

What Happens After “No”:
Appeals of Homestead Exemption
Denials to County Boards of Review

Mark D. Armstrong, CIAO-M

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Homestead Exemptions in General

A Brief History of Homestead Exemptions

- Homestead exemptions began back in 1851 as a protection against lawsuits.
- The 1970 constitution extended them to exemptions from property taxation.
- The first exemption was put in place for the 1972 taxable year.

Three General Criteria

- Ownership
- Property tax liability
- Occupancy as a principal dwelling
- Additional criteria for some exemptions

Authority of a Board of Review

Authority of a Board of Review

- *Cook County Board of Review:*
Property Tax Code Section 16-95 through 16-155.
- *Downstate Boards of Review:*
Property Tax Code Section 16-25 through 16-190

Illinois Appellate Court

The board of review is a creature of statute, having only such powers as are expressly given it by the legislature; it will not be presumed that the board has any powers other than those delegated to it by plain and specific language.

—*Citizens Federation v. Brown*, 134 Ill. App. 3d 1054, 1057 (Ill. App. Ct. 1985).



Board of Review Powers and Duties

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 and exemptions.

—35 ILCS 200/16-70 (downstate)

—35 ILCS 200/16-130 (Cook)

Board of Review Powers and Duties

“Each **** board of review shall make and publish reasonable rules for the guidance of persons doing business with them and for the orderly dispatch of business.” —35 ILCS 200/9-5

4

Chapters

70 Act 1905

5

Chapters

215-220

6

Chapters

220-624

7

Chapters

Illinois Appellate Court

“We discern nothing that suggests that the Board has the authority to make reasonable rules only so long as they are identical to another particular set of rules.” —*BLTREJV3 Chicago, LLC v. Kane County Board of Review*, 18 N.E. 3d 144 (2014).



Post Board Jurisdiction

- Not PTAB!

“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. Admin.Code §1910.10(f).

Post Board Jurisdiction

- Not PTAB!
- Not IDOR!

IDOR authority is limited to non-homestead exemptions.—35 ILCS 200/8-5(3).

Post Board Jurisdiction

- Not PTAB!
- Not IDOR!
- The circuit courts have, through the tax objection process, jurisdiction to review homestead exemption denials. 35 ILCS 200/23-10.

Case Studies

Case Study 1: Lack of Jurisdiction

- Owner purchased the property in 2016, but did not apply for any exemptions in that year
- In November 2024, the owner applied for the General Homestead Exemption for the years 2016-2024
- Supervisor granted the 2024 exemption and denied the 2016-2023 exemptions due to lack of jurisdiction
- Owner appealed to Board of Review

Kane County Board of Review

PRELIMINARY ADMINISTRATIVE DECISION

APPELLANT: [REDACTED]
PROPERTY: [REDACTED], HAMPSHIRE
PARCEL NO.: 01-[REDACTED]
SUBJECT: Denial of General Homestead Exemption for 2016-2023 taxable years

This is a preliminary administrative decision of the Kane County Board of Review based on the written evidence of the parties, pursuant to the Board's Rules and Procedures adopted May 1, 2024. If the Appellant wishes to request a formal hearing before the Board, the Appellant may do so in writing within ten (10) business days of the postmark date on the letter. If no formal hearing is requested within 10 days of the preliminary decision, the preliminary decision will automatically become a final decision.

The parties of record before the Board of Review are Adriana Castro (the "Appellant") and the Kane County Supervisor of Assessments (the "Supervisor"). The subject property is property improved with a single-family dwelling located at [REDACTED] in Hampshire, Illinois, and is identified as Kane County Parcel 01-[REDACTED] (the "Subject Property").

DECISION

DECISION

The Appellant applied for the General Homestead Exemption (the “GHE”)¹ on November 1, 2024, which was approved for the 2024 taxable year on November 14, 2024. The Appellant also sought the General Homestead Exemption for the taxable years from 2016 through 2023, inclusive. The Supervisor denied the exemption for those years, and the decision was appealed to the Board of Review. **The Kane County Board of Review finds that it lacks jurisdiction to hear this appeal for the reasons that follow.**

BACKGROUND

The Subject Property consists of a residential homesite improved with a single-family home. The Property is owned by [REDACTED] and [REDACTED] as tenants by the entirety since 2016.²

¹ 35 ILCS 200/15-175.

² Kane County Recorder Document 2016K [REDACTED], recorded [REDACTED], 2016.

The Appellant applied for the General Homestead Exemption (the “GHE”)³ for the 2024 (payable 2025) taxable year in an application sent on November 1, 2024 received on November 6, 2024. The Supervisor of Assessments granted this application for the 2024 taxable year on November 14, 2024. The Appellant also sought the exemption for the taxable years from 2016 through 2023, inclusive. The Supervisor denied the exemption for those years, and the decision was appealed to the Board of Review.

EVIDENCE SUBMITTED

The following evidence was supplied by the Appellant:

- An application for the General Homestead Exemption dated November 1, 2024.
- A letter asking for the Exemption to be granted retroactively, dated November 5, 2024.

The Supervisor did not submit any additional evidence, but did note the statutory limitations on the ability of county officials to retroactively grant exemptions. Specifically, the Supervisor noted:

- Tax bills for all years prior to 2024 have been issued.
- After a tax bill has been issued, they can be corrected only by a certificate of error.
- The time permitted to issue a certificate of error for all years prior to 2024 has passed, and the Supervisor lacks authority to issue a certificate of error for those years.

ANALYSIS

A county board of review is a creature of statute, having only such powers as are expressly given it by the legislature; it will not be presumed that the board has any powers other than those delegated to it by plain and specific language.⁴ The Property Tax Code provides that the “board of review shall hear and determine the application of any person who is assessed on Subject Property claimed to be exempt from taxation. However, the decision of the board shall not be final, except as to homestead exemptions.”⁵

A board of review does have authority to grant an exemption after a tax bill is issued using the certificate of error process: “[I]f an owner fails to file an application for any homestead exemption provided under Article 15 during the previous assessment year and qualifies for the exemption, the Chief County Assessment Officer pursuant to this Section, or the Board of Review pursuant

³ 35 ILCS 200/15-175.

⁴ *Citizens Federation v. Brown*, 134 Ill. App. 3d 1054, 1057 (Ill. App. Ct. 1985).

