



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

APPELLANT: Joel Catlin
DOCKET NO.: 10-31837.001-R-1
PARCEL NO.: 06-27-411-001-0000

The parties of record before the Property Tax Appeal Board are Joel Catlin, the appellant(s); and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$ 18,700
IMPR: \$ 20,265
TOTAL: \$ 38,965**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject consists of 68,000 square feet of land that is improved with a ten year old, two-story, frame and masonry, single family dwelling containing 2,122 square feet of living area. The appellant argued that a conservation assessment should have been applied to a portion of the subject's land as the basis of this appeal.

In support of the conservation assessment, the appellant submitted a printout from the Cook County Assessor's website showing the subject's assessments for tax years 2009 and 2010. Next to the subject's land square footage on the printout, the appellant handwrote that only 12,364 square feet of the land is taxable, and that the remaining 55,636 square feet of land was subject to a conservation easement. The appellant also submitted a copy of the subject's first installment tax bill for tax year 2010, and handwrote the subject's land, improvement, and total assessments for tax year 2008 and 2009. The appellant also submitted another printout from the Cook County Assessor's website, showing the subject's assessments for tax years 2007 and 2008. Next to the subject's land square footage on the printout, the appellant handwrote that only 12,364 square feet of the land is taxable, and that the remaining 55,636 square feet of land was subject to a conservation easement. The appellant also wrote that 12,364 multiplied by 0.88 equaled 10,880, which was the 2008

Assessor Certified Assessment shown on this printout. The appellant's next piece of evidence was a "Comparative Analysis of Assessed Values." The year "2008" was handwritten next to the title of the document, and the subject was highlighted. This document showed the change in assessed value from tax year 2004 to tax year 2008. Several other pages were included which detailed more changes in assessed valuation for various properties around the subject for various time periods between tax year 2000 and tax year 2007. The appellant also submitted a decision letter from the Cook County Board of Review, whereby the subject's assessment for tax year 2007 was reduced by \$10,544 as a "result of analysis of comparable properties, a recent sale and/or and update of property characteristics."

After being granted a period of time to submit additional evidence, the appellant submitted a cover letter and four additional documents. The cover letter states that a conservation easement burdens the subject, and that a conservation assessment had been used in assessing 57,925 square feet of land. The appellant asserts that in tax year 2010, the Cook County Assessor "arbitrarily remove[d] a conservancy valuation" from the subject, and that in doing so, the Assessor violated Section 10-168 of the Property Tax Code. The appellant provided an ASIQ printout, showing that, for tax year 2006, 10,075 square feet of land was assessed at \$5.50 per unit, and that the remaining 57,925 square feet of land was assessed at \$0.25 per unit. The appellant asserted that the latter assessment was due to the conservancy easement placed upon the property. The appellant also included an ASIQ printout from tax year 2010, showing that all 68,000 square feet of land for the subject was assessed at the same rate of \$2.75 per unit. Another comparable properties list was provided as well. Finally, the appellant submitted a letter dated August 28, 2012 from John Peterson, Director of the Village of Streamwood Community Development Department. In the letter, Mr. Peterson stated that there is a conservancy easement upon the subject, and that certain trees must remain intact under the easement. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total assessment of \$38,965 was disclosed. In support of the subject's assessment, the board of review submitted a legal brief arguing that the subject's land unit price is equitable with similar properties in the subject's area. Three exhibits were attached to support this argument.

