

# Publications

## Illinois Supreme Court Affirms that Payment of Property Tax Is Not Required to Appeal to the Property Tax Appeal Board

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By **Lauren Johnson**

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*Shawnee Community Unit School District No. 84 v. Illinois Property Tax Appeal Bd.*, Ill. S. Ct., Dkt. No. 128731, May 23, 2024.

The Illinois Supreme Court issued a determination finding a taxpayer is not required to pay its property tax bill prior to appealing to the Property Tax Appeal Board (PTAB).

The owner of a power plant filed a timely appeal to PTAB seeking a reduction in the value of its property for tax year 2014. After the appeal was filed, the taxpayer's 2014 property taxes came due. The taxpayer did not timely pay the taxes, and the county collector obtained a judgment and order of sale against the taxpayer in circuit court. The taxes were purchased by a third party in 2016.

An intervening school district filed a motion at PTAB seeking to dismiss the 2014 appeal. The school district argued that the taxpayer was required to pay the taxes under protest to pursue an appeal to PTAB. The school district also argued that once the county collector sought a judgment and order of sale in circuit court, the circuit court had jurisdiction over all tax matters at issue. PTAB summarily denied the school district's motion to dismiss.

The taxpayer also filed an appeal to PTAB seeking a reduction in the value of its property for tax year 2015. The taxpayer did not pay its 2015 taxes when due, and the tax lien was purchased by the same third party. In 2017 the taxpayer paid the full amount of its 2014 and 2015 taxes, including interest and penalties.

The PTAB consolidated the taxpayer's 2014 and 2015 appeals and held an evidentiary hearing on the issue of valuation of the subject property. In 2019, PTAB issued a decision that the taxpayer's property had been overvalued and granted a reduction in the value of the property from

\$31,538,245 to \$3,333,000. The school district appealed the PTAB decision to the Illinois appellate court. The appellate court affirmed the PTAB's decision finding that PTAB had not erred by reducing the taxpayer's property value and that payment of tax was not required to appeal to PTAB.

The school district then appealed the sole issue of the taxpayer's lack of timely tax payment to the Illinois Supreme Court. The school district did not challenge the reduction in value. The Court affirmed the appellate court's ruling that payment of property tax is not a prerequisite to filing a PTAB appeal. The Court stated that there is no specific statutory requirement to pay tax prior to appealing and the only requirement for a timely appeal is that the taxpayer must appeal within the 30-day deadline after a local board of review decision. The Court noted that as a practical matter, a taxpayer is required to file an appeal before tax payments are due for the year at issue, and it would be unreasonable for a taxpayer to be required to pay property taxes where the tax bill was not issued prior to the appeal deadline.

Although not determinative of the appeal, the Court also addressed the school district's argument that the circuit court had obtained exclusive jurisdiction when it ordered the tax-sale. The Court found that PTAB did not lose jurisdiction to review and rule on the taxpayer's appeal. The county collector's judgment and order of sale in the circuit court was separate and not mutually exclusive to the appeal to PTAB.

While taxpayers pursuing assessment appeals are not required to pay a property tax bill prior to pursuing an appeal to PTAB, the non-payment of any tax will still subject the taxpayer to enforcement provisions as permitted by law.