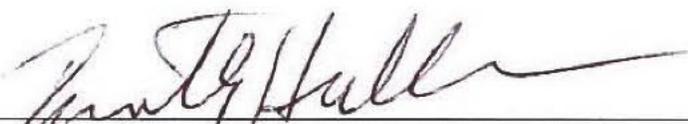
⁵ 35 ILCS 200/16-70.

to Section 16-75, shall issue a certificate of error setting forth the correct taxable valuation of the property.”⁶

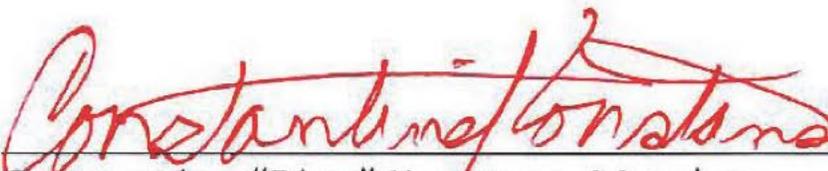
However, certificates of error must be issued “before judgment” for that particular taxable year.⁷ The term *judgment* is a reference to the “annual application for judgment” that is in conjunction with the annual tax sale.⁸ The Courts have ruled that neither Chief County Assessment Officers nor Boards of Review have authority to issue Certificates of Error after the annual application for judgment has passed.⁹

CONCLUSION

The applications for judgment have already been made for all years prior to the 2024 (the most recent application for the 2023 taxable year was made on October 21, 2024). Therefore, the Kane County Board of Review finds that it lacks jurisdiction to hear this appeal.



Timothy J. Sullivan, MAI, SRA, Chairman



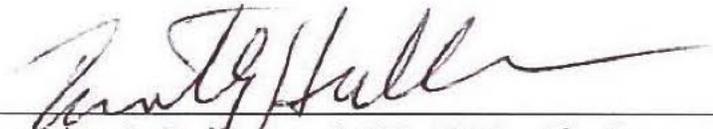
Constantine “Dino” Konstans, Member



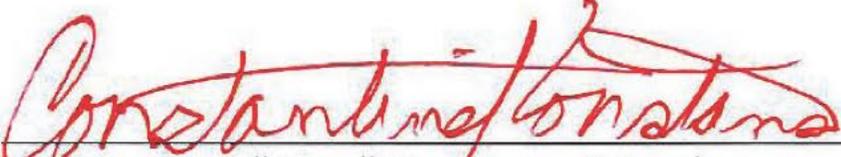
Michael E. Madziarek, CIAO, Member

CERTIFICATION

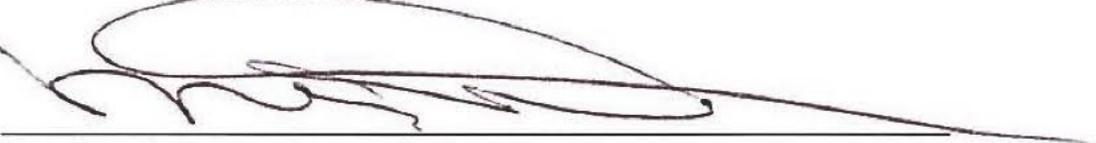
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Timothy J. Sullivan, MAI, SRA, Chairman



Constantine "Dino" Konstans, Member



Michael E. Madziarek, CIAO, Member

CERTIFICATION

As Clerk of the Kane County Board of Review and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Preliminary Administrative Decision of the Kane County Board of Review issued this date in the above entitled appeal, now of record in this said office.



Mark D. Armstrong, CIAO-M, Clerk of the Board

January 30, 2025

Date

⁶ 35 ILCS 200/14-20.

Case Study 2: Condominium as a Lessee

- Owner purchased the property as an LLC
- Owner leased the property to herself and became the tenant
- Tenant applied for General Homestead Exemption
- Supervisor denied exemption
- Tenant appealed to Board of Review

The subject property is condominium unit [REDACTED] in Carpentersville, Illinois, and is identified as Kane County Parcel 03-[REDACTED] (the "Subject Property").

STANDING TO FILE THE APPEAL

The Board of Review notes that there is an issue of the standing that must be resolved at the outset of this appeal. The appeal was filed by [REDACTED], who filed the appeal on stationery of the property owner, a limited liability company.¹ A property owned by a limited liability company would not be eligible for any homestead exemptions, as an LLC is not a "natural person."²

However, [REDACTED] is also the name of the tenant. Therefore, in the interests of justice and in the Board of Review's desire to provide a documented decision on this matter, the Board of Review will proceed as if [REDACTED] had filed the appeal as the tenant, and not as the managing member of the LLC. The Board notes it does not waive this issue in any future

¹ The owner of record is [REDACTED], LLC. [REDACTED] identifies herself as "Managing Member" of the LLC. The Illinois Secretary of State (Record [REDACTED]) shows the agent for this LLC to be "[REDACTED] [REDACTED]." The address is the same as [REDACTED] High School. The relationship between the LLC and the high school is unclear.

² *Proviso Township High School District v. Hynes*, 84 Ill. 2d 229, 240-41 (Ill. 1980).

Illinois Supreme Court

“In connection with the question under consideration, the plaintiffs assert that a homestead exemption cannot be validly granted where the owner is a corporation, since the latter cannot ‘reside’ in a building. We agree that **the owner-occupant must be a natural person.**”

—*Proviso Township High School District v. Hynes*, 84 Ill. 2d 229, 240-41 (Ill. 1980).



EVIDENCE SUBMITTED

The following evidence was supplied by the Appellant:

- A letter dated August 20, 2023;
- A copy of the application signed on October 5, 2022; and
- The lease dated January 1, 2022.

The Supervisor submitted the application and lease described above, as well as the following documents:

- The deed by which the Owners took title to the Subject Property, which legally describes it as a condominium unit.⁸
- Declaration of Condominium Ownership for The Silverstone Unit 4 Condominium Association, which created the Unit 7-7.⁹

The Supervisor also agreed to stipulate to the following facts:

- The Appellant occupied the unit as a principal dwelling as of January 1, 2022;
- The Appellant had a leasehold interest in the unit as of January 1, 2022;
- The Appellant was liable for the 2022 taxes on the unit.

