FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Glen Flora Country Club
DOCKET NO.: 06-01063.001-C-1
PARCEL NO.: 08-09-400-010

The parties of record before the Property Tax Appeal Board are Glen Flora Country Club, the appellant, by attorney James T. Magee of Magee, Negele & Associates, P.C. Round Lake; and the Lake County Board of Review by Assistant State's Attorney Karen D. Fox.

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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$70,650
IMPR.:	$0
TOTAL:	$70,650

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of an 8.25 acre parcel that is improved with a tennis court, swimming pool, and parking lot. The subject property is part of the Glen Flora Country Club, an 18-hole golf course, composed of four contiguous parcels, including the subject, identified by four property index numbers (PINs) containing approximately 118 acres. The property is located in Waukegan, Waukegan Township, Lake County.

The appellant submitted the appeal to the Property Tax Appeal Board (PTAB) based on a contention of law. In support of this argument the appellant submitted a legal brief. In the brief taxpayer's counsel explained that in 2006 the balance of the golf course property has been assessed as open space as provided by section 10-155 of the Property Tax Code. (35 ILCS 200/10-155). He explained that in 2006 the Lake County Supervisor of Assessments added $62,401 in assessed valuation for that portion of the land on the subject PIN underlying any improvements on the property on the theory that the property should not be given open space valuation. A copy of the subject's property record card

was submitted indicating the parcel was composed of 8.25 acres. Of the 8.25 acres, 4.25 acres was considered open space and valued at a rate of $3,000 per acre while 4.00 acres was considered commercial/vacant land valued with an estimated market value of $192,856.

The appellant asserted that the Supervisor of Assessments placed an additional assessment on the parcel in 2006 in the amount of $62,401 based on the theory that land underlying improvements does not qualify for open space valuation. A copy of the assessment notice attached to the appeal petition disclosed that the subject's land assessment increased from $8,249 in 2005 to $70,650 in 2006; there was no improvement assessment on the notice. A copy of the Notice of Findings by the Lake County Board of Review disclosed that for 2006 it approved no change in the assessment resulting in a total assessment of $70,650; there was no portion of the assessment attributed to any improvements. The appellant cited the case of Consumers IL Water Company v. Vermilion County Board of Review, 363 Ill.App.3d 646, 844 N.E.2d 71, 300 Ill.Dec. 399 (4th Dist. 2006), for the proposition that as long as improvements are contributing to the open space nature of the land their value must be considered to be included in the open space assessment and they cannot be separately listed. The appellant argued that since the Supervisor of Assessments is precluded by state statute as confirmed in Consumers IL from separately assessing improvements, the Supervisor of Assessments is likewise precluded from assessing the underlying land other than as open space land. On the appeal petition and at the hearing, the appellant's counsel requested the subject's land assessment be reduced to $8,249, which he contends is consistent with the assessment of the balance of the golf course.

The appellant called no witnesses during the hearing.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $70,650 was disclosed; the entire assessment was on the land.

Called as a witness on behalf of the board of review was Martin Paulson the Chief County Assessment Officer for Lake County. Paulson testified that part of his job is to assess open space in Lake County. He testified that applications for open space assessments are received by January 31 and evaluated to determine whether the land qualifies for open space treatment. He testified that approximately 100 parcels in Lake County receive partial open space assessments. Examples of parcels that receive partial open space assessments include golf courses, corporate campuses, former farms and privately owned soccer clubs. He explained that in 2006 he wanted to be more consistent in assessing open space properties and began treating golf courses in the same manner as non-golf courses that were receiving partial open space assessments. He was trying to determine which acreage at a golf course would be treated as non-open space.

During 2006 Paulson testified that the market value for open space property was $3,000 per acre and the assessed value for open space property was $1,000 per acre. He testified that the subject parcel is about 8.25 acres. He testified that the total assemblage of the subject golf course has about 4 acres of non-open space. Of the entire golf course, the 4-acres of non-open space land were applied to the subject parcel for ease of administration. The area of non-open space land was for the tennis court, swimming pool, parking lot and the clubhouse. Paulson indicated the remainder of the golf course, including the practice fairway on the subject parcel, is assessed as open space. The witness testified that the land below the improvements should be excluded from the open space assessment to be consistent with the treatment of other properties in Lake County and based on the statute and his conclusion that tennis courts, swimming pools, country club clubhouses and parking lots are not used as open space.

On cross-examination Paulson testified that approximately one acre of the four acres found to be non-open space is not actually located on the subject PIN. Using an aerial photograph submitted with the board of review evidence but marked as Appellant's No. 1, Paulson identified the parcel under appeal. The aerial photograph depicted the tennis courts, swimming pool, parking lot and clubhouse of the subject property. A significant portion of the clubhouse and a portion of the parking lot are located on an adjacent PIN also comprising a portion of the Glen Flora Country Club golf course. Paulson agreed that the total golf course is approximately 118 acres.

Paulson testified that in calculating whether or not the 10-acre requirement is satisfied under the open space statute his office determines by using an assemblage process because the properties are truly one property/parcel. He testified that 4.25 acres on the subject PIN are considered open space with a market value of $3,000 per acre and assessed at $1,000 per acre on an open space basis. The remaining 4 acres had a market value of approximately $199,220, after equalization.[1] Paulson testified that the bottom portion of the subject's property record card had the parcel's acreage broken out by land type with 4.25 acres as open space and 4.00 acres as commercial/vacant and the pre-equalized values.

