



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

APPELLANT: Kevin & Tammy McCabe
DOCKET NO.: 09-06269.001-R-1
PARCEL NO.: 05-05-31-307-036

The parties of record before the Property Tax Appeal Board are Kevin & Tammy McCabe, the appellants, by attorney Gerald L. Hall of Gerald L. Hall, Attorney at Law, in Pekin, and the Tazewell 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 Tazewell County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$8,350
IMPR.: \$67,860
TOTAL: \$76,210

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of approximately 11,250 square feet of land area is improved with a 1.5-story single-family dwelling of frame exterior construction that was built in 2005. The dwelling contains 2,160 square feet of living area and features a full basement that is partially finished, central air conditioning, a fireplace and an attached three-car garage. The property is located in Pekin, Groveland Township, Tazewell County. An occupancy permit was issued for the dwelling on November 3, 2005.¹

The appellants through counsel filed an appeal with the Property Tax Appeal Board based on a contention of law that the subject property was improperly assessed as omitted property. As a consequence of the erroneous assessment, the appellants assert that they are not liable for any taxes due related to the

¹ The document is entitled "Certificate of Occupancy With Exceptions (Rear Deck & Balcony Railing)" issued by the City of Pekin Department of Building and Inspection as to Building Permit No. 200400472.

improvement assessment until assessment year 2011.² In the brief to support this contention, counsel for the appellants cites to Section 9-180 of the Property Tax Code ("Code") providing in pertinent part:

Pro-rata valuations; improvements or removal of improvements. The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year. The owner of the improved property shall notify the assessor, within 30 days of the issuance of an occupancy permit or within 30 days of completion of the improvements, on a form prescribed by that official, and request that the property be reassessed. The notice shall be sent by certified mail, return receipt requested and shall include the legal description of the property. . . .

[Emphasis added; bold emphasis in brief.] (35 ILCS 200/9-180). Factually the appellants assert that a certificate of occupancy was received from the city of Pekin on November 3, 2005. The appellants also assert that according to Juanita Van Buskirk, an employee of the city of Pekin who administratively handles the city's occupancy permits, when a certificate of occupancy is issued the owner is given a copy and a copy is placed "in a basket at city hall to be picked up by the township assessor" who periodically picks up the certificates. Most townships reportedly pick up their certificates each month. This system has been in place prior to Buskirk's employment in 2004 and has not changed.

The appellants contend that Ernie Hiller, the Groveland Township Assessor, admits that he has no form which he has prescribed for owners to request that property be reassessed. Hiller also confirmed that he obtains his information for reassessment from the certificates of occupancy that he periodically obtains from the city.

The appellants further report in the brief that "someone from the Groveland Township assessor's office appeared at the property in November of 2005" in order to take measurements of the improvements to the subject parcel. By a one-page "Notice of Hearing For Omitted Property" dated June 30, 2011, the Tazewell County Board of Review notified the appellants of a hearing to consider a 2009 assessment on the subject property totaling \$76,210 with the indication for the reason for the change from a land only assessment was "omitted property" with a "completion

² The Property Tax Appeal Board takes notice that the appellants have pursued like appeals for assessment years 2008, 2009 and 2010.

[date] 11/03/2005." Thereafter on January 31, 2012, the Tazewell County Board of Review issued a "Notice of Final Decision" on the subject property setting forth a final board of review 2009 assessed valuation of \$76,210. The instant appeal arose from this final decision.

Counsel for the appellants concludes in the brief, "That, given that the Groveland Township assessor does not have a form prescribed by him for notification purposes as required by the statute but his office did in fact assess [*sic*]³ the property shortly after the November 3, 2005 completion date, the property was not omitted and there is a failure of due process on the part of the assessor, and, as such, the homeowners should not be penalized by a reassessment except for the 2011/2012 tax year."

For these reasons, the appellants request a reduction in the assessment to the land only value that had previously been placed on the subject parcel.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$76,210 was disclosed. In response to the appeal, the board of review submitted a two-page letter. As to the appellants' submission, the board of review reported it has "no disagreement with any of the facts contained in Mr. Hall's brief, but we believe that the statute permits the County to rectify the situation and make all assessments equitable to the taxpayers of Tazewell County."

As to the assessment of the subject improvement as omitted property, the board of review states "[t]he property was discovered as being omitted from the tax roles [*sic*] in 2011." As a consequence, the property was added at full value for 2011 "and as omitted property for the three prior years as allowed by statute."

The board of review further asserts that in accordance with Section 9-180 of the Code (35 ILCS 200/9-180) "the appellant shall give the assessor a formal notice of completion." The board of review also states that although the appellants received an occupancy permit, they were not relieved of their obligation to inform the assessor of the completion of the improvements. Finally, the board of review contends that the appellants were aware their tax bill did not reflect an improvement assessment and "made no effort to correct the situation for several years."