Exemptions on a Leasehold Basis

(f) "Homestead property" under this Section includes residential property that is occupied by its owner or owners as his or their principal dwelling place, or that is **a leasehold interest on which a single family residence is situated**, which is occupied as a residence by a person who has an ownership interest therein, legal or equitable or as a lessee, and on which the person is liable for the payment of property taxes.—35 ILCS 200/15-175(f).

As a Board of Review administers the Property Tax Code, it must follow established principles of statutory construction:

- The fundamental objective of statutory construction is to ascertain and give effect to the legislature's intent; the most reliable indicator of legislative intent is the statutory language, given its plain and ordinary meaning.²⁰
- Each word, clause, and sentence of a statute must be given a reasonable construction, and no term should be rendered superfluous.²¹
- The Board may not depart from the plain and unambiguous language by reading into the statute exceptions, limitations, or conditions not expressed therein.²²
- Where a statute lists the things to which it refers, it may be inferred that all omissions therefrom should be understood as exclusions; this is the principle of *expressio unius est exclusio alterius* (the expression of one thing is the exclusion of another).²³

The language regarding a leasehold interest to property "on which a single family residence is situated" was added in 1980.²⁴ At that time the property tax code already made a distinction between a single family residence and a condominium unit, as evidenced by the statutory instructions for valuing condominium units:

In counties with 200,000 or more inhabitants which classify property, condominiums occupied by the owner as a residence for a minimum of 6 months during the year and created in accordance with the provisions of the "Condominium Property Act", as well as land with improvements owned and operated as a cooperative, shall be assessed on the same basis of assessment as single family residences in such counties.²⁵

Case Study 3: Surviving spouse relocation

- Owner was surviving spouse of a veteran with disability
- Prior to passing, the veteran was ineligible due to the high value of the home
- After the veteran passed, the surviving spouse relocated to a less expensive home and applied for the SHEVD
- Supervisor denied exemption
- Tenant appealed to Board of Review

APPLICATION TO SUBJECT PROPERTY

It is uncontested that:

- [REDACTED] was a veteran with a qualifying disability in the 2019 taxable year;
- At the time of [REDACTED]'s passing in 2019, [REDACTED] and the Appellant resided at the Lake Forest Property;
- The Appellant is the unmarried surviving spouse of [REDACTED];
- The Appellant continued to use the property in Lake Forest as a principal dwelling until selling the property in 2020;
- The Appellant then acquired the property at [REDACTED] in Geneva, Illinois;
- The Appellant used the Geneva property as a principal dwelling as of January 1, 2021; and
- The Appellant has not remarried.

Therefore, we will accept as fact that these conditions have been met and will turn to the one remaining qualification: What was the amount of exemption granted for the Lake Forest Property "from the most recent ad valorem tax roll" which may be transferred to the Subject Property?

In applying any Statute, our primary goal is to ascertain and give effect to the legislative intent.¹⁸ The best indication of that intent is the plain and ordinary language of the statute.¹⁹ The words and phrases should be interpreted in relation to each other and the entire act, and no word or provision should be rendered meaningless.²⁰ When the language of the statutory provision at

Rules of Statutory Construction

- Primary goal is to ascertain and give effect to the legislative intent.
- The best indication of that intent is the plain and ordinary language of the statute.
- The words and phrases should be interpreted in relation to each other and the entire act, and no word or provision should be rendered meaningless.
- When the language of the statutory provision at issue is clear and unambiguous, it must be applied as written without reliance upon other aids of construction.

Mandatory Relationships

If the surviving spouse sells the property, **an exemption not to exceed the amount granted from the most recent ad valorem tax roll** may be transferred to his or her new residence as long as it is used as his or her primary residence and he or she does not remarry.—35 ILCS 200/15-169(c).

Best Practices

- Promulgate rules that are effective for your jurisdiction.
- Conduct hearings in a manner that gets the job done, but lets taxpayers know they have been heard.
- Produce a written record that will be likely upheld on appeal.

Tax Objection Process

- Tax bill must be paid in full before filing
- File within:
 - 75 days of the first penalty date of the final installment (downstate) or
 - 165 days of the first penalty date of the final installment (Cook)
- Bench trial (no jury option)

Voluntary Payment Doctrine

“A taxpayer may not recover taxes that have been paid voluntarily unless a statute allows such a recovery.”

—*Fredericksen v. Armstrong*, 2013 IL App (2d) 100459

—*Source v. Armstrong*, 2012 IL App (2d) 090478



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Kane County Board of Review

PRELIMINARY ADMINISTRATIVE DECISION

APPELLANT: [REDACTED]
PROPERTY: UNIT [REDACTED], CARPENTERSVILLE
PARCEL NO.: 03-[REDACTED]
SUBJECT: Hearing on Denial of General Homestead Exemption
for 2022 (payable 2023) taxable year

This is a preliminary administrative decision of the Kane County Board of Review based on the written evidence of the parties, pursuant to the Board's Rules and Procedures adopted June 1, 2023. If the Appellant wishes to request a formal hearing before the Board, the Appellant may do so in writing within ten (10) business days of the postmark date on the letter. If no formal hearing is requested within 10 days of the preliminary decision, the preliminary decision will automatically become a final decision.

The subject property is condominium unit [REDACTED] in Carpentersville, Illinois, and is identified as Kane County Parcel 03-[REDACTED] (the "Subject Property").

STANDING TO FILE THE APPEAL

The Board of Review notes that there is an issue of the standing that must be resolved at the outset of this appeal. The appeal was filed by [REDACTED], who filed the appeal on stationery of the property owner, a limited liability company.¹ A property owned by a limited liability company would not be eligible for any homestead exemptions, as an LLC is not a "natural person."²

However, [REDACTED] is also the name of the tenant. Therefore, in the interests of justice and in the Board of Review's desire to provide a documented decision on this matter, the Board of Review will proceed as if [REDACTED] had filed the appeal as the tenant, and not as the managing member of the LLC. The Board notes it does not waive this issue in any future

¹ The owner of record is [REDACTED], LLC. [REDACTED] identifies herself as "Managing Member" of the LLC. The Illinois Secretary of State (Record [REDACTED]) shows the agent for this LLC to be "[REDACTED]." The address is the same as [REDACTED] High School. The relationship between the LLC and the high school is unclear.

² *Proviso Township High School District v. Hynes*, 84 Ill. 2d 229, 240-41 (Ill. 1980).

