golf specific areas. He agreed that those areas not highlighted on the exhibit have multiple uses, not only for golf course use but for other activities. The witness also testified that those areas marked in yellow on the exhibit are probably not used nearly at all during the off season from December until March.

Miller estimated there were about six of the larger golf events on Mondays throughout the year. He also explained that members

can bring a guest to play golf but have to pay fees for their guest to play.

ALEXANDER STUART

The next witness called on behalf of the appellant was Alexander Stuart. Stuart is an investment banker and became a member of Onwentsia Club in 1996. He joined the club for the golf, the people and the facilities, including the clubhouse.

Stuart is president of the club and is also on the board of governors. The board of governors provides the overall supervision of the club, both financially and from a policy standpoint.

He testified he was associated with Onwentsia prior to the time he joined due to his family being members in the '60s. He testified the club has not had any horse related activities since 1972. Prior to 1972 the arena and stables were used for horse related activities.

Reviewing Appellant's Ex. L (Onwentsia Club 1939 Aerial) Stuart identified the oval at the lower right center of the aerial photograph as the area that was used for horse shows and training until the early '60s. The stables were located next to the oval that people used to board horses. In 1972 a decision was made to stop all horse related activities and the stables to the right of the arena were torn down. The arena then became storage for equipment.

Reviewing Appellant's Ex. N (Onwentsia Club 1974 Aerial) Stuart identified the area where the oval had been overgrown with vegetation. The witness asserted that at this point in time the club does no horse related activities.

The witness testified he is a golfer and plays golf at Onwentsia. He asserted that either before or after he plays golf he uses the clubhouse to change and socialize, which he considers part of the entire golfing experience.

The witness testified the he has a role in the membership of the club. Stuart stated the club has about 590 members of all categories and each has golf privileges. He was of the opinion over 75% of the members have one family member that plays golf, which is the primary sport at the club. He stated there are no social members. The witness also stated the club is always looking for quality members to replace those who resign, die or

move away. Stuart is involved in the club's membership activities and speaks to potential new members as part of that process.

Stuart believed new members are looking for wonderful facilities including the golf course, clubhouse and fellowship among people they like. He also testified he speaks with club members throughout the year in which they talk about the clubhouse telling him when things go right and when things go wrong. He also thought all the amenities at the clubhouse were important.

Stuart also testified the club hosts large golf related events, both charitable and corporate. He also testified members have sponsored events by bringing their own clients out. During a large event the entire first floor of the clubhouse, if not more, is used. He explained during large events the participants would have lunch before they play golf. After play they would return to the clubhouse and gather for drinks in the living room or library and the red bar. The witness explained these golf events are very profitable and an important source of revenue for the club.

Stuart was of the opinion the golf course could exist without the club in drastically reduced circumstances. He did not think the club would survive without the clubhouse, stating they would lose members and it would be a very different place. Members are a source of revenue through sponsoring events and bring guests to the club.

Under cross-examination Stuart testified that he uses the clubhouse all the time during the off season going for dinner once or twice a week. He also explained that weddings, anniversary parties and birthday parties held at the clubhouse are for members only but guests can attend. Stuart indicated that revenues generated from these types of events as well as from fees, green fees, along with income from the bar and restaurant contribute to the overall health of the club and the maintenance of the golf course, which is the largest single expense.

The appellant called no other witnesses.

#### BOARD OF REVIEW PRESENTATION

To recapitulate, the board of review submitted its "Notes on Appeal" for the various PINs under appeal. The board of review determined these PINs had open space assessments as follows:

PIN	Land	Improvement	Total
12-32-400-004	\$79,992	\$61,124	\$141,116
12-33-300-003	\$309,077	\$70,079	\$379,145
12-33-300-006	\$179,925	\$40,114	\$220,039
12-33-300-007	\$352,522	\$1,513,254	\$1,865,776

The board of review submitted copies of the property record cards for the various PINs under appeal which had a breakdown of the land area as follows:

Land Area

PIN	Open Space	Commercial	Total
12-32-400-004	80.00 acres	0.00 acres	80.00 acres
12-33-300-003	16.99 acres	3.19 acres	20.18 acres
12-33-300-006	26.10 acres	1.68 acres	27.78 acres
12-33-300-007	0.00 acres	3.85 acres	3.85 acres

The property record cards disclosed the open space land was valued at \$3,000 per acre and assessed at \$1,000 per acre. The commercial land was valued at approximately \$6.30 per square foot or \$274,428 per acre and assessed at approximately \$2.10 per square foot or \$91,476 per acre.

