



## **Appellate Court Clears the Way for Improvements at a Golf Course to Receive Favorable “Open Space” Designation**

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The Second District Appellate Court recently addressed whether buildings, structures, and improvements at a golf club should be considered “open space” for property tax assessment purposes. In ***Onwentsia Club v. Property Tax Appeal Board***, the Court reversed earlier decisions by the Lake County Board of Review and the Property Tax Appeal Board (PTAB) that had denied the open space classification for improved areas of the Onwentsia Club and remanded the case for a factual determination of whether the improvements at the Club “conserve a landscaped area.” Given that open space properties are generally assessed by County officials at a consistent, county-wide market value below that of improved properties, the result of reclassifying the improved areas of the Onwentsia Club as open space would result in significant property tax refunds.

The Onwentsia Club is a private golf club located on approximately 180 acres of land in Lake Forest. Most of the property consists of an 18-hole golf course, but approximately nine acres is improved with a clubhouse, swimming pool, horse riding area, stable, parking lot, driveways, and tennis courts. Prior to 2006, these improved areas of the Club were assessed as open space at a market value of \$1,000 per acre. In 2006, the Lake County Assessor’s Office changed the classification of the improved areas to residential property. The result of this change in classification was a dramatic increase in the assessed value of the property. After both the Lake County Board of Review and the PTAB refused to change the classification of the improved areas back to open space, the Club brought the issue before the Appellate Court. The issue presented was whether the property should be granted the open space classification even though it contains improvements.

The Court began by examining the language of the Property Tax Code. Section 10-155 of the Code defines open space as land of more than 10 acres that, among other things, “conserves landscaped areas, such as public or private golf courses.” The Court focused on the word “conserves.” It found that to “conserve” means “to keep in a safe or sound state.” As a result, the Court viewed the legislative intent behind the statute as providing the open space classification not only to landscaped lands, but also to land that facilitates the existence landscaped lands.

Considering the statute as a whole, the Court found that improvements do not preclude a property from being considered open space just because the land is improved with structures. The Court focused on exceptions to the open space classification in Section 10-155. The first exception is that land is not considered open space if it is used primarily for residential purposes. The Court concluded the existence of the building, in and of itself, does not preclude a property from being considered open space because only if the building is used primarily for residential purposes does the property lose the open space classification. The second exception to open space classification is when the land contains a water retention dam operated primarily for commercial purposes. The Court focused on the use of the words “primarily for a commercial” purpose, concluding that a noncommercial dam can be considered open space. Finally, the Court looked to Section 1-130 of the Property Tax Code, which defines land as both the land itself along with the buildings, structures, and



improvements on the land. The Court then concluded that the existence of improvements by itself does not prevent property from receiving the open space classification.

As a result, the Court held that the improved areas of the Onwentsia Club could be classified as open space, so long as the improved areas conserve the landscaped areas and contribute to the nature of the Club's land as a landscaped area. The case was then remanded to the PTAB to determine if the facts support the conclusion that the improvements actually conserve a landscaped area. In remanding the case, the Court noted that without the golf course there would be no landscaped areas, and without the other improvements there would be no golf course.

The assessment of golf courses as open space has been an issue of contention for several years. This Appellate Court decision lends support to those arguing for the lower open space valuations for all portions of a golf course, regardless of the structures (such as clubhouses) located at such a golf course.

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