APPELLANT: [REDACTED]
PROPERTY: UNIT [REDACTED], CARPENTERSVILLE
PARCEL NO.: 03-[REDACTED]
SUBJECT: Hearing on Denial of General Homestead Exemption
for 2022 (payable 2023) taxable year

proceedings that may arise on this topic. Therefore, the parties of record before the Board of Review are [REDACTED] (the “Appellant”) and the Kane County Supervisor of Assessments (the “Supervisor”).

DECISION

The Appellant applied for the General Homestead Exemption (the “GHE”)³ for the 2022 taxable year for the Subject Property on the basis of a leasehold interest. The Supervisor determined:

- The Subject Property is a condominium unit.
- Unlike the GHE for owner-occupied properties, the GHE based on a leasehold interest are limited to property “that is a leasehold interest on which a single-family residence is situated.”⁴

Therefore, the Supervisor denied the exemption and the decision was appealed to the Board of Review. **We affirm the decision of the Supervisor for the reasons that follow.**

BACKGROUND

The Subject Property consists of a condominium unit. The unit is owned by [REDACTED] [REDACTED] LLC, which acquired it in 2021.⁵ The unit is leased to the Appellant in a document executed on January 1, 2022 for a term from January 1, 2022 through December 31, 2022. The lease transferred the Subject Property tax liability to the Appellant.

The Board of Review notes in passing that the lease document is signed by Meera Gowara, but does not specify whether in the capacity of the owner, the tenant, or both. On May 2, 2023, the Appellant filed an application for the GHE for the 2022 year on the basis of the leasehold interest of the Appellant.⁶

³ 35 ILCS 200/15-175.

⁴ 35 ILCS 200/15-175(f).

⁵ Kane County Recorder Document 2021K [REDACTED], recorded [REDACTED], 2021.

⁶ The Board of Review notes in passing that Appellant signed the application as both the owner and the applicant, and that the application itself was signed and notarized on October 5, 2022, more than seven months before filing the application with the Supervisor.

APPELLANT: [REDACTED]
PROPERTY: UNIT [REDACTED], CARPENTERSVILLE
PARCEL NO.: 03-[REDACTED]
SUBJECT: Hearing on Denial of General Homestead Exemption
for 2022 (payable 2023) taxable year

The 2022 GHE application was denied on July 27, 2023. The basis for the denial was the requirement of the Illinois Property Tax Code that limits GHEs to “residential property that is occupied by its owner or owners as his or their principal dwelling place, or that is a leasehold interest on which a single family residence is situated, which is occupied as a residence by a person who has an ownership interest therein, legal or equitable or as a lessee, and on which the person is liable for the payment of property taxes.”⁷ This appeal followed in a letter received August 21, 2023.

EVIDENCE SUBMITTED

The following evidence was supplied by the Appellant:

- A letter dated August 20, 2023;
- A copy of the application signed on October 5, 2022; and
- The lease dated January 1, 2022.

The Supervisor submitted the application and lease described above, as well as the following documents:

- The deed by which the Owners took title to the Subject Property, which legally describes it as a condominium unit.⁸
- Declaration of Condominium Ownership for The Silverstone Unit 4 Condominium Association, which created the Unit 7-7.⁹

The Supervisor also agreed to stipulate to the following facts:

- The Appellant occupied the unit as a principal dwelling as of January 1, 2022;
- The Appellant had a leasehold interest in the unit as of January 1, 2022;
- The Appellant was liable for the 2022 taxes on the unit.

⁷ 35 ILCS 200/15-175(f).

⁸ Kane County Recorder Document 2021K069090, recorded September 10, 2021.

⁹ Kane County Recorder Document 2004K033936, recorded March 19, 2004.

APPELLANT: [REDACTED]
PROPERTY: UNIT [REDACTED], CARPENTERSVILLE
PARCEL NO.: 03-[REDACTED]
SUBJECT: Hearing on Denial of General Homestead Exemption
for 2022 (payable 2023) taxable year

ANALYSIS

A county board of review is a creature of statute, having only such powers as are expressly given it by the legislature; it will not be presumed that the board has any powers other than those delegated to it by plain and specific language.¹⁰ The Property Tax Code provides that the “board of review shall hear and determine the application of any person who is assessed on Subject Property claimed to be exempt from taxation. However, the decision of the board shall not be final, except as to homestead exemptions.”¹¹

After hearing the testimony and considering the evidence the Board of Review finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board of Review further finds that the Subject Property in question is not eligible for the General Homestead Exemption or the Senior Citizen Homestead Exemption for the 2022 taxable year for the reasons that follow.

The Illinois Constitution limits the General Assembly’s power to exempt property from taxation as follows: “The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes. The General Assembly by law may grant homestead exemptions or rent credits.”¹²

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution.¹³ Furthermore, Article IX, Section 6 does not, in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limits imposed by the constitution.¹⁴ Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions on those exemptions it chooses to grant.¹⁵

It is well established in Illinois that a statute exempting property from taxation must be strictly construed against exemption, with all facts construed and debatable questions resolved in favor of taxation.¹⁶ Moreover, the burden of proving the right to a property tax exemption is on the

¹⁰ *Citizens Federation v. Brown*, 134 Ill. App. 3d 1054, 1057 (Ill. App. Ct. 1985).

¹¹ 35 ILCS 200/16-70.

¹² Ill. Const. 1970, art. IX, § 6.

¹³ *Board of Certified Safety Professionals v. Johnson*, 112 Ill. 2d 542, 548 (1986).

¹⁴ *Locust Grove Cemetery v. Rose*, 16 Ill. 2d 132, 137 (1959).

¹⁵ *Village of Oak Park v. Rosewell*, 115 Ill. App. 3d 497, 499 (1st Dist. 1983).

¹⁶ *Gas Research Institute v. Department of Revenue*, 154 Ill. App. 3d 430, 434 (1st Dist. 1987).

APPELLANT: [REDACTED]
PROPERTY: UNIT [REDACTED], CARPENTERSVILLE
PARCEL NO.: 03-[REDACTED]
SUBJECT: Hearing on Denial of General Homestead Exemption
for 2022 (payable 2023) taxable year

party seeking exemption, and courts have required such party to prove, by clear and convincing evidence, that it falls within the appropriate statutory exemption.¹⁷ Whenever doubt arises, it is to be resolved against exemption and in favor of taxation.¹⁸

In the matter at hand, there is broad agreement between the Appellant and the Supervisor that the Subject Property is occupied by the Appellant as a principal dwelling, that the Appellant has an interest as a lessee, and that the Appellant is liable for the property taxes. As these issues are uncontested, the Board will not examine them further. The Board of Review does not, however, waive jurisdiction over these matters in any appeal that may arise in this matter.

