



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

APPELLANT: Distinctive Construction Co.
DOCKET NO.: 08-00297.001-R-2 through 08-00297.003-R-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Distinctive Construction Co., the appellant, by attorney George Michael Keane, Jr., of Keane and Keane in Chicago, and the Will County Board of Review.

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

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
08-00297.001-R-2	14-12-16-210-009-0000	64	0	\$64
08-00297.002-R-2	14-12-16-210-010-0000	64	0	\$64
08-00297.003-R-2	14-12-16-210-008-0000	64	0	\$64

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of three parcels located in Butternut Ridge subdivision, Manhattan, Manhattan Township, Will County. The parcels were improved in 2007 with single-family residences that were granted model home "exemption(s)" by removing any improvement assessment.

The appellant's appeal, as presented through legal counsel, argued a contention of law with a brief and attached documents. The sole issue raised is whether the land should be assessed at \$64 per parcel as it had been when it was vacant or based on its market value after the construction of the dwellings as asserted by the board of review.

In support of the legal contention, appellant reported the subject vacant parcels were assessed at \$64 each under Section 10-30 of the Property Tax Code. (35 ILCS 200/10-30) (Copies of 2007 assessment notices were provided reflecting \$64 land assessments). The appellant further asserts that timely applications were made for the Model Home Assessment with copies

of those applications attached to the brief which were dated April 15, 2008. The appellant contests the board of review's determination to assess each parcel after construction of the improvement(s) at market value in light of the provisions of Section 10-25 of the Property Tax Code (35 ILCS 200/10-25).

Based on the foregoing evidence and argument, appellant's counsel argued that the subject's land assessments should be reduced to \$64 each as they had been prior to the construction of the dwellings.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessments of \$32,000, \$32,000 and \$37,000, respectively, were disclosed. In support of the subject's land assessments, the board of review presented a memorandum prepared by the Manhattan Township Assessor who reported, in pertinent part, as to land assessments under Section 10-30 of the Property Tax Code:

. . . once a [sic] the completion of a habitable structure this section no longer applys [sic].

The assessor further reported his practice in the township to fully assess the land and building of any model home; thereafter, for that assessment year the Will County Supervisor of Assessments Office may remove the building assessment at the board of review phase of the assessment cycle.

Also included were property record cards for the three parcels at issue, each of which indicated that the dwelling thereon was "year erected: 2007." Moreover, building permits for a "house" were issued on December 15, 2006 and reported to be complete December 31, 2007. Those property record cards also reflect 2007 land assessments for the parcels of \$64 each.

Based on the foregoing evidence, the board of review requested confirmation of the subject's land assessments of \$32,000, \$32,000 and \$37,000, respectively.

In rebuttal, counsel agreed with the assessor's assertion that once a habitable structure was constructed on each parcel, Section 10-30 of the Property Tax Code was no longer applicable (35 ILCS 200/10-30). Counsel for appellant further asserted that use of the current full value land assessment for 2008 does not comply with the terms of Section 10-25 of the Property Tax Code (35 ILCS 200/10-25). Counsel argued the purpose was to keep the undeveloped assessed value in place until development is completed; counsel argued that the pre-existing land assessment remains in place until occupancy or sale.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The parties presented no objection to a decision in this matter being rendered on the evidence submitted in the record. Therefore, the

decision of the Property Tax Appeal Board contained herein shall be based upon the evidence contained in and made a part of this record.

There is only one issue involved in this appeal: whether the preferential treatment or assessment available under Section 10-25 of the Property Tax Code (35 ILCS 200/10-25) applies to the subject parcels. The Board finds that reductions in the land assessments of the subject parcels are warranted based on the Property Tax Code and the evidence contained in the record.

Section 10-25 of the Property Tax Code provides in pertinent part:

If the construction of a single family dwelling is completed after December 29, 1986 . . . and that dwelling, townhome, or condominium unit **is not occupied as a dwelling but is used as a display or demonstration model home, . . . , the assessed value of the property on which the dwelling, . . . was constructed shall be the same as the assessed value of the property prior to construction and prior to any change in the zoning classification of the property prior to construction of the dwelling,** townhome or condominium unit. The application of this Section shall not be affected if the display or demonstration model home, townhome or condominium unit contains home furnishings, appliances, offices, and office equipment to further sales activities. This Section shall not be applicable if the dwelling, townhome, or condominium unit is occupied as a dwelling or the property on which the dwelling, townhome, or condominium unit is situated is sold or leased for use other than as a display or demonstration model home, townhome, or condominium unit. No property shall be eligible for calculation of its assessed value under this Section for more than a 10-year period. If the dwelling, townhome, or condominium unit becomes ineligible for the alternate valuation, the owner shall within 60 days file with the chief county assessment officer a certificate giving notice of such ineligibility.

For the purposes of this Section, no corporation, individual, sole proprietor or partnership may have more than a total of 3 model homes, townhomes, or condominium units at the same time within a 3 mile radius. The center point of each radius shall be the display or demonstration model that has been used as such for the longest period of time. The person liable for taxes on property eligible for assessment as provided in this Section shall file a verified application with the chief county assessment officer on or before (i) April 30 of each assessment year for which that assessment is desired in counties with a population of 3,000,000 or more and (ii) December 31 of

each assessment year for which that assessment is desired in all other counties. Failure to make a timely filing in any assessment year constitutes a waiver of the right to benefit for that assessment year.

(35 ILCS 200/10-25) [Emphasis added].

In light of the facts and the foregoing statutory provision, the Property Tax Appeal Board finds the board of review incorrectly denied the subject parcel's preferential assessment provided by Section 10-25 of the Property Tax Code (35 ILCS 200/10-25) for the assessment year at issue.

Specifically, there was no evidence presented by the board of review to challenge the applicability of Section 10-25 with regard to the following: (1) that the parcels should not be "eligible for calculation of its assessed value under this Section for more than a 10-year period"; (2) that the dwelling(s) had become "ineligible for the alternate valuation . . ."; (3) that the company had "more than a total of 3 model homes . . . at the same time within a 3 mile radius"; or (4) any waiver of the right to benefit for that assessment year because the person liable for taxes did not "file a verified application with the chief county assessment officer on or before December 31 of each assessment year for which the assessment was desired."

The evidence further reveals that prior to this 2008 reassessment of the land, these parcels had 2007 vacant land assessments of \$64. Therefore, the Property Tax Appeal Board finds that the preferential "model home exemption" assessment for the land portion of the subject property should be applied for the 2008 assessment year. On the assessment date at issue, the subject land should have been assessed in accordance with the preferential treatment allowed by the procedures contained within Section 10-25 of the Property Tax Code. Based on these facts, the Property Tax Appeal Board finds the board of review erred in assessing the subject parcels at 33 1/3 percent of their market value as of January 1, 2008.

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

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario M. Louie

Member

Shawn R. Lerbis

Member

DISSENTING: _____

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

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

Date: April 22, 2011

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.