FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Karl & Margaret Schmitz
DOCKET NO.: 08-00079.001-R-1
PARCEL NO.: 10-06-400-007-0004

The parties of record before the Property Tax Appeal Board are Karl & Margaret Schmitz, the appellants, by attorney Michael W. Hansen, of Michael W. Hansen, P.C. in Joliet; 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 assessed valuation of the property is:

LAND:	$	0
IMPR.:	$	1
TOTAL:	$	1

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 34.42 acres commonly known as Sunset Country Club and is located in Channahon Township, Minooka, Illinois.

Prior to the hearing the parties requested and it was agreed that Docket Numbers 08-00076.001-R-2, 08-00073.001-R-1, 08-00074.001-R-1, 08-00075.001-R-1, 08-00077.001-R-1, 08-00078.001-R-1, 08-00079.001-R-1, 08-00080.001-R-1, 08-00081.001-R-1, 08-00082.001-R-1, 08-00083.001-R-1, 08-00084.001-R-1, 08-00085.001-R-1, 08-00086.001-R-1, 08-00087.001-R-1 and 08-00088.001-R-1 would be consolidated for purposes of taking oral testimony and argument and shall be incorporated into each appeal as if fully set forth in each of the aforementioned appeals. The Property Tax Appeal Board hereby grants the request; however, a separate decision shall be issued for each docket number.

Sunset Country Club was formed in approximately 1958 as a not-for-profit corporation. On or about this same time, Sunset Country Club purchased the 34.42 acres in question from Frank

Fox. Sunset Country Club owns title to the underlying land. The 34.42 acres are improved with approximately 15 residential structures, a swimming pool, shower building and a garage. Sunset Country Club consists of 15 members. Each member has been granted one certificate share of capital stock in Sunset Country Club when the member purchased or otherwise built a cottage.[1] Annual dues of $650 are payable by each member for maintenance and use of the swimming pool, garage, shower building and access roads.[2] Membership is governed by the "Constitution and By-Laws of Sunset Country Club." It is argued that each member owns the cottage, but does not retain ownership in the underlying land; Sunset Country Club retains ownership in the underlying land.

Prior to January 1, 2008 the Will County assessment officials treated the 15 separate cottages as leaseholds in order to separate the value of each structure from the underlying real estate. Upon a review of Section 9-125 of the Property Tax Code (35 ILCS 200/9-195), the Will County assessment officials determined that the leasehold taxation language only applied in cases of otherwise exempt property. As of January 1, 2008 the 15 separately occupied residential structures were no longer taxed as leaseholds and their value was placed on the underlying parcel, which is owned by Sunset Country Club.

The appellants, through counsel, argued that the Will County assessment officials should continue to tax the underlying land separately from the individually owned cottages. Prior to the change, each individual member would get a tax assessment notice for the improvement only, while Sunset Country Club received the tax assessment notice for the entire 34.42 acres, including the swimming pool, garage and shower building. For the 2008 tax year, the Will County assessment officials changed the parcel index numbers and only one tax assessment notice was given to Sunset Country Club. The appellants are not appealing the assessment amounts, only the allocation of assessments as applied to Sunset Country Club and the individual members of Sunset Country Club.

Kathy Tezak, Deputy Assessor of the Will County Supervisor of Assessments Office, testified that a parcel index number with a designation of "0000" at the end usually denotes an outright owned estate. A parcel index number with a "0004" on the end of it would depict a lease-hold parcel. Tezak testified that prior to the January 1, 2008 tax year, the parcels at Sunset Country Club all had a parcel index number containing the last four digits of "0004." Tezak testified that this was done as a convenience to have a mechanism in place to value the buildings separately from the underlying real estate. Tezak further stated that this practice was also applied in other townships within Will County. In order to facilitate the change, her office

[1] One cottage was torn down and reconstruction attempts are on-going. In addition, to become a new member, 2/3 of the membership must approve of the applicant after approval of the 3 closest neighbors.
[2] The swimming pool, garage, shower building and roads are commonly owned in concert by all of the owners.

applied a $1 value on all of the parcels that had a "0004" designation so as to not issue a separate tax bill, and after that to remove each particular parcel index number ending in "0004." Tezak explained that this methodology was applied throughout Will County on all cottage type properties where the ownership of the building was separate from the ownership of the land. Tezak testified that since this change, her office, as a courtesy, has provided values for the separate buildings to give to the underlying parcel owner in order for the underlying parcel owner to collect the proper amount of taxes from each individual cottage owner. Tezak explained that this practice has also been continued in Wesley and Wilmington Townships located in Will County. Tezak admitted that the parcels in Sunset Country Club never were actually lease-holds and they were improperly giving them a separate parcel number.