The board of review also addressed the conservation assessment argument made by the appellant. First, the board of review argued that the appellant has not provided any evidence that an application was submitted to the Cook County Assessor seeking a conservation assessment, as required by Subsection 10-168(a) of the Property Tax Code. Second the board of review argued that Section 10-168 only applies to property described in Section

10-166. Section 10-166 describes the registration process for preserving land under the Illinois Natural Areas Preservation Act, and the registration of land encumbered by a conservation right under the Real Property Conservation Rights Act. Third, the board of review argued that Section 10-168 is not applicable to land in Cook County, as this statute only applies to Illinois counties with 200,000 inhabitants or less. A printout from United States Census Bureau website was attached as an exhibit, showing that Cook County had a population of 5,194,675 according to the 2010 United States census. The board of review's evidence also stated that a certificate of error was issued for the subject for tax year 2010. Based on this submission, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant argued that the subject received a conservation assessment in tax year 2005, after the appellant spoke with John Horbas, Director of Research at the Cook County Assessor's Office.¹ In support of this claim, the appellant submitted an ASIQ printout from tax year 2005, showing that 10,075 square feet of land was valued at \$5.50 per square foot, and the remaining 57,925 square feet was valued at \$0.25 per square foot. The ASIQ printouts for tax years 2001 to 2003 were also submitted in rebuttal. The printouts showed that 66,038 square feet of land was valued at \$5.00 per square foot, while the remaining 0.768 acres, or 33,454 square feet, was valued at \$10,000 per acre. The ASIQ printout for tax year 2000 was also submitted, which showed that 66,038 square feet of land was valued at \$4.00 per square foot, while the remaining 0.768 acres, or 33,454 square feet, was valued at \$10,000 per acre.²

The appellant also argued, in rebuttal, that he did apply for the conservation assessment, and that it was received for tax year 2005. As such, the appellant argues that the Cook County Assessor could not have removed the conservation assessment until properly notified under Section 10-169 of the Property Tax Code. As part of this argument, the appellant also disputed the board of review's contention that Section 10-168 does not apply to Cook County. In other words, the appellant is arguing that since the subject received the conservation easement at one point in the past, Section 10-168 must apply to Cook County. Finally, the appellant argued that the board of review's land comparables are not similar to the subject.

Upon reviewing the evidence, the Property Tax Appeal Board (the "Board") determined that a hearing was necessary in this appeal.³

¹ The appellant incorrectly asserted that Mr. Horbas was the "Chief County Valuations (Assessment) Officer."

² The combined land square footage of 99,492 square feet was, apparently, incorrectly used in assessing the subject for tax years 2000 through 2003. According to the appellant's rebuttal letter, this error was corrected for tax year 2005, and the ASIQ printout for that year confirms as such.

³ "On its own motion, the Board may order a hearing to be held at a time and place designated by the Board." 86 Ill. Admin. Code § 1910.50(b).

The Board also issued an order directing the parties to appear with certain documentation.⁴

At the designated time and place, both parties appeared and a hearing took place.⁵ At hearing, the appellant reaffirmed the evidence previously submitted. The appellant also submitted a plat of survey showing the subject property. The survey shows the location and dimensions of the conservation easement upon the subject. It also includes a paragraph describing the conservation easement, and what can and cannot be removed from the area encumbered by the easement. The plat of survey was admitted into evidence, over objection from the board of review, and marked as "Appellant's Hearing Exhibit #1."

The appellant described a conversation between herself and Mr. Horbas from 2005, which resulted in the subject's land assessment being bifurcated, as detailed in the previously submitted ASIQ printout for tax year 2005. Upon questioning from the Board, the appellant admitted that she did not fill out any paperwork, and only that, after the conversation with Mr. Horbas in 2005, the land assessment was modified. The appellant asserted that a similar conversation and modification took place in 2007. The appellant argued that emails detailing the request for a bifurcated assessment were exchanged between herself and Mr. Horbas in 2007. However, upon questioning from the Board, the appellant was unable to produce the relevant email chains.⁶ Upon further questioning from the Board, the appellant stated that she had not filed an application for a conservation assessment at any time in the past. The appellant argued that she was new to the State of Illinois, was not an attorney, and was, therefore, unaware that an application was necessary to receive a conservation easement. Later in the hearing, the appellant admitted that she spoke to Khang P. Trinh, the Director of the Legal Department at the Cook County Assessor's Office, sometime in 2010, who told her that an application was required to receive a conservation assessment. According to the appellant's testimony at hearing, in response to Mr. Trinh, the appellant

⁴ "In connection with any proceeding, the Board, or any of its designated Hearing Officers, shall have full authority over the conduct of a hearing and the responsibility for submission of the matter to the Board for decision. The Board or its designated Hearing Officer shall have those duties and powers necessary to these ends, including . . . To call upon any person at any stage of the hearing to produce witnesses or information that is material and relevant to any issue . . ." 86 Ill. Admin. Code § 1910.67(h)(1)(F).