That leaves the only contention to be the language of the statutes themselves regarding the type of property which can qualify for the GHE. The property tax code reads, in part:

"Homestead property" under this Section includes **residential property that is occupied by its owner or owners as his or their principal dwelling place, or that is a leasehold interest on which a single family residence is situated**, which is occupied as a residence by a person who has an ownership interest therein, legal or equitable or as a lessee, and on which the person is liable for the payment of property taxes.¹⁹

In enacting this definition, the legislature provided for two categories of real property:

- "residential property that is occupied by its owner or owners as his or their principal dwelling place", and
- " residential property **** that is a leasehold interest on which a single family residence is situated."

The latter provision limits those who can qualify via a leasehold interest to property "on which a single family residence is situated." If the General Assembly had intended all leasehold interests in residential property to be eligible for the GHE, it would not have made this distinction. Therefore, in cases of a leasehold interest, the Board must further examine whether the property is a "leasehold interest on which a single family residence is situated."

¹⁷ *Winona School of Professional Photography v. Department of Revenue*, 211 Ill. App. 3d 565, 569 (1st Dist. 1991).

¹⁸ *People ex rel. Lloyd v. University of Illinois*, 357 Ill. 369, 376 (1934).

¹⁹ 35 ILCS 200/15-175(f), emphasis added.

APPELLANT: [REDACTED]
PROPERTY: UNIT [REDACTED], CARPENTERSVILLE
PARCEL NO.: 03-[REDACTED]
SUBJECT: Hearing on Denial of General Homestead Exemption
for 2022 (payable 2023) taxable year

As a Board of Review administers the Property Tax Code, it must follow established principles of statutory construction:

- The fundamental objective of statutory construction is to ascertain and give effect to the legislature's intent; the most reliable indicator of legislative intent is the statutory language, given its plain and ordinary meaning.²⁰
- Each word, clause, and sentence of a statute must be given a reasonable construction, and no term should be rendered superfluous.²¹
- The Board may not depart from the plain and unambiguous language by reading into the statute exceptions, limitations, or conditions not expressed therein.²²
- Where a statute lists the things to which it refers, it may be inferred that all omissions therefrom should be understood as exclusions; this is the principle of *expressio unius est exclusio alterius* (the expression of one thing is the exclusion of another).²³

The language regarding a leasehold interest to property "on which a single family residence is situated" was added in 1980.²⁴ At that time the property tax code already made a distinction between a single family residence and a condominium unit, as evidenced by the statutory instructions for valuing condominium units:

In counties with 200,000 or more inhabitants which classify property, condominiums occupied by the owner as a residence for a minimum of 6 months during the year and created in accordance with the provisions of the "Condominium Property Act", as well as land with improvements owned and operated as a cooperative, shall be assessed on the same basis of assessment as single family residences in such counties.²⁵

Additionally, the property tax code makes distinctions between condominium units and single-family residences in other places as well.²⁶ Furthermore, the requirement that exemptions on

²⁰ *Westberg v. Barcroft*, 2022 IL App (2d) 210543, ¶ 23.

²¹ *Id.*

²² *Id.*

²³ *In re application of the County Collector*, 2014 IL App (2d) 140223, ¶ 18, quoting *In re Davontay A.*, 2013 IL App (2d) 120347, ¶ 28.

²⁴ Public Act 81-1446, effective September 4, 1980.

²⁵ Public Act 78-709, effective October 1, 1973.

²⁶ 35 ILCS 200/10-25, 35 ILCS 200/21-260.

APPELLANT: [REDACTED]
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the basis of a leasehold interest be limited to property on which a single-family residence is situated is not unique to the GHE and the SCHE; the language also appears in other exemptions.²⁷

APPLICATION TO SUBJECT PROPERTY

It is uncontested that the Subject Property is residential; if the Appellant also owned the condominium unit, it is clear that the Subject Property would qualify for the GHE. But the Appellant's interest in the Subject Property is a leasehold, which contains the additional requirement of the property being a single-family residence. The Illinois Property Tax Code does not consider it to be a single-family residence for the purposes of the administration of the code.

A contention often made in such situations is that there is no distinction between a condominium unit and a single-family dwelling. However, the Board of Review finds this contention to be unsupported by Illinois law. A Condominium is not a physical design, but a type of ownership. The Illinois Condominium Property Act defines a condominium unit as "a part of the property designed and intended for any type of independent use."²⁸ It further acknowledges that a building in a condominium development may contain "one or more units."²⁹

It has long been the law in Illinois that in determining exemptions from property tax, all facts must be construed and debatable questions must be resolved in favor of taxation.³⁰ However, this does not appear to be a "debatable" question. As the Property Tax Code makes a clear distinction between a condominium unit and a single-family residence, this Board will not dispute it.

Additionally, by noting that homestead exemptions for other condominium units were approved in prior years under similar circumstances, the Appellant implies the homestead exemption must be approved for this year. However, under Illinois law it is well established that a decision adjudicating the tax status of property for a particular year does not determine the status of the

²⁷ See 35 ILCS 200/10-35, ILCS 200/16-167, 35 ILCS 200/16-168, 35 ILCS 200/16-172, 35 ILCS 200/16-176, and 35 ILCS 200/16-177.

²⁸ 765 ILCS 605/2(i).

²⁹ 765 ILCS 605/2(t).

³⁰ *Gas Research Institute* at 434.

APPELLANT: [REDACTED]
PROPERTY: UNIT [REDACTED], CARPENTERSVILLE
PARCEL NO.: 03-[REDACTED]
SUBJECT: Hearing on Denial of General Homestead Exemption
for 2022 (payable 2023) taxable year

same property in other tax years, even where the ownership and the use of the property remains the same.³¹

Therefore, the Board of Review finds that the Subject Property is not eligible for the GHE for 2022. Thus, we affirm the decision of the Supervisor of Assessments.

Timothy J. Sullivan, MAI, SRA Chairman

Constantine "Dino" Konstans
Member

Michael E. Madziarek, CIAO
Member

CERTIFICATION

As Clerk of the Kane County Board of Review and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Preliminary Administrative Decision of the Kane County Board of Review issued this date in the above entitled appeal, now of record in this said office.

