




whittlaw.com

STUART L. WHITT
RICHARD T. PETESCH
JOSHUA S. WHITT
JAMES R. DOUGHERTY
BRIAN R. BARE
BRITTANY F. THEIS
AMANDA J. ADKISON

MEMORANDUM

TO: Ms. Donna Oberg, Assistant Superintendent - Business Services

FROM: Joshua S. Whitt 

DATE: February 12, 2014

SUBJECT: Property Tax Assessment Complaints and Appeals

The Kane County Board of Review recently completed hearing all the 2013 property tax assessment complaints. The results of those hearings in which the School District intervened are provided on the attached spreadsheet. For the 2013 assessment year, the School District intervened in a total of fourteen (14) assessment complaints. The number of complaints warranting intervention was down significantly this year, in large part due to assessment reductions granted in prior years being carried forward to 2013 and an increased willingness on the part of the Geneva Township Assessor to agree to assessment reductions prior to complaints being filed with the Board of Review.

In the fourteen (14) assessment complaints in which the School District intervened, taxpayers were requesting a total of \$8,746,410 in assessment reductions, of which the Board of Review granted \$5,061,524. However, these results are somewhat skewed by the Friendship Village of Mill Creek (aka Green Fields of Geneva) assessment matter. You will notice that of the \$5,061,524 of assessment reductions granted by the Board of Review in 2013, 58% or \$2,951,345 was granted to Friendship Village. While construction of Friendship Village's Green Fields of Geneva life care retirement community was completed as of January 1, 2013, all operating permits were not in place and the facility's occupancy remained relatively low. Therefore, the Board of Review granted Friendship Village a prorated assessment in 2013 to account for this fact. The Board of Review intends to phase in the full assessment of the facility over a number of years; as occupancy increases so will the assessment. This is not an uncommon practice with large developments like the Green Fields of Geneva.

In addition, you will notice that Best Buy filed a complaint with the Kane County Board of Review seeking a \$471,326 reduction in the 2013 assessment of its store located on Randall Road. You will recall that Best Buy also filed a complaint to the Property Tax Appeal Board (PTAB) seeking a similar reduction in the 2012 assessed value. The Board of Review and Geneva Township Assessor agreed that some reduction in the assessed value was warranted to bring the store in line with other large box retailers on Randall Road. The Board of Review offered to grant Best Buy a reduction in the 2013 assessment if Best Buy would agree to stipulate the 2012 PTAB appeal for a similar reduction. Best Buy eventually agreed. Therefore, in addition to resolving Best Buy's 2013 assessment complaint, the 2012 PTAB appeal was also resolved with Best Buy agreeing to compromise its' claim for a \$413,435 assessment reduction with an actual \$174,678 assessment reduction.

PENDING PTAB APPEALS

The School District has intervened in the following appeals pending before the PTAB:

Geneva on the Dam Building Associates / Mr. Kent Shodeen

Shodeen Management has appealed the 2010 assessment of the Geneva on the Dam facility located at 1 West State Street in Geneva. In the appeal, Shodeen is seeking a \$460,000 reduction in assessed value for 2010, generating approximately \$24,400 in refund exposure for the School District. All evidence has been filed; however, no trial date has been set by the PTAB.

Geneva Commons

On October 15, 2013, the Board of Education authorized our office to intervene in the 2012 appeal filed by Invesco Realty Advisors contesting the assessment of the Geneva Commons Mall. In this appeal, Invesco is seeking an \$8.5 Million reduction in assessed value for the 2012 assessment year, which results in refund exposure for the School District of approximately \$523,000. In support of the appeal, Invesco filed an appraisal that indicates that the property has a fair market value of \$72.2 Million. However, it was widely reported that the mall sold in September 2013 for \$124.5 Million. We have made repeated requests to Invesco's attorneys for a copy of the recent sales contract and any appraisals that were completed at the time of sale. Those requests have been completely ignored. Therefore, we have requested that the PTAB order Invesco to

produce those documents. To date, the PTAB has not ruled on our request. In addition, we have discussed this appeal with several appraisal firms and recommended that the Taxing Bodies have the property appraised by Mr. Ken Polach of Polach Appraisal Group. Once that appraisal is completed it will be filed as evidence with the PTAB and the matter will eventually be set for a trial on the merits before the PTAB. However, due to the backlog at the PTAB, a trial is not likely to be set for another year or two.

