



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

APPELLANT: Coventine Fidis
DOCKET NO.: 09-03158.001-R-1
PARCEL NO.: 16-01-34-476-002

The parties of record before the Property Tax Appeal Board are Coventine Fidis, the appellant, by attorney Rodney B. Fetterolf, of R. B. Fetterolf, Attorney at Law in Dixon; and the Lee County Board of Review by Henry S. Dixon, State's Attorney of Lee County.

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

LAND: \$8,148
IMPR: \$0
TOTAL: \$8,148

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a vacant lot containing 1.64 acres of land area. The subject is located in Palmyra Township, Dixon, Illinois. The subject parcel was subdivided from a 6.2 acre tract of land in 1993 in accordance with the Plat Act. The appellant, also a developer and surveyor, constructed a home on an adjacent lot to the subject with the subject lot remaining vacant, and as alleged by the taxpayer, for sale. From 1993 through 2008 the subject parcel was assessed in accordance with Section 10-30 of the Property Tax Code (35 ILCS 200/10-30). In 2009 the subject parcel was revalued and the appellant was notified by the Lee County Board of Review that the "Developer Value no longer applies."¹

¹ Upon request subsequent to the hearing, the board of review computed the subject's 2009 assessment depicting what the subject's assessment would have been in 2009 had the subject qualified for the "Developer's Relief" assessment afforded property in Section 10-30 of the Code.

The appellant, through legal counsel, appeared before the Property Tax Appeal Board claiming the subject parcel should be classified and assessed in accordance with Section 10-30 of the Property Tax Code (35 ILCS 200/10-30). In support of this claim, the appellant submitted a brief, a plat and a listing of lots sold or otherwise available for sale within the subject's immediate proximity. The listing (Exhibit "A") is titled "Coventine Fidis, Land Development and Management, Lots available and cost as of November 1, 2009." The subject is depicted as "Lot 1 in Twin Oaks - Part of Section 34 and 35 in Palmyra Township on Kilgore Rd."

In support of the appellant's claim, counsel argued that in accordance with Section 10-30 of the Code, the subject was 1) platted in accordance with the Plat Act; 2) the platting occurred after January 1, 1978; 3) at the time of platting the subject was in excess of 5-acres; and 4) at the time of platting the subject was vacant or used as a farm as defined in Section 1-60 of the Code (35 ILCS 200/10-30). Counsel argued that each provision of Section 10-30 of the Property Tax Code (35 ILCS 200/10-30) had been met and the appellant continued to hold the subject property as being for sale from 1993, the date of platting, through 2009. Appellant's counsel acknowledged that no habitable structure had been built on the subject parcel and that the appellant continued to mow the subject parcel. Counsel explained that mowing the subject parcel was required by the restrictive covenants governing the subdivision which require all lots be kept free of weeds and tall growth. Counsel further argued that the appellant continued developing and subdividing over 24 lots within one-half mile of the subject with 18 of the lots having been sold. In the brief, counsel argued that the appellant had placed a "for sale" sign on or near the subject parcel, however, this was not required under Section 10-30 of the Code in order to received the benefits and relief afforded by Section 10-30 of the Code. Based on this evidence and argument, the appellant requested the subject parcel be afforded relief pursuant to Section 10-30 of the Code.

The board of review submitted its "Board of Review Notes on Appeal" wherein a total assessment for the subject of \$8,148 was disclosed. The board of review argued that the subject parcel was viewed and revalued in 2009 and it was determined that the subject parcel no longer qualified for the developer's preferential assessment. The board of review argued that during its inspection, no "for sale" sign was found, and that the appellant was using the subject parcel as an extension of his personal residence for residential purposes. Therefore, the subject is not entitled to a reduced assessment pursuant to Section 10-30, subsection (c), which states in relevant part:

Upon the use of any lot, either alone or in conjunction with any contiguous property, for any business, commercial or residential purpose . . . (i) the provisions of subsection (b) of this Section shall no

longer apply in determining the assessed valuation of the lot,

(35 ILCS 200/10-30)

In support of this argument the board of review submitted photographs, including an aerial photograph of the subject parcel. The photographs depict a well manicured vacant lot immediately in front of the personal residence of the appellant. The aerial photograph further depicts a turn-around circle adjacent to the subject parcel. Further, the board of review argued that it could not locate a listing for the subject. Wendy Ryerson, Chief County Assessment Officer for Lee County, testified that 2009 was a general reassessment year for the subject property. Through this process, after driving through the subject's area at least four times, she never saw a "for sale" sign for the subject property. She did see "for sale" signs on a similar property owned by the developer, which is a short distance from the subject property, and which is also owned by the appellant. Ryerson further testified that based on the aerial photographs, and her personal observations, the board of review concluded that the subject property was being used for residential purposes, as an extension of the personal residence of the appellant.

Upon questioning, the board of review acknowledged that it had not tried to contact the appellant directly by written communication or by telephone regarding whether the subject parcel remained for sale even though the assessor was aware the appellant was selling other lots in the general area. Ryerson explained that the turn-around circle was a zoning requirement.

During rebuttal argument, counsel further explained that the appellant did not list all properties for sale with real estate brokers and realtors, and that the appellant had a history of offering properties for sale only upon inquiry from prospective buyers. Counsel argued that the appellant, as a developer and surveyor, has a network with other developers and builders who know he has lots for sale. These other developers and builders would inquire about a lot being for sale or direct other prospective buyers to the appellant. The list provided (Exhibit "A") included the subject parcel (Lot #1) and similar properties sold by the same method employed in attempting to sell the subject.

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 this appeal. The Board further finds the subject parcel does not qualify for the developer's preferential assessment pursuant to Section 10-30 of the Code.

The Property Tax Appeal Board finds the board of review is not disputing that the subject parcel was platted in accordance with the Plat Act after 1978, is in excess of 5-acres and is vacant.²

The board of review argued that the subject parcel was used for residential purposes, thereby removing the subject from a preferential assessment as afforded by Section 10-30 of the Code. The Board finds credible evidence and testimony in this record from Ms. Ryerson that the subject property was being used for residential purposes, thereby removing it from the preferential assessment of Section 10-30 of the Code, which states in relevant part:

Upon the use of any lot, either alone or in conjunction with any contiguous property, for any business, commercial or residential purpose . . . (i) the provisions of subsection (b) of this Section shall no longer apply in determining the assessed valuation of the lot,

(35 ILCS 200/10-30) (emphasis added).

Counsel for the appellant presented arguments in support of his position that the property qualified for a preferential assessment pursuant to 10-30 of the Code, however, the Board finds these arguments were not corroborated with substantive documentary evidence or testimony sufficient to overcome Ms. Ryerson's personal observations and testimony. The Board finds the board of review has presented substantive documentary evidence and credible testimony of the subject being used for residential purposes.

Based on the testimony and evidence presented, the Board finds the subject parcel does not qualify for the preferential assessment pursuant to Section 10-30 of the Code (35 ILCS 200/10-30) and the assessment as set out by the board of review is correct.³

² Effective January 1, 2008, the 10-acre size requirement of Section 10-30(a)(3) was changed to 5-acres. The issue of whether this applied retroactively to the subject property for this 2009 appeal was not raised by the appellant or otherwise disputed by the board of review.

³ The appellant did not challenge or present evidence that the assessed value placed on the subject property was incorrect if the preferential assessment did not apply.

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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank 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: August 28, 2012

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.