Mark D. Armstrong, CIAO-M
Clerk of the Board

Date

³¹ *In re Application of the County Collector*, 157 Ill. App. 3d 355, 358 (Ill. App. Ct.).



Kane County Board of Review

PRELIMINARY ADMINISTRATIVE DECISION

APPELLANT: [REDACTED]
PROPERTY: [REDACTED], HAMPSHIRE
PARCEL NO.: 01-[REDACTED]
SUBJECT: Denial of General Homestead Exemption for 2016-2023 taxable years

This is a preliminary administrative decision of the Kane County Board of Review based on the written evidence of the parties, pursuant to the Board's Rules and Procedures adopted May 1, 2024. If the Appellant wishes to request a formal hearing before the Board, the Appellant may do so in writing within ten (10) business days of the postmark date on the letter. If no formal hearing is requested within 10 days of the preliminary decision, the preliminary decision will automatically become a final decision.

The parties of record before the Board of Review are Adriana Castro (the "Appellant") and the Kane County Supervisor of Assessments (the "Supervisor"). The subject property is property improved with a single-family dwelling located at [REDACTED] in Hampshire, Illinois, and is identified as Kane County Parcel 01-[REDACTED] (the "Subject Property").

DECISION

The Appellant applied for the General Homestead Exemption (the "GHE")¹ on November 1, 2024, which was approved for the 2024 taxable year on November 14, 2024. The Appellant also sought the General Homestead Exemption for the taxable years from 2016 through 2023, inclusive. The Supervisor denied the exemption for those years, and the decision was appealed to the Board of Review. **The Kane County Board of Review finds that it lacks jurisdiction to hear this appeal for the reasons that follow.**

BACKGROUND

The Subject Property consists of a residential homesite improved with a single-family home. The Property is owned by [REDACTED] and [REDACTED] as tenants by the entirety since 2016.²

¹ 35 ILCS 200/15-175.

² Kane County Recorder Document 2016K [REDACTED], recorded [REDACTED], 2016.

APPELLANT: [REDACTED]
PROPERTY: [REDACTED], HAMPSHIRE
PARCEL NO.: 01-[REDACTED]
SUBJECT: Denial of General Homestead Exemption for 2016-2023 taxable years

The Appellant applied for the General Homestead Exemption (the “GHE”)³ for the 2024 (payable 2025) taxable year in an application sent on November 1, 2024 received on November 6, 2024. The Supervisor of Assessments granted this application for the 2024 taxable year on November 14, 2024. The Appellant also sought the exemption for the taxable years from 2016 through 2023, inclusive. The Supervisor denied the exemption for those years, and the decision was appealed to the Board of Review.

EVIDENCE SUBMITTED

The following evidence was supplied by the Appellant:

- An application for the General Homestead Exemption dated November 1, 2024.
- A letter asking for the Exemption to be granted retroactively, dated November 5, 2024.

The Supervisor did not submit any additional evidence, but did note the statutory limitations on the ability of county officials to retroactively grant exemptions. Specifically, the Supervisor noted:

- Tax bills for all years prior to 2024 have been issued.
- After a tax bill has been issued, they can be corrected only by a certificate of error.
- The time permitted to issue a certificate of error for all years prior to 2024 has passed, and the Supervisor lacks authority to issue a certificate of error for those years.

ANALYSIS

A county board of review is a creature of statute, having only such powers as are expressly given it by the legislature; it will not be presumed that the board has any powers other than those delegated to it by plain and specific language.⁴ The Property Tax Code provides that the “board of review shall hear and determine the application of any person who is assessed on Subject Property claimed to be exempt from taxation. However, the decision of the board shall not be final, except as to homestead exemptions.”⁵

A board of review does have authority to grant an exemption after a tax bill is issued using the certificate of error process: “[I]f an owner fails to file an application for any homestead exemption provided under Article 15 during the previous assessment year and qualifies for the exemption, the Chief County Assessment Officer pursuant to this Section, or the Board of Review pursuant

³ 35 ILCS 200/15-175.

⁴ *Citizens Federation v. Brown*, 134 Ill. App. 3d 1054, 1057 (Ill. App. Ct. 1985).

⁵ 35 ILCS 200/16-70.

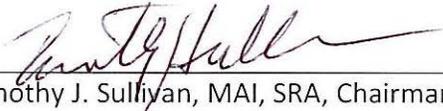
APPELLANT: [REDACTED]
PROPERTY: [REDACTED], HAMPSHIRE
PARCEL NO.: [REDACTED]
SUBJECT: Denial of General Homestead Exemption for 2016-2023 taxable years

to Section 16-75, shall issue a certificate of error setting forth the correct taxable valuation of the property.”⁶

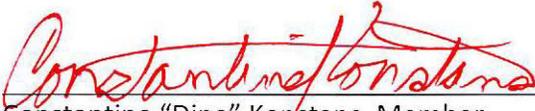
However, certificates of error must be issued “before judgment” for that particular taxable year.⁷ The term *judgment* is a reference to the “annual application for judgment” that is in conjunction with the annual tax sale.⁸ The Courts have ruled that neither Chief County Assessment Officers nor Boards of Review have authority to issue Certificates of Error after the annual application for judgment has passed.⁹

CONCLUSION

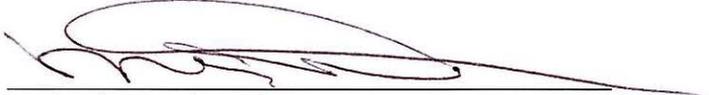
The applications for judgment have already been made for all years prior to the 2024 (the most recent application for the 2023 taxable year was made on October 21, 2024). Therefore, the Kane County Board of Review finds that it lacks jurisdiction to hear this appeal.



Timothy J. Sullivan, MAI, SRA, Chairman



Constantine “Dino” Konstans, Member



Michael E. Madziarek, CIAO, Member

CERTIFICATION

As Clerk of the Kane County Board of Review and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Preliminary Administrative Decision of the Kane County Board of Review issued this date in the above entitled appeal, now of record in this said office.



Mark D. Armstrong, CIAO-M, Clerk of the Board

January 30, 2025

Date

⁶ 35 ILCS 200/14-20.

⁷ 35 ILCS 200/16-75.