PENDING TAX OBJECTION COMPLAINTS

The School District has intervened in the following tax objection complaint pending before the Circuit Court of Kane County:

Richardson Electronics

You may recall that in 2008 Richardson Electronics filed an assessment appeal with the PTAB challenging the 2008 assessment its facility located at 40W267 Keslinger Road in LaFox. That appeal was eventually settled. Pursuant to the settlement, Richardson Electronics dismissed its 2008 appeal with no reduction in the 2008 assessed value and it was agreed that the 2009 and 2010 assessment of the Richardson property would be set at \$2,416,425. In 2012, the property was assessed at \$2,276,733, or \$139,692 less than the assessment agreed to in 2009 and 2010. However, instead of filing an appeal to the PTAB, Richardson Electronics filed a tax objection complaint in the Circuit Court of Kane County seeking a further reduction in the 2012 assessment. (Taxpayers have the option of filing tax assessment complaints with either the PTAB or the circuit court. Traditionally, taxpayers have favored the PTAB over the circuit court. However, with the backlog at the PTAB we are seeing more assessment complaints in the circuit court.) In its 2012 circuit court complaint, Richardson Electronics is requesting an additional \$810,066 reduction in the property's assessed value, reducing the property's total assessment from \$2,276,733 to \$1,466,667. This reduction request results in refund exposure for the School District of \$49,440.

The School District and the Kane County Board of Review split (50/50) the cost of an appraisal of the Richardson property. That appraisal has been completed and fully supports the 2012 assessment of the property at \$2,276,733. This appeal is currently progressing through the discovery process and the matter is next up in Court for status on March 19th.

Please let me know if you have any questions or would like any additional information regarding the matters discussed above.

2013 KANE COUNTY BOARD OF REVIEW HEARING RESULTS

PIN(S)	PROPERTY OWNER	PROPERTY ADDRESS	2013		2013		2013		RESULTING REDUCTION
			ORIGINAL ASSESSMENT	REQUESTED ASSESSMENT	REQUESTED ASSESSMENT	REQUESTED REDUCTION	RESULTING ASSESSMENT	RESULTING REDUCTION	
11-12-127-001, 11-12-102-002	Friendship Village of Mill Creek	1N900 Brundige Road, Geneva, IL	8,023,938	4,899,510	(3,124,428)	5,072,593	(2,951,345)		
12-01-351-011, 12-11-226-003, 12-12-101-001	Minor Enterprises	1200 E State St., Geneva, IL 60134	2,296,868	1,642,043	(654,825)	2,076,016	(220,852)		
12-05-476-017	Delnor Comm. Health Care	296 South Randall Rd., Geneva, IL 60134	4,001,634	2,666,400	(1,335,234)	3,815,780	(185,854)		
12-17-226-020	Best Buy	1876 South Randall Rd., Geneva, IL 60134	1,971,326	1,500,000	(471,326)	1,804,497	(166,829)		
12-08-200-043	New Day Investments, LLC	37W309 Keslinger	316,173	-	-	316,173	0		
12-04-329-045	Pepper Valley Apartments, LLC	2127 - 2225 Pepper Valley Dr., Geneva, IL	1,669,529	1,363,981	(305,548)	1,616,505	(53,024)		
12-14-204-001	J&J Commercial Properties, LLC	1280 Kingsland Drive, Batavia, IL 60510	428,513	323,333	(105,180)	366,449	(62,064)		
12-03-410-006, 12-03-411-001, 002,003,025,028	U.S. Bank N.A.	21 North 3rd Street, Geneva, IL 60134	515,187	333,300	(181,887)	369,689	(145,498)		
12-04-127-010,011	Walgreens	2100 West State St., Geneva, IL 60134	1,244,994	-	-	1,244,994	0		
12-17-226-004	Kimco Geneva 822, Inc	2100 S. Randall Rd., Geneva, IL 60134	2,887,242	2,333,100	(554,142)	2,452,103	(435,139)		
12-05-476-023	Delnor Comm. Health Care	351 Randall Rd., Unit 1, Geneva, IL 60134	1,457,110	616,191	(840,919)	616,191	(840,919)		
12-11-226-004	Johnson Controls Battery Group, In	300 S. Glengarry Drive, Geneva, IL 60134	2,173,035	-	-	2,173,035	0		
12-01-455-031	Duke Realty LTD, Partnership	1800 Averill Road, Geneva, IL 60143	4,718,912	4,317,293	(401,619)	4,718,912	0		
11-11-200-001	Richardson Electronics, Ltd.	40W267 Keslinger Road, LaFox, IL 60147	2,237,822	1,466,520	(771,302)	2,237,822	0		
Totals:							(8,746,410)	(5,061,524)	