Based on the foregoing, the board of review contended that the subject property consisted of a taxable improvement which was properly assessed by the board of review as omitted property.

³ It is erroneous based upon the facts herein to assert that the subject property was "assessed" after the occupancy permit was issued. The improvement was apparently measured by the township assessor's office and, as stated in paragraph #6 of the appellants' brief, "apparently no further action was taken in regard to the assessment."

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 the appeal. The issue before the Property Tax Appeal Board is whether the board of review had the authority to assess the subject improvements as omitted property for the assessment year at issue. The Property Tax Appeal Board finds that the board of review did have the authority to assess the subject improvements as omitted property for the assessment year at issue⁴ and therefore, no reduction is warranted.

The appellants' argument is essentially that the board of review should be deemed prohibited from assessing the improvement on the subject property as "omitted property" under the Code due to various purported failures of the assessing officials. The appellants assert that they should not be liable for the improvement assessment of the subject property because the assessing officials failed in their duty to process a copy of the occupancy permit that was made available to the township assessor by the city of Pekin where occupancy permits are processed. Moreover, the appellants contend that the township assessor has no form available for a property owner to use in order to report completion of construction citing to Section 9-180 of the Code (35 ILCS 200/9-180). Lastly, the appellants contend that an individual from the Groveland Township assessor's office was at the subject property "shortly after the November 3, 2005 completion date," but no further action was apparently taken to assess the improvement on the subject parcel until notification of the omitted property assessment.

The Property Tax Appeal Board finds these arguments by the appellants lack any merit. Based on the record, the parties agree that the board of review never assessed any of the improvements prior to the omitted property assessment. Pursuant to Section 9-270 of the Code, there is but one exception to the

⁴ Section 9-265 of the Code (35 ILCS 200/9-265) states in part that:

If any property is omitted in the assessment of any year or years, so that the taxes, for which the property was liable, have not been paid, or if by reason of defective description or assessment, taxes on any property for any year or years have not been paid, . . . , the property, when discovered, shall be listed and assessed by the board of review For purposes of this Section, "defective description or assessment" includes a description or assessment which omits all the improvements thereon as a result of which part of the taxes on the total value of the property as improved remain unpaid. . . .

When property or acreage omitted by either incorrect survey or other ministerial assessor error is discovered and the owner has paid its tax bills as received for the year or years of omission of the parcel, then the interest authorized by this Section shall not be chargeable to the owner. However, nothing in this Section shall prevent the collection of the principal amount of back taxes due and owing.

. . . .

authority of a board of review to assess omitted property. Specifically, this provision allows taxpayers to be free from omitted tax assessments if all of the three conditions have been met: (1) the property was last assessed as unimproved; (2) the owner gave notice of subsequent improvement and requested a reassessment under Section 9-180; and (3) no reassessment was made within 16 months. (35 ILCS 200/9-270).

The appellants appear to contend that sufficient notice was given under the second requirement of Section 9-270 when the city of Pekin granted the occupancy permit and left a copy of the occupancy permit for the township assessor to pick up. The Property Tax Appeal Board finds this contention is not meritorious. The notice requirement referred to in Section 9-270 of the Code is further described in Section 9-180 of the Code. The pertinent provision of Section 9-180 reads as follows:

The owner of the improved property shall notify the assessor, within 30 days of the issuance of an occupancy permit or within 30 days of completion of the improvements, on a form prescribed by that official, and request that the property be reassessed. The notice shall be sent by certified mail, return receipt requested and shall include the legal description of the property.

(35 ILCS 200/9-180). The appellants made no assertion that they individually complied with any of these requirements of Section 9-180, despite the lack of a "prescribed form" for doing so being made available by the township assessor. Based upon provisions of the Code, the board of review has the authority to assess property that was erroneously omitted from the tax rolls unless the three conditions listed in Section 9-270 of the Code are satisfied. The record herein is clear that the appellants failed to meet the second requirement which requires the owner of the property to give notice of subsequent improvements and to request a reassessment as required by Section 9-180 of the Code. Therefore, the Property Tax Appeal Board finds the appellants failed to provide adequate notice and the board of review was not prevented from assessing the subject improvement as omitted property for the assessment year at issue.

In conclusion, the Property Tax Appeal Board finds removal of the subject's improvement assessment is not justified based on provisions of the Code and this record. Thus, the Board finds no change in the subject's assessment 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.

Ronald R. Cuit

Chairman

Frank J. Huff

Member

Member

Mario M. Louie

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: March 22, 2013

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.