WITNESS ON BEHALF OF THE LAKE COUNTY BOARD OF REVIEW

MARTIN PAULSON

The board of review called as its witness Martin Paulson, Lake County Chief County Assessment Officer (CCAO). Paulson has been CCAO for approximately 12 years. As part of his job he is responsible for reviewing and granting open space valuations. The witness explained open space applications are made annually and he receives approximately 50 applications.

Paulson is familiar with the open space valuation on the Onwentsia Club, he originally placed the open space valuation on the PINs under appeal. He testified Onwentsia is a private golf course in Lake Forest with about 140 acres of land. The property has a clubhouse with at least 42,000 square feet, tennis courts, a paddle tennis facility, a dormitory and a tennis hut. He also testified the subject property has various improvements on the golf course including the golf learning center, the halfway house and a number of maintenance related buildings.

Paulson testified PIN 12-32-400-004 (hereinafter "004") has the maintenance buildings which include the riding arena, the stables and the wash facility. He testified the property is roughly 80 acres and the overwhelming majority of the area has been receiving open space valuation since 2006. He testified 77 acres of the PIN received open space valuation. Paulson testified the buildings on PIN 004 were valued based on their market value. Paulson believed the buildings on this PIN should be valued at some amount. The property record card for PIN 004 was marked BOR Ex. #28.

Paulson testified PIN 003 is just a little over 20 acres and 17 acres were open space valuation. The CCAO testified that the foot print of the north end of the clubhouse, the tennis courts and the tennis hut which were located on this PIN would not have received the open space assessment. These areas are depicted on BOR Ex. #21 (aerial map). Paulson indicated 3.26 acres were not receiving open space based on his opinion the improvements did not necessitate or help conserve the open space. The area that did not receive open space included the tennis facilities, the north end of the clubhouse and the parking. The property record cards for PIN 003 were marked as BOR Ex. #23 and BOR Ex. #29.<sup>3</sup>

Paulson testified PIN 006 had a parking lot, the wigwam, the pool deck, the south end or majority of the clubhouse, the golf learning center and the caddy shack. (A portion of these areas were also depicted on the aerial maps marked as BOR Ex. #20 and BOR Ex. #21.) Paulson testified this site had 27.36 acres and 25.96 acres was valued as open space in 2006. He testified that for the 2013 tax year 26.74 acres were receiving open space due to an adjustment related to parking. The witness testified that the land under the clubhouse did not receive open space valuation in 2006. The property record cards for PIN 006 were marked BOR Ex. #24 and BOR Ex. #30.

Paulson testified PIN 007 had parking, the dormitory, a tennis house and platform tennis courts. This PIN was depicted on the aerial map marked as BOR Ex. #20 and the property record cards for this PIN were marked BOR Ex. #25 and #31. Paulson testified this PIN did not receive open space valuation in 2006. He explained this parcel is rather narrow with 3.85 acres on Green Bay Road and the aerial photo (BOR Ex. #20) depicts this PIN being absorbed by the improvements. The property record cards for PIN 007 were marked as BOR Ex. #25 and BOR Ex. #31.

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<sup>3</sup> BOR Ex. #29 indicated 16.99 acres were valued as open space and 3.19 acres were valued as commercial land.

Martin testified with respect to other golf courses in Lake County during 2006 where the land used as the golf course would receive open space valuation, however, the parking areas and clubhouse would not have received open space land valuation and the improvements would have been valued for tax purposes.

Under cross-examination Paulson testified that during 2006 if there was an improvement on the land, including parking, it was not open space regardless of what the improvement was used for. The witness agreed that when he established the assessment in 2006 he had no information about the revenue generation by the clubhouse and no particular understanding about what the particular rooms in the clubhouse were used for.

With respect to PIN 004, depicted on the aerial map marked BOR Ex. #22 and the property record card marked BOR #28, Paulson testified this parcel had a land assessment of \$79,992 and an improvement assessment of \$61,124. He testified it looked as though the entire 80 acres on this parcel received the open space valuation. Paulson testified this parcel contained the riding arena, stables, maintenance building and the wash building.