⁸ 35 ILCS 200/21-110, *et seq.*

⁹ See *Fredericksen v. Armstrong*, 2011 IL App (2d) 100459 and *Sorce v. Armstrong*, 2010 IL App (2d) 090478.



Kane County Board of Review

PRELIMINARY ADMINISTRATIVE DECISION

APPELLANT: [REDACTED]
PROPERTY: [REDACTED], GENEVA
PARCEL NO.: 12-[REDACTED]
SUBJECT: Hearing on Denial of Standard Homestead Exemption for Veterans with Disabilities

This is a preliminary administrative decision of the Kane County Board of Review based on the written evidence of the parties, pursuant to the Board's Rules and Procedures adopted June 9, 2022. If the Appellant wishes to request a formal hearing before the Board, the Appellant may do so in writing within ten (10) business days of the postmark date on the letter. If no formal hearing is requested within 10 days of the preliminary decision, the preliminary decision will automatically become a final decision.

The parties of record before the Board of Review are [REDACTED] (the "Appellant") and the Kane County Supervisor of Assessments (the "Supervisor").

The subject property is land improved with a single-family dwelling located at [REDACTED] in Geneva, Illinois, and is identified as Kane County Parcel 12-[REDACTED] (the "Subject Property").

DECISION

The Appellant applied for the Standard Homestead Exemption for Veterans with Disabilities (SHEVD)¹ for the 2021 taxable year for the Subject Property. The application was made on the basis of the property being the residence of the Appellant, who is an unmarried surviving spouse of a veteran with a disability.

The Supervisor determined that the Subject Property did not qualify for the SHEVD because:

- The Subject Property was not the residence of the veteran in question prior to the veteran's passing; and

¹35 ILCS 200/15-169.

APPELLANT: [REDACTED]
PROPERTY: [REDACTED], GENEVA
PARCEL NO.: 12-[REDACTED]
SUBJECT: Hearing on Denial of Standard Homestead Exemption for Veterans with Disabilities

- The home most recently occupied by the veteran in question prior to the surviving spouse acquiring the subject property did not qualify for the exemption.

Therefore, the Supervisor denied the exemption.

The decision was appealed to the Board of Review. We affirm the decision of the Supervisor for the reasons that follow.

BACKGROUND

The Subject Property is land improved with a single-family dwelling. The Appellant acquired the Subject Property as a single person via a trustee's deed executed on December 4, 2020.²

The Appellant applied for three homestead exemptions for the 2021 taxable year:

- The General Homestead Exemption (GHE);
- The Senior Citizen Homestead Exemption (SCHE); and
- The Standard Homestead Exemption for Veterans with Disabilities (SHEVD).

The Supervisor granted the GHE and SCHE; those exemptions are not at issue and will not be further addressed in this decision. On January 3, 2022 the Supervisor denied the application for the SHEVD, because:

- The Subject Property was never occupied by the Veteran with a Disability;
- The benefit for a surviving spouse moving to a new residence is limited to "the amount granted from the most recent ad valorem tax roll" from the prior residence which had been occupied by the veteran with a disability³; and
- The amount granted on the most recent tax roll for the applicant's prior property was \$0.

This appeal followed.

²Kane County document 2021K [REDACTED], recorded [REDACTED], 2021; the Appellant subsequently placed the property into the [REDACTED] Trust via a deed in trust executed on [REDACTED], 2021 (Kane County document 2021K [REDACTED], recorded [REDACTED], 2021).

³35 ILCS 200/15-169(c).

APPELLANT: [REDACTED]
PROPERTY: [REDACTED], GENEVA
PARCEL NO.: 12-[REDACTED]
SUBJECT: Hearing on Denial of Standard Homestead Exemption for Veterans with Disabilities

EVIDENCE SUBMITTED

The Appellant timely filed a notice to appeal the decision on January 27, 2022. The Appellant's evidence includes:

- The Appellant's original application for the SHEVD for 2021 (received December 16, 2020);
- A DD214 for [REDACTED] issued [REDACTED], 1972;
- A letter from the U.S. Department of Veterans Affairs certifying a 100% disability rating for [REDACTED] dated [REDACTED], 2015;
- A copy of a death certificate for [REDACTED] showing a date of death of [REDACTED], 2019;
- A printout of property tax information for Lake County Parcel [REDACTED] ([REDACTED] [REDACTED] in Lake Forest, Illinois, the "Lake Forest Property") for the 2020 taxable year showing an equalized assessed value of \$378,951, and two homestead exemptions (GHE and SCHE); and
- A letter received January 27, 2022 acknowledging the Lake Forest Property did not receive the SHEVD, but contending the Lake Forest Property would have been granted the exemption had it been valued at an equalized assessed value of less than \$250,000 as provided by statute.⁴ The Appellant further contended she purchased the Subject Property expecting it to be exempt from taxation because she believes "I and my new home are eligible under every criteria (*sic*) in Illinois state Law."

The Supervisor did not submit any additional evidence, but agreed to stipulate to the following facts:

- The Applicant was the owner of record of the Subject Property as of January 1, 2021, occupied it as a principal dwelling place, and was liable for the taxes;
- The Appellant is the unmarried surviving spouse of [REDACTED], an honorably discharged veteran with a 100% disability rating who passed away on [REDACTED], 2019; and
- At the time of his passing, [REDACTED] and the Applicant owned and occupied the Lake Forest Property, which did not have a SHEVD at any time either before or after [REDACTED] passed.

⁴The statute in question is 35 ILCS 200/15-169(f).

APPELLANT: [REDACTED]
PROPERTY: [REDACTED], GENEVA
PARCEL NO.: 12-[REDACTED]
SUBJECT: Hearing on Denial of Standard Homestead Exemption for Veterans with Disabilities

ANALYSIS

A county board of review is a creature of statute, having only such powers as are expressly given it by the legislature; it will not be presumed that the board has any powers other than those delegated to it by plain and specific language.⁵ The Property Tax Code provides that 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.”⁶

After hearing the testimony and considering the evidence we find that it has jurisdiction over the parties and the subject matter of the appeal. We further find that the property in question is not eligible for the Standard Homestead Exemption for Veterans with Disabilities for the 2021 taxable year for the reasons that follow.