Appellants' counsel argued that Section 35 ILCS 200/24-5 states in relevant part that the method of assessment classification stays in place if up to 1979 that property was assessed in a certain way, then the classification would stay the same. Counsel argued that since Sunset Country Club had been assessed as a separate unit with separate tax bills and separate assessments since the 1960's, the assessor's office should continue in that practice.

Counsel for the appellants argued that the by-laws of Sunset Country Club work in concert with the Property Tax Code. The by-laws provide that within 50 feet of the area of each improvement (cottage), the land is deemed to be owned by the improvement owner, and therefore, should be taxed and assessed as one unit.

Upon questions by the hearing officer, counsel stated that if a homeowner did not pay their taxes then the tax lien would be on that particular 50 feet and the improvement. The tax lien would apply even though the improvement owner does not technically own the underlying land. Counsel argued that under the by-laws, each individual cottage owner enjoys all the rights, privileges and the possessory right to the particular land underneath the improvement.

Counsel for the board of review argued that the by-laws require a potential member to negotiate a selling price for a cottage with an individual owner, however, all of the other members of Sunset Country Club have to agree before someone can gain membership. It was argued that if one member does not pay his or her improvement taxes, and someone buys those taxes, that person would get the right to the building, but the other members of Sunset Country Club may not allow access to the building because they have the right to refuse any potential new members.

Appellants' counsel explained that, even though it is not written in the by-laws, the other members of Sunset Country Club would have to come up with the money to pay the taxes to insure that the new owner, which they would like to deny membership to, does not get in.

Counsel for the Board of Review argued that In the Matter of the Tax Objections of Norbert L. Hutchens, 34 Ill.App.3d 1039 (4th Dist. 1976) required that the cabin must be taxed as property of the underlying real estate, in the name of the owner of the underlying real estate.

After hearing the testimony and considering the evidence the Board finds that it has jurisdiction over the parties in this timely filed appeal.

The appellants argued that Will County assessment officials must continue the practice of issuing separate assessment notices for each individual cottage owner and Sunset Country Club, even though, Sunset Country Club owns the underlying land with the 15 individual improvements contained thereon owned by each individual member, respectively. The appellants are not challenging the assessment amount.

After an analysis of the evidence and testimony herein, the Board finds it does not have the authority to grant the relief requested by the appellants herein.

The appellants provided no evidence to support a reduction nor did they request a reduced assessment. The appellants herein challenge the allocation of assessments made by the Will County assessment officials. The Property Tax Appeal Board finds it has no authority to review or compel any type of correction for the assessment notices in question to be allocated in a certain manner. The Property Tax Appeal Board has limited authority as provided by the Property Tax Code.

In Geneva Community Unit School District Number 304 et al., v. Property Tax Appeal Board, 296 Ill.App.3d 630, 695 N.E.2d 561 (2nd Dist. 1998) the court held that:

> [i]t is fundamental that an administrative body has only such powers as are granted in the statute creating it.

Geneva at 565, (citing People ex rel. Thompson, 22 Ill.App.3d 316).

Further, as stated by the court in People ex rel. Thompson v. Property Tax Appeal Board, 22 Ill.App.3d 316, 317 N.E.2d 121 (2nd Dist. 1974),

> The only authority and power placed in the [Property Tax Appeal] Board by statute is to receive appeals from decisions of Boards of Review, make rules of procedure, conduct hearings and make a decision on the appeal. The only types of appeal provided for in the statute are by any taxpayer dissatisfied with the decision of a board of review as such decision pertains to an assessment of his property for taxation purposes or any

> taxing body that has an interest in the decision of the board of review on an assessment made by any local assessment officer.

Thompson at 322.

The Property Tax Appeal Board finds that it is not authorized, in reviewing an assessment decision of the board of review, to compel the assessments in question to be allocated among various owners in a certain manner for assessment purposes. The Board finds the issue herein is not the validity of the assessment itself, but whether it was properly allocated. The Board finds its jurisdiction is limited to the correctness of the assessment. 35 ILCS 200/16-180.

Based on the above analysis the Board finds it is without authority to grant the relief requested by the appellants herein and therefore the assessment shall remain unchanged.

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: September 23, 2011

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.