Paulson agreed that the clubhouse is located on PINs 003 and 006. When shown the property record cards for PINs 003 and 006, marked as BOR Ex. #29 and BOR Ex. #30, he agreed that the clubhouse was not depicted on either property record card. The property record card for PIN 003 (BOR Ex. #29) referenced a one-story frame building with 972 square feet and listed improvements used for tennis. The building described on the property record card for PIN 006 (BOR Ex. #30 ) a 544 square foot frame building used as a restaurant and listed another improvement with 3,847 square feet.

Paulson was shown BOR Ex. #31, which was composed of five pages, the property record card for PIN 007, and agreed this is the card which included the assessment for the clubhouse and other improvements. He testified the various improvements, although not located on this PIN, are included on the property record card for the ease of the township assessor to have the improvements in one particular spot. The property record card depicted an improvement value of \$4,540,216 and an improvement assessment of \$1,513,254. He explained page 1 of 5 of the property record card had a depiction of a building footprint with 24,722 square feet that relates to the clubhouse. A review of this card did not depict the total value associated with this building. Page 2 of 5 of the property record card depicts a

one-story building with 255 square feet described as a bank with a total value of \$48,973. Paulson did not know what this building was. Page 3 of 5 of the property record card depicts the dormitory building with 4,075 square feet of ground area and a total value of \$210,883. Page 4 of 5 of the property record card depicts the tennis building with 19,989 square feet and a total value of \$1,073,692. Page 5 of 5 of the property record card depicts a one story building with 210 square feet described as a restaurant, which Paulson thought may be the halfway house, with a total value of \$9,220. Paulson testified that by looking at the property record card he could not directly tell the total value associated with the clubhouse. He indicated the value of the clubhouse may be the total building value depicted on the property record card of \$4,540,216 less the value of the other improvements, which results in a value of \$3,197,448.<sup>4</sup> Paulson indicated the building assessment on PIN 007 included the assessments for buildings on 003 and 006.

Paulson testified that the open space assessment is not the same as receiving an exemption; it is a use based assessment.

The board of review called no other witnesses.

#### **CONCLUSION OF LAW**

The issue in this appeal deals with application of the section 10-155 of the Code, the open space statute, to the subject golf course. Section 10-155 of the Code provides in part:

§10-155. Open space land; valuation. In all counties, in addition to valuation as otherwise permitted by law, land which is used for open space purposes and has been so used for the 3 years immediately preceding the year in which the assessment is made, upon application under Section 10-160, shall be valued on the basis of its fair cash value, estimated at the price it would bring at a fair, voluntary sale for use by the buyer for open space purposes.

Land is considered used for open space purposes if it is more than 10 acres in area and:

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<sup>4</sup> The PTAB finds this value attributed to the clubhouse does not appear correct based on a review of the property record card for PIN 007 for tax years 2009 through 2013, marked as BOR Ex. #25, which showed a value for the clubhouse on page 1 of 5 of the card of \$666,864.

(d) conserves landscaped areas, such as public or private golf courses. . .

Land is not considered used for open space purposes if it is used primarily for residential purposes.... (35 ILCS 200/10-155).

In construing section 10-155(d) of the Code in Onwentsia II the court stated:

Nothing in the statute indicates that the legislature intended to create an enormous tax shelter whereby any parcel of property associated in some way with a golf course would escape taxation. Moreover, it is axiomatic that we are to construe tax exemptions "narrowly and strictly in favor of taxation" (citation omitted) and the burden to prove a tax exemption lies with the taxpayer (citation omitted). **Accordingly, we hold that "conserve" as it is used in section 10-155 of the Code (citation omitted) must be construed narrowly, and in turn, there must be some substantial nexus between the land for which the exemption is claimed and the landscaped area it is claimed to conserve. That is to say, the improvement in question must directly relate to and thus facilitate the existence of the golf course. Onwentsia II, 2013 IL App 2d 120429 ¶10 (Emphasis added).**

The court in Onwentsia II asserted that the determination of whether or not a property is to receive the preferential open space assessment should be viewed similarly as property claiming to be exempt. As stated by the Supreme Court of Illinois in Follett's Illinois Book and Supply Store, Inc. v. Isaacs, 27 Ill.2d 600, 190 N.E.2d 324 (1963):

Statutes exempting property from taxation must be strictly construed and cannot be extended by judicial interpretation. In determining whether or not property is included within the scope of a tax exemption all facts are to be construed and all debatable questions resolved in favor of taxation. Every presumption is against the intention of the State to exempt property from taxation. (Citation omitted). 27 Ill.2d at 606.