⁵ The appellant appeared with his wife, Darnella Wright. Ms. Wright did almost all of the advocacy during the hearing. Therefore, for clarity, the Board notes that in this portion of its decision detailing the events at the hearing, "the appellant" is a reference to Mrs. Wright, and not the named appellant, Mr. Catlin.

⁶ At hearing, the appellant did produce one page of an email chain where the appellant was attempting to contact Mr. Horbas. However, the appellant never sought to have this document submitted into evidence, and the Board did not find that it contained any relevant information to the case. Thus, it was not made a part of the record.

rebuked his advice and stated that, since she had received the conservation easement in the past, she should receive it for tax year 2010 as well, without having to fill out an application.

The board of review reaffirmed the evidence previously submitted in its brief. In response to questioning from the Board, the board of review analyst was unable to articulate why the subject had a bifurcated land assessment for tax year 2006. Upon further questioning from the Board, the analyst testified that sometimes land receives a bifurcated assessment in certain instances, such as farmland, which would have large Property Index Numbers ("PINs") associated with farmland, and an adjacent PIN for the homestead property. The Board further questioned the analyst about whether it was plausible that the subject received a conservation assessment for tax year 2006. The analyst testified that he had no knowledge as to what was "plausible" in 2006. The Board then asked if the subject would have been granted a conservation assessment in 2010, if the appellant had filed an application. The analyst answered in general terms, stating that the Cook County Assessor has the authority to split land lines and assess each portion at a different land unit price. The analyst also testified that, to the best of his knowledge, such an application does exist. The Board ordered the analyst to produce a blank copy of a form that would be used to apply for a conservation easement by November 1, 2013. The appellant declined the Board's offer to search for the application on their own. The Board also ordered the Board to produce a copy of the subject's property record card by November 1, 2013 as well.

The analyst then raised the issue of the certificate of error the subject received for tax year 2010. Upon questioning from the Board, the appellant testified that the certificate of error was issued to correct the land assessment dispute at issue in this appeal. The details regarding the certificate of error were not in the record. Therefore, the Board also ordered the analyst to produce a copy of the entire certificate of error file for the subject for tax year 2010 by November 1, 2013. This file was Certificate of Error File Number 59017 for tax year 2010, which was filed with the Cook County Assessor.

The analyst timely submitted the requested documents. The form for requesting a conservation assessment is titled a "PTAX-337-R, Combined Application for Conservation Right Public Benefit Certification and for Reduced Assessed Valuation of Property." According to the analyst, the PTAX-337-R Form is available from the Illinois Department of Revenue.

After reviewing the record, hearing the testimony, and considering the evidence, the Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellant argues that the subject should have received a conservation assessment for tax year 2010. The process for

applying for a conservation assessment is found in Section 10-168 of the Property Tax Code, which states, in its entirety:

§ 10-168. Valuation of registered land or land encumbered by conservation rights; application process.

(a) **The person liable for taxes on land eligible for assessment under Section 10-166 must file a verified application requesting the registered land or conservation rights valuation with the chief county assessment officer by January 31 of the first year that the valuation is desired. If the application is not filed by January 31, the taxpayer waives the right to claim that valuation for that year.** The application shall be in the form prescribed by the Department and shall contain information as may reasonably be required to determine whether the applicant meets the requirements of Section 10-166. If the application shows the applicant is entitled to the valuation, the chief county assessment officer shall approve it and maintain that valuation until notified as provided in Section 10-169. Otherwise, the application shall be rejected. The application shall be accompanied by the certification provided for in Section 10-167, if required.

