

In Brief

September 2011

SCHOOL DISTRICT VICTORIOUS IN KANKAKEE COUNTY PROPERTY TAX DISPUTE

In a victory for Illinois taxing bodies, the Illinois Property Tax Appeal Board (“PTAB”) this month issued a decision rejecting an over-valuation challenge to the assessment of an industrial property in Kankakee County. In the case of *TRG II, LLC v. Manteno School District No. 5*, the taxpayer filed a claim for an assessment reduction that would have required the School District to pay a property tax refund of approximately \$150,000 per year if the reduction were applied to all years under appeal. Based upon the PTAB’s decision, the School District and other Kankakee taxing bodies will not be required to pay any refund.

The property in dispute was the newly built Mars Chocolate distribution center located in Manteno, Illinois and owned by the entity TRG II, LLC. The Township Assessor valued the property at approximately \$47.00 per square foot, and the taxpayer appealed that assessment to the Kankakee County Board of Review. The School District, which was represented by Robbins, Schwartz, Nicholas, Lifton & Taylor, intervened in the Board of Review proceeding and successfully argued before that Board that the \$47.00 per square foot assessment was appropriate. The Board of Review confirmed the assessment and the taxpayer appealed the Board’s decision to the Illinois Property Tax Appeal Board (“PTAB”).

The taxpayer’s argument before the PTAB was that the assessment of the Mars Chocolate property was excessive when compared with the property’s “fair cash value.” Pursuant to Illinois law, property tax assessments must be in line with the property’s fair cash value. Fair cash value is defined as the “amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller.” 35 ILCS 200/1-50. In the *TRG II* case, the taxpayer’s appraisal concluded

the property’s fair cash value to be almost \$10,000,000 less than the Township Assessor’s conclusion of the property’s fair cash value.

The case was tried before the PTAB in March 2010, and Robbins Schwartz attorneys represented the School District. At trial, the School District challenged the taxpayer’s appraisal’s credibility by presenting evidence and cross-examination that revealed multiple errors and inconsistencies within the taxpayer’s appraisal report. Moreover, the School District presented an appraisal of its own, prepared by the foremost expert in Kankakee County property valuation. That appraisal concluded that the Township Assessor’s assessment was, in fact, consistent with the property’s fair cash value.

In the end, the PTAB ruled that no change in the assessment was warranted. In a sixteen page opinion, the PTAB found that the errors exposed by the School District at trial undermined the credibility of the taxpayer’s report, and that the School District’s evidence “was superior” to that used by the taxpayer. The PTAB concluded that the “assessment of the subject property as established by the Kankakee County Board of Review is correct and no change is justified.”

The PTAB’s ruling in the *TRG II* case is a significant victory for taxing bodies. The refund liability that can result from a taxpayer’s successful property tax appeal can cause significant disruption to a taxing body’s budget. The PTAB’s finding here shows that taxing bodies can prevent this refund liability by intervening and actively participating in these tax objection cases.

Scott L. Ginsburg, of the firm’s Chicago office, prepared this *In Brief*.

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