Although it appears to be incongruous that land with building improvements can be considered "open space" the court has so

construed section 10-155 of the Code.<sup>5</sup> (See also Consumers IL Water Co. v. Property Tax Appeal Board, 363 Ill.App.3d 646, 844 N.E.2d 71, 300 Ill.Dec. 329 (4<sup>th</sup> Dist. 2006)).

The Board finds the parties to this appeal did not dispute the open space value utilized by the Lake County assessment officials of \$3,000 per acre or an assessed value of \$1,000 per acre. Nor did the appellant submit any evidence challenging the value computations associated with the various improvements on the subject property or associated with the market value of the land that was not receiving the open space assessment.

The Board further finds that the appellant, in accordance with the court's ruling in Onwentsia II, conceded for the purposes of the hearing that the tennis hut and the east and west tennis courts located on PIN 003; the pool deck and what is referred to as the wigwam located on PIN 006; and the dormitory, tennis house and platform tennis facilities located on PIN 007 are not entitled to open space treatment. Based on this record the PTAB finds these improvements and the underlying land does not qualify for an open space assessment.

The court in Onwentsia II also stated that the halfway house and the caddy shack relate directly to and thus facilitate the existence of the golf course. The court asserted that on remand, the PTAB should treat them accordingly. Onwentsia II, 2013 IL App 2d 120429 ¶11. Based on this finding, the PTAB finds the halfway house located on PIN 004 and the caddy shack located on PIN 006 qualify for the open space assessment.

The court in Onwentsia II further stated it could perceive no nexus between the riding arena and stables and the golf course such that they could be said to facilitate the golf course's existence in any way. Onwentsia II, 2013 IL App 2d 120429 ¶11. The PTAB finds the documentary evidence presented by the appellant and the testimony of Alexander Stuart and David Creaney demonstrated there is a substantial nexus between these

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<sup>5</sup> Black's Law Dictionary provides a common definition of "open space" as:

Undeveloped (or mostly undeveloped) urban or suburban land that is set aside and permanently restricted to agricultural, recreational, or conservational uses. The land may be publicly or privately owned. Access may be restricted or unrestricted. Open spaces are not necessarily in a natural state: the term includes land used for public parks, gardens, farms, and pastures. But it does not include structures such as parking lots, swimming pools, or tennis courts. Black's Law Dictionary 1200 (9<sup>th</sup> ed. 2009).

buildings and the landscaped area that are claimed they conserve. Based on the evidence and testimony presented, the PTAB finds the primary use of these improvements are directly related to and facilitate the existence of the golf course.

The PTAB finds the appellant presented the testimony of Alexander Stuart, president of Onwentsia Club and member of the board of governors, that the arena and riding stables ceased being used in 1972 for horse related activities. He further testified that the arena then became storage for equipment.

The PTAB also heard testimony from David Creaney, head turf equipment technician and shop manager for Onwentsia. He provided detailed descriptions of how the arena and stables were being used to house equipment used to maintain the golf course. He identified various photographs that depicted the arena, the stables and various other maintenance buildings and offices identified as buildings A, B, C, D and E on Appellant's Ex. P. These buildings are located on PIN 004. He identified Appellant's Ex. Q as a list of equipment stored in the so-called arena. Creaney's testimony was that these buildings store various equipment and tools used to maintain the golf course including such items as fairway mowers, turf vehicles, fairway machines, blowers, weed whips, and pumps. He also explained how these buildings are used to repair the maintenance equipment and repair and refurbish items on the golf course such as irrigation systems, benches, flags and tee markers. These buildings are also used to store such items as fertilizer, seed, fungicides and herbicides used to maintain the golf course. The PTAB finds the primary use of these building improvements directly relate to and facilitate the existence of the golf course. The PTAB finds the testimony and exhibits established a substantial nexus between the arena, stables and maintenance buildings and the keeping and preservation of the landscaped golf course area. The PTAB finds there is a direct relationship between the primary use of these building improvements and the existence of the golf course. Based on this record the PTAB finds the arena, stables and the various maintenance buildings located on PIN 004 qualify for the open space assessment.