(b) When the application has been filed with and approved by the chief county assessment officer, he or she shall determine the valuation of the land as otherwise permitted by law and as required under Section 10-166, and shall keep a record of that valuation.

35 ILCS 200/10-168 (emphasis added).

There was a myriad of evidence submitted, and multiple arguments made by both parties in this case. However, the Board finds that this case can be disposed of before delving into the merits of the factual evidence submitted and arguments made. Simply put, Section 10-168 precludes the Board from granting any relief in this appeal. Section 10-168 requires an application to be filed to receive a conservation assessment. The appellant provided no evidence that an application was ever submitted. In fact, when told by Mr. Trinh, in 2010, that an application was required, the appellant continued to refuse to complete and submit one. The PTAX-337-R application is extremely straightforward, seeking only some basic information about the property and the conservation easement. It then provides instructions for submitting the form to both the Illinois Department of Natural Resources (for certification), and to the Cook County Assessor (for assessment purposes after certification). Instead of filling out the application and submitting it, the appellant has chosen the more arduous path of appealing the subject's assessment every year, filing certificates of error, and seeking to override clear statutory authority. However, under Section 10-168, failure to

submit the application by January 31 of the tax year constitutes a waiver by the appellant to receiving a conservation assessment for that tax year. This language is plain and unambiguous, and the Board will not read into the statute words that the General Assembly did not intend.

The appellant's two arguments countering this finding by the Board are without merit. First, the appellant argued that because she is not a lawyer, and is not from Illinois, there was no way for her to know that an application was required to be filed. This argument fails under the basic legal maxim of "*ignorantia legis neminem excusat*," or "ignorance of the law excuses no one." The fact that the appellant must submit an application for a conservation easement may come as a surprise to her. However, the appellant may also be surprised to learn that a driver in Illinois can be pulled over by a police officer, and receive a traffic citation for having an air freshener hanging from the rearview mirror in an automobile. 625 ILCS 5/11-1406. An argument based on the principle that the driver did not know about the law prohibiting the hanging of air fresheners from the rearview mirror would not necessarily preclude a police officer from issuing a citation, and certainly would not legally require a traffic court judge to dismiss the citation. The same principles apply here, and the Board does not find this argument persuasive.

Second, the appellant argued that, since the subject received a conservation assessment in the past after speaking with Mr. Horbas, that constituted an application, and the subject should continue receiving the conservation assessment until the Cook County Assessor is notified to do otherwise. The Board is, similarly, not persuaded by this argument. While the application is not a contract, *per se*, the Board finds that there are some similarities to a contract. In particular, the application, generally, memorializes an agreement between the two parties. The appellant agrees to conform to the conservation easement, which in this case requires a certain number of trees to remain upon the land. The Cook County Assessor, in turn, agrees to lower the land assessment. Under Section 10-168, the application, once accepted and executed, becomes a permanent record within the subject's file with the assessor's office. The accepted application is then binding on both parties.

By making the application a permanent part of the file, Section 10-168 is essentially requiring the application to be treated as a contract subject to the provisions of the Frauds Act. 740 ILCS 80/1. The Frauds Act requires any contract to perform a duty that cannot be completed within one year to be reduced to writing. *Id.* That is the case here. The conservation easement, if one exists, would encumber the subject in perpetuity. Thus, the Assessor would be required to apply the conservation assessment every tax year. This task cannot be completed within one year. As such, the Board is not persuaded by the appellant's second argument that an "oral" application was made to Mr. Horbas. As such, the Board finds that a reduction is not

warranted. Because the Board finds that a reduction is not warranted based on the appellant's procedural failure to timely file an application for tax year 2010, the Board makes no decision on the merits of the case.

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: December 20, 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.