Although the subject PIN is improved with tennis courts, a swimming pool, parking lot and a portion of the clubhouse, Paulson testified that the assessor had placed the improvement assessment for these building components on PIN 08-09-200-007. [2] A copy of the property record card for PIN 08-09-200-007 was

[1] The market value estimate is calculated as follows: Total land assessment $70,650 less $4,250 assessment for the open space land equals $66,400. $66,400 ÷ 33 1/3% = $199,220, rounded.

[2] The appellant did not make the propriety of this allocation process part of the assessment dispute. (Transcript pages 9-10.)

submitted by the board of review and disclosed the building improvements had an equalized assessment in 2006 of $826,543.

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 assessment of the subject property is not warranted.

The appellant contends the subject property, containing 8.25 acres, should be assessed as open space pursuant to section 10-155 of the Property Tax Code (35 ILCS 200/10-155). The board of review contends that 4.00 acres do not qualify as open space due to the fact this area is located under various improvements to the real estate. Section 10-155 of the Property Tax Code provides in part as follows:

> §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.
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> Land is considered used for open space purposes if it is more than 10 acres in area and:
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> . . .
>
> (d) conserves landscaped areas, such as public or private golf courses. . .
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> . . .
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> Land is not considered used for open space purposes if it is used primarily for residential purposes.
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> 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.[3]

In this appeal there is no issue with respect to the fact the subject PIN is used as part of an 18-hole golf course, which is one of the enumerated functions described in the open space statute that allows for the preferential assessment. Knox County

[3] P.A. 95-70 §5, effective January 1, 2008, added the final paragraph.

Board of Review v. Illinois Property Tax Appeal Board, 185 Ill.App.3d 530, 541 N.E.2d 794, 133 Ill.Dec. 583 (3rd Dist. 1989); Lake County Board of Review v. Property Tax Appeal Board, 192 Ill.App.3d 605, 548 N.E.2d 1129, 139 Ill.Dec. 573 (2nd Dist. 1989). Additionally, there was no issue with respect to whether the appellant had timely applied for the open space valuation as required by section 10-160 of the Property Tax Code. (35 ILCS 200/10-160). Furthermore, there was no issue with respect to the fair cash value of open space land of $3,000 per acre. The issue before the Property Tax Appeal Board is whether or not the land that underlies certain structural improvements at the golf course such as the tennis courts, the swimming pool, the clubhouse and parking lot, are to receive the open space valuation and assessment or are to be valued based on the land's fair cash value as otherwise provided in the Property Tax Code. (See 35 ILCS 200/1-50 and 35 ILCS 200/9-145).

The Property Tax Appeal Board finds the subject PIN is part of an 18-hole golf course. As such, the Property Tax Appeal Board finds that the use as a golf course that conserves landscaped areas is one of the enumerated functions described in the open space statute, specifically section 10-155(d) of the Property Tax Code, which allows for the preferential assessment as open space. This section provides in part that:

> 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. (35 ILCS 200/10-155).

The Board finds only those portions of the subject property actually used to conserve landscaped areas satisfy the definition of open space land within the statute. The Board finds those land areas of the subject property improved with tennis courts, the swimming pool, the parking lot and the clubhouse, although used in association with the commercial purpose of the golf course, are not used to conserve landscaped areas as required by the statute. Therefore, the Board finds it was appropriate for the Lake County assessment officials to assign an open space value and assessment for that portion of the subject golf course used to conserve landscaped areas and assess the land underlying the aforementioned improvements, totaling approximately 4 acres, as otherwise permitted by law.

Counsel for the appellant contends the appellate court's decision in Consumers IL Water Company v. Vermilion County Board of Review, 363 Ill.App.3d 646, 844 N.E.2d 71, 300 Ill.Dec. 399 (4th Dist. 2006) precludes the Supervisor of Assessments from assessing the land underlying the tennis courts, the swimming pool, the parking lot and the clubhouse other than as open space land. The Property Tax Appeal Board finds Consumers IL is not applicable to the instant appeal. The court in Consumers IL dealt with the issue of determining whether section 10-155 was

applicable to improvements, namely a dam, located on underlying land that was determined to be open space. The court ultimately held that when sections 10-155 through 10-165 of the Property Tax Code state "land," they refer to the land itself and improvements. Consumers IL, 363 Ill.App.3d at 651-652. The court went on to find that section 10-155 of the Property Tax Code provides for a single assessment value, and thus the improvements do not have their own assessment. Consumers IL, 363 Ill.App.3d at 652. Significantly, the court in Consumers IL found that the improvements were contributing to the open space nature of the land and the man-made lake would not have existed but for the presence of the dam. Consumers IL, 363 Ill.App.3d at 652. In this appeal, however, the Property Tax Appeal Board finds that the land underlying these specific improvements is not open space land within the meaning of section 10-155 of the Property Tax Code. The Board finds the tennis courts, the swimming pool, the parking lot and the clubhouse located at the Glen Flora Country Club are ancillary to the golf course and do not contribute to the open space nature of the land. As a result of this finding the preferential open space assessment is not applicable to either the land or the improvements on this portion of the subject property.

In conclusion the Property Tax Appeal Board finds the assessment of the subject property as established by the board of review is correct and no change is warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman

Member

Member

Member

Member

DISSENTING:

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

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: March 23, 2010

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.