Creaney identified building P on Appellant's Ex. P as the practice facility where members can go and get a lesson, club fitting or some balls. (This building is located on PIN 006.) The Board finds the testimony indicates the primary use of this building, similar to the halfway house and the caddy shack, relate directly to and thus facilitate the existence of the golf

course. Based on this record the Board finds this building qualifies for the preferential open space assessment.

Both Wade Miller, general manager of Onwentsia Club, and Alexander Stuart testified to the use and importance of the clubhouse to the Onwentsia Club. The testimony provided by both Miller and Stuart established that the clubhouse is an integral part of the Onwentsia Club providing areas for golfers to change, shop and have clubs repaired but also with significant facilities devoted to dining, beverages and socializing. Both Miller and Stuart provided testimony that the clubhouse generates significant revenues through the food and beverage program, the hosting of various golfing events, weddings, anniversaries and holiday parties that are used to maintain the existence of the Onwentsia Club. Stuart testified that revenues generated from various events as well as from fees, green fees, income from the bar and restaurant contribute to the overall health of the club and the maintenance of the golf course, which is the largest single expense.

Miller testified he had staff measure the interior of the clubhouse which resulted in a building area of 42,191 square feet, as depicted on Appellant's Rebuttal Ex. #2. Similarly, Paulson indicated the clubhouse footprint was depicted on BOR Ex. #25 and BOR Ex. #31 depicting a ground floor area of 24,722 square feet or a total building area of 49,444 square feet when including the second floor. Miller testified that the area he considered golf course specific measured 12,443 square feet. He testified the area highlighted in yellow on Appellant's Rebuttal Ex. 2 designated the golf specific areas. These areas identified as golf specific on the exhibit included: Bag Room, Golf Pro Shop, Golf Pro Office, Club Maker's, Ladies LR Showers, Ladies LR lav., Laundry/LLR Office, Ladies LR, Men's Locker, MLR Lav., MLR Showers, MLR Office, MLR, and MLR Hallway. He testified that those areas not highlighted on the exhibit have multiple uses, not only for golf course use, but for other activities. The witness also testified that those areas marked in yellow on the exhibit are not used nearly at all during the off season from December until March.

Based on this testimony the PTAB finds approximately 29.5% of the clubhouse has a golf specific use and 70.5% of the clubhouse has multiple uses during the year. Furthermore, the area devoted to golf specific use is open or used for approximately nine months or 75% of the year, depending on weather conditions that allow for the playing of golf on the course. For approximately 3 months or 25% of the year, the golf specific

area is not used for golfing purposes. Based on this evidence and testimony concerning the building area and the annual use, the PTAB finds the clubhouse is not used primarily for golf specific purposes and does not directly relate to and facilitate the existence of the golf course. The PTAB finds there is not a substantial nexus between the clubhouse and the golf course or the landscaped area it is claimed to conserve.

With respect to the proportional uses of the clubhouse, the PTAB finds the plain language of section 10-155 of the Code does not provide for a prorated improvement assessment. When property is found to be open space, the value is to be calculated based on, "its fair cash value, estimated at the price it would bring at a fair, voluntary sale for use by the buyer for open space purposes." (35 ILCS 200/10-155). Moreover, the Property Tax Code only provides limited circumstances for a proportionate improvement assessment such as in the case of new construction or uninhabitable property. (See sections 9-160 and 9-180 of the Property Tax Code (35 ILCS 200/9-160 & 9-180)). Neither situation is present under the facts of this appeal. Additionally, the Property Tax Code provides for a proportionate assessment during the tax year when a property becomes exempt or loses its exempt status as provided in Title 4 of the Code (35 ILCS 200/Title 4) based on a change of use or ownership during the year, a fact again not present in this appeal. (See section 9-185 of the Property Tax Code (35 ILCS 200/9-185)). The subject property has not been granted an exemption under Title 4 of the Property Tax Code but is receiving a preferential dual assessment due to its open space status.