The Illinois Constitution limits the General Assembly’s power to exempt property from taxation as follows: “The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes. The General Assembly by law may grant homestead exemptions or rent credits.”⁷

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution.⁸ Furthermore, Article IX, Section 6 does not, in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limits imposed by the constitution.⁹ Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions on those exemptions it chooses to grant.¹⁰

It is well established in Illinois that a statute exempting property from taxation must be strictly construed against exemption, with all facts construed and debatable questions resolved in favor

⁵*Citizens Federation v. Brown*, 134 Ill. App. 3d 1054, 1057 (Ill. App. Ct. 1985).

⁶35 ILCS 200/16-70.

⁷Ill. Const. 1970, art. IX, § 6.

⁸*Board of Certified Safety Professionals v. Johnson*, 112 Ill. 2d 542, 548 (1986).

⁹*Locust Grove Cemetery v. Rose*, 16 Ill. 2d 132, 137 (1959).

¹⁰*Village of Oak Park v. Rosewell*, 115 Ill. App. 3d 497, 499 (1st Dist. 1983).

APPELLANT: [REDACTED]
PROPERTY: [REDACTED], GENEVA
PARCEL NO.: 12-[REDACTED]
SUBJECT: Hearing on Denial of Standard Homestead Exemption for Veterans with Disabilities

of taxation.¹¹ Moreover, the burden of proving the right to a property tax exemption is on the party seeking exemption, and courts have required such party to prove, by clear and convincing evidence, that it falls within the appropriate statutory exemption.¹² Whenever doubt arises, it is to be resolved against exemption and in favor of taxation.¹³

In establishing the SHEVD, the General Assembly limited the exemption to “property that is used as a qualified residence by a veteran with a disability.”¹⁴

The term “qualified residence” means “real property, but less any portion of that property that is used for commercial purposes, with an equalized assessed value of less than \$250,000 that is the primary residence of a veteran with a disability.”¹⁵ Veteran homeowners who change residences can apply for the SHEVD on the new residence under the same parameters.

The General Assembly also made provision for surviving spouses of qualifying veterans, subject to certain limitations:

- The surviving spouse must continue to hold title to the property, reside on the property and not remarry.”¹⁶
- However, the statute treats surviving spouses who relocate differently than veterans who relocate. “If the surviving spouse sells the property, an exemption not to exceed the amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence as long as it is used as his or her primary residence and he or she does not remarry.”¹⁷
- Thus, if a surviving spouse relocates, the dollar amount exempt under SHEVD for the replacement property cannot exceed the dollar amount exempt on the most recent tax roll for the prior residence.

¹¹*Gas Research Institute v. Department of Revenue*, 154 Ill. App. 3d 430, 434 (1st Dist. 1987).

¹²*Winona School of Professional Photography v. Department of Revenue*, 211 Ill. App. 3d 565, 569 (1st Dist. 1991).

¹³*People ex rel. Lloyd v. University of Illinois*, 357 Ill. 369, 376 (1934).

¹⁴35 ILCS 200/15-169(a).

¹⁵35 ILCS 200/15-169(f).

¹⁶35 ILCS 200/15-169(c).

¹⁷*Id.*

APPELLANT: [REDACTED]
PROPERTY: [REDACTED], GENEVA
PARCEL NO.: 12-[REDACTED]
SUBJECT: Hearing on Denial of Standard Homestead Exemption for Veterans with Disabilities

APPLICATION TO SUBJECT PROPERTY

It is uncontested that:

- [REDACTED] was a veteran with a qualifying disability in the 2019 taxable year;
- At the time of [REDACTED]'s passing in 2019, [REDACTED] and the Appellant resided at the Lake Forest Property;
- The Appellant is the unmarried surviving spouse of [REDACTED];
- The Appellant continued to use the property in Lake Forest as a principal dwelling until selling the property in 2020;
- The Appellant then acquired the property at [REDACTED] in Geneva, Illinois;
- The Appellant used the Geneva property as a principal dwelling as of January 1, 2021; and
- The Appellant has not remarried.

Therefore, we will accept as fact that these conditions have been met and will turn to the one remaining qualification: What was the amount of exemption granted for the Lake Forest Property "from the most recent ad valorem tax roll" which may be transferred to the Subject Property?

In applying any Statute, our primary goal is to ascertain and give effect to the legislative intent.¹⁸ The best indication of that intent is the plain and ordinary language of the statute.¹⁹ The words and phrases should be interpreted in relation to each other and the entire act, and no word or provision should be rendered meaningless.²⁰ When the language of the statutory provision at issue is clear and unambiguous, it must be applied as written without reliance upon other aids of construction.²¹

In enacting the SHEVD, the General Assembly required that in situations such as the one at hand, "[i]f the surviving spouse sells the property, an exemption not to exceed the amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence." While we are sympathetic to the situation the Appellant describes, we find the statutory language to be clear

¹⁸*Wilkins v. Williams*, 2013 IL 114310, ¶ 14.

¹⁹*Dew-Becker v. Wu*, 2020 IL 124472, ¶ 12.

²⁰*Cassens Transport Co. v. Industrial Comm'n*, 218 Ill. 2d 519, 524 (2006).

²¹*Nowak v. City of Country Club Hills*, 2011 IL 111838, ¶ 11.

APPELLANT: [REDACTED]
PROPERTY: [REDACTED], GENEVA
PARCEL NO.: 12-[REDACTED]
SUBJECT: Hearing on Denial of Standard Homestead Exemption for Veterans with Disabilities

and unambiguous, and we must apply it as written without presuming the General Assembly intended any other result.

It is uncontested that the SHEVD had never been granted for the Lake Forest Property, and it is uncontested that the Lake Forest Property never qualified for the SHEVD. The amount granted on the most recent tax roll for the Lake Forest Property was \$0. For this reason, the Subject Property cannot be granted the SHEVD because the Lake Forest Property did not have the SHEVD.

Therefore, we affirm the decision of the Supervisor of Assessments.

Timothy J. Sullivan, MAI, SRA Chairman

Michelle Abell
Member

Michael E. Madziarek, CIAO
Member

APPELLANT: [REDACTED]
PROPERTY: [REDACTED], GENEVA
PARCEL NO.: 12-[REDACTED]
SUBJECT: Hearing on Denial of Standard Homestead Exemption for Veterans with Disabilities

CERTIFICATION

As Clerk of the Kane County Board of Review and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Preliminary Administrative Decision of the Kane County Board of Review issued this date in the above entitled appeal, now of record in this said office.

Mark D. Armstrong, CIAO-M
Clerk of the Board

Date