



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

APPELLANT: Robert Holmes  
DOCKET NO.: 09-05576.001-R-1  
PARCEL NO.: 06-2-252-11

The parties of record before the Property Tax Appeal Board are Robert Holmes, the appellant, by attorney Samuel G. Beggs, of Samuel G. Beggs PC in Harrisburg; and the Saline 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 **Saline** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$0  
**IMPR.:** \$17,265  
**TOTAL:** \$17,265

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a single family residence under the terms of a lease agreement with the appellant herein. The appellant argues that Section 15-175 of the Property Tax Code (35 ILCS 200/15-175) provides that a lessee liable for the property taxes on a leased premises is entitled to the homestead exemption under the Code. The subject is located in Harrisburg Township, Saline County, Illinois.

This matter is before the Property Tax Appeal Board (hereafter "Board") based on Saline County Board of Review's request (hereafter "Request") that the appellant's appeal be withdrawn. The Board received the Request on May 16, 2011. The Board sent a copy of said Request to appellant's attorney by letter dated May 27, 2011. Appellant's counsel filed a response to the Request on or about June 10, 2011.

The Board finds the appellant's appeal is based on a contention of law regarding the application of a homestead exemption pursuant to Section 15-175 of the Code (35 ILCS 200/15-175). The

Board further finds the board of review's Request that the appeal be withdrawn was deemed to be a motion to dismiss. By letter dated May 27, 2011, the Board forwarded a copy of the Request to the appellant's attorney.

The Board's letter stated in pertinent part:

Enclosed is a copy of the motion to dismiss the above referenced appeal filed by the Saline County board of review. The board of review is requesting the appeal be dismissed due to the Property Tax Appeal Board's lack of jurisdiction. . . .

The Saline County Board of Review argued in its Request that the Board "does not rule on appeals filed on the basis of exemptions." Hence, the board of review essentially argued the Board lacks subject matter jurisdiction over the appellant's claim, which was based on the denial of the homestead exemption. The appellant herein argued that the question of jurisdiction has been waived. In Currie v. Lao, 148 Ill.2d 151, 157, 170 Ill.Dec. 297, 592 N.E.2d 977 (1992), the court held that the issue of subject matter jurisdiction cannot be waived.

Initially, the Board finds the appellant timely filed the appeal from a decision issued by the Saline County Board of Review dated May 22, 2010.

Second, the Board finds the appellant was challenging the board of review's denial of the homestead exemption provided by Section 15-175 of the Property Tax Code (35 ILCS 200/15-175). The appellant did not otherwise challenge the assessment of the subject property based on either overvaluation or assessment inequity.

The Property Tax Appeal Board finds that it has no authority to determine whether or not the subject property is entitled to a homestead exemption provided by Section 15-175 of the Property Tax Code. Section 16-170 of the Property Tax Code sets forth the authority of the board of review in counties of less than 3,000,000 inhabitants with respect to ruling on homestead exemptions. This section provides in part:

The board of review shall hear and determine the application of any person who is assessed on property claimed to be exempt from taxation. However, the decision of the board [board of review] shall not be final, **except** as to homestead exemptions. (emphasis added)

35 ILCS 200/16-70.

This section of the Property Tax Code clearly establishes that the board of review decision with respect to the applicability of a homestead exemption is final. The Property Tax Code does not

provide that this type of board of review decision is subject to review by the Property Tax Appeal Board.

The Property Tax Appeal Board finds that its authority is limited to determining the correct assessment of property.

Section 16-180 of the Code (35 ILCS 200/16-180) states:

The Property Tax Appeal Board shall establish by rules an informal procedure **for the determination of the correct assessment of property** which is the subject matter of an appeal.

35 ILCS 200/16-180 (Emphasis added).

Additionally, the Property Tax Appeal Board rules provide in part that:

The Property Tax Appeal Board is **without jurisdiction to determine** the tax rate, the amount of a tax bill, or the **exemption** of real property from taxation. (emphasis added)

(86 Ill. Admin.Code §1910.10(f)).

The Court has held that "[a]n administrative agency derives its jurisdiction from the enabling legislation and lacks power to act beyond that grant." Villegas v. Board of Fire & Police Commissioners, 167 Ill.2d 108, 126, 212 Ill.Dec. 240, 656 N.E.2d 1074, 1083 (1995).

In a case dealing with the Property Tax Appeal Board's authority over exemptions provided by the Property Tax Code, the court in United Methodist Village Retirement Communities, Inc. v. Property Tax Appeal Bd., 321 Ill.App.3d 456. (5th Dist., 2001) held in relevant part:

The Property Tax Code makes it clear that only the Department of Revenue has authority to determine if a property is exempt from taxation. Section 15-5 of the Property Tax Code provides that any person wishing to claim an exemption for the first time shall file an application with the county board of review. 35 ILCS 200/15-5 (West 1998). Section 16-70 of the Property Tax Code provides the following:

"The board of review shall hear and determine the application of any person who is assessed on property claimed to be exempt from taxation. However, the decision of the board shall not be final, except as to homestead exemptions. The clerk of the board in all cases other than homestead exemptions, under the direction of the board, shall make out and forward to the Department [of Revenue] a full and complete statement of all the facts

in the case. The Department [of Revenue] shall determine whether the property is legally liable to taxation. It shall notify the board of review of its decision, and the board shall correct the assessment if necessary. The decision of the Department [of Revenue] is subject to review under Sections 8-35 and 8-40.” 35 ILCS 200/16-70 (West 1998).

Sections 8-35 and 8-40 of the Property Tax Code provide for the administrative review of a final decision of the Department of Revenue in the circuit court for the county in which the property is located. 35 ILCS 200/8-35, 8-40 (West 1998). The Property Tax Code does not provide for the [Property Tax] Appeal Board's review of decisions relating to exempt status, whether the decision was made by the county's board of review or the Department of Revenue.

It is fundamental that an administrative body has only such powers as are granted in the statute creating it. Geneva Community Unit School District No. 304, 296 Ill.App.3d at 634, 231 Ill.Dec. 44, 695 N.E.2d 561. While the Property Tax Code does give the [Property Tax] Appeal Board authority to receive appeals from decisions of the boards of review, the only types of appeal provided for in the statute are those by a taxpayer dissatisfied with the assessment of property. 35 ILCS 200/16-160 (West 1998); see also Geneva Community Unit School District No. 304, 296 Ill.App.3d at 634, 231 Ill.Dec. 44, 695 N.E.2d 561. The Property Tax Code does not give the [Property Tax] Appeal Board authority to review decisions of the boards of review with respect to exemptions of property from taxation. See Mead v. Board of Review, 143 Ill.App.3d 1088, 1096, 98 Ill.Dec. 244, 494 N.E.2d 171 (1986); Geneva Community Unit School District No. 304, 296 Ill.App.3d at 634-35, 231 Ill.Dec. 44, 695 N.E.2d 561. This is reflected in the “Statement of Policy” of the [Property Tax] Appeal Board, which states, “**The Property Tax Appeal Board is without jurisdiction to determine the tax rate, the amount of a tax bill, or the exemption of real property from taxation.**” 86 Ill. Adm.Code § 1910.10(f) (2000).

United Methodist at 458, (emphasis added).

Based on the above record, the Board finds it has no authority to determine whether or not the subject property is entitled to a homestead exemption allowed by Section 15-175 of the Property Tax Code and grants the board of review's request to dismiss the appeal.

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: February 24, 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.