The PTAB finds that the testimony of Miller and Stuart established that the use of the clubhouse for not only golf specific purposes but the other activities throughout the year generates revenue used to maintain the golf course. However, the court in Onwentsia II held the consideration of revenue generation by the clubhouse as a decisive factor to determine whether this improvement facilitates the existence of the golf course would be too broad and lead to absurd results. Onwentsia II, 2013 IL App 2d 120429 ¶16. Therefore, the PTAB finds once consideration of revenue generation is removed, the evidence clearly establishes there is no substantial nexus between the clubhouse and the landscaped area it is claimed to conserve. In conclusion, the PTAB finds the clubhouse and the underlying land does not qualify for an open space assessment.

With respect to the parking areas at the Onwentsia Club, the testimony was that the parking is used not only for the

clubhouse but in conjunction with the other facilities at the club including the tennis courts and swimming pool. Additionally, the parking is used not only for golf but for other events at the clubhouse. The PTAB finds it was not established that the primary use of the parking was for golf specific activities. Furthermore, based on the PTAB's findings that the clubhouse, tennis courts and swimming pool do not qualify for an open space assessment, the PTAB finds the parking associated with these areas does not qualify for an open space assessment.

Based on this record the PTAB finds PIN 004, improved with the halfway house and maintenance buildings inclusive of the arena and stables, is entitled to an open space assessment. As held by the court in Consumers IL Water Co. v. Property Tax Appeal Board, 363 Ill.App.3d 646, 844 N.E.2d 71, 300 Ill.Dec. 399 (4<sup>th</sup> Dist. 2006), "section 10-155 of the Code (35 ILCS 200/10-155) provides a single assessment value, and thus improvements do not have their own assessment value." Consumers IL Water Co., 363 Ill.App.3d at 652, 844 N.E.2d at 75, 300 Ill.Dec. at 403. Therefore, the Board finds this PIN is entitled to an open space assessment of approximately \$1,000 per acre and there will be no improvement assessment associated with the halfway house and maintenance buildings. The Board finds that Paulson testified that the halfway house assessment appeared on the improvement assessment associated with PIN 007 and described on page 5 of 5 of the property record card with a value of \$9,220. Accordingly, the improvement assessment on PIN 007 will be reduced to account for the halfway house.

The Board further finds the caddy shack and practice facility located on PIN 006 are entitled to an open space assessment, therefore, the underlying land assessment for these improvements should be reduced to reflect a value of \$1,000 per acre and there should be no separate open space improvement assessment for these buildings. The PTAB finds that the assessment for the practice facility appears to be as building 2 on PIN 007 described on page 2 of 5 of the property record card with a value of \$48,973. Accordingly, the improvement assessment on PIN 007 will be reduced to account for the practice facility. Unfortunately, the record is not clear with respect to the building area and assessment associated with the caddy shack. As a result the PTAB cannot definitively establish where the adjustment should be made. The PTAB finds problematic the fact that the property record cards maintained by the Lake County assessment officials do not accurately reflect the buildings present on the respective PINs under appeal. Instead, the

various improvements, although not located on PIN 007, are included on the property record card for PIN 007 for the ease of the township assessor to have the improvements in one particular spot. On this record, the PTAB is unable to discern the improvement assessment associated with the caddy shack.<sup>6</sup>

The PTAB also finds the clubhouse, tennis facilities, swimming pool and the parking located on PINs 003, 006 and 007 are not eligible for the open space assessment. Therefore, to the extent their assessments are reflected on the property record cards associated with these PINs, they remain unchanged.

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<sup>6</sup> The assessment reduction associated with PIN 007 was calculated by removing the values associated with the halfway house (\$9,220) and the practice facility (\$48,973) which reduced the improvement assessment by \$19,396. The PTAB also reduced the land assessment by \$966 to account for the land area under the improvements totaling 465 square feet being assessed based on the open space value of \$1,000 per acre or \$.023 per square foot of land area rather than as commercial land at \$2.10 per square foot of land area.

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

*Tracy A. Huff*

Member

*Mario Morris*

Member

*J. R.*

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: October 24, 2014

*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.