

PUBLIC ACT 96-480 (SENATE BILL 543)

Developers' Relief Assessment

What is the “Developers’ Relief Assessment”?

- A preferential assessment for platted and subdivided land in all counties except Cook County
- A prohibition on increasing the assessed value of property that is in transition from vacant land to a residential, commercial, or industrial use
- **Plain English:** Assessed values cannot be increased because of added infrastructure or because the use has changed (its being developed).

Section 10-31 of the Property Tax Code

- **General purpose:** To encourage real estate development by providing a tax incentive that protects a developer from paying increased taxes until a return on the investment can be made.
- **Section 10-31: Temporary “fix” in response to downturn in the economy** (some being foreclosed, some need to unload property to stay solvent, *etc.*)
- **Response:** Expand an existing preferential assessment for developments (Section 10-30 of the Property Tax Code).

Qualifications

All of the following conditions must be met:

- The property is platted and subdivided in accordance with the Plat Act (765 ILCS 205/1 *et seq.*);
- The platting occurs after January 1, 1978;
- At the time of platting the property is in excess of 5 acres and;
- At the time of platting the property is vacant or used as a farm as defined in Section 1-60 of the Property Tax Code.
- An application is not required – you have to stay on top of this!

Valuation Procedure

- Use the same valuation procedure before the property was platted and subdivided — generally, vacant land or farmland. If the land was previously assessed as
 - vacant land (not farm), it continues to be assessed as vacant land (one-third of its fair market value according to its use before the property was platted).
 - farmland, it continues to be assessed under the Farmland Assessment Law – talk to your states attorney about the “Paciga” case (Paciga v. Property Tax Appeal Bd., App.2 Dist.2001, 255 Ill.Dec.590, 322 Ill.App.3d 157, 749 N.E.2d 1072, appeal denied 261 Ill.Dec.350, 196 Ill.2d 546, 763 N.E.2d 320).

Valuation Procedure

- Assessed value is **not** “frozen” at the amount at which it was assessed before it was platted and subdivided.
 - If the fair cash value of vacant land is increasing or decreasing, the assessed value for these parcels should reflect those changes
 - If assessed under the Farmland Assessment Law, then equalized assessed values should reflect changes in the certified EAVs for the particular soil types
- Assessed value **cannot** increase because of new infrastructure (*e.g.*, streets, sidewalks, curbs, gutter, or sewer, water, and utility lines).

Valuation Procedure

- If the property was previously tax-exempt, the exempt entity must notify the chief county assessment officer within 30 days of the date the property was sold. (35 ILCS 200/15-20)
- The exempt status is removed as of the date of the transaction. (35 ILCS 200/9-200)
- Determine the value based on the property classification when the exemption is removed (*i.e.*, vacant land or farm land).

Note: To qualify for a farmland assessment, the property must meet the statutory definition of a farm and must have been in a qualified farm use for at least two years prior to the assessment year. More on that later!

Remove the Preferential Assessment

- A habitable structure is completed (excludes qualifying model homes under Section 10-25 of the Property Tax Code).

Note: “Habitable” means fit for occupancy. Assessment officials decide when a structure is habitable as part of their work. Though not the only resource available, one reliable source of evidence that a structure is habitable is the issuance of a certificate of occupancy by a municipality or county.

- Any lot, including a vacant lot, either alone or in conjunction with any contiguous property, is used for any business, commercial or residential purpose.

Leave the Preferential Assessment

- A subdivided lot is sold (whether it is sold to another developer or to another individual or entity).
- The property is transferred to the mortgage holder
 - a) as part of a foreclosure proceeding, or
 - b) in lieu of foreclosure.
- A subdivision or portion of a subdivision is replatted.

Note: The three circumstances listed above are a change from the traditional developers' relief assessment under Section 10-30 of the Property Tax Code (*i.e.*, any of these events *would* trigger a reassessment).

How to value after removal

- The preferential assessment is removed and the land and any improvements are valued at one-third of their respective market values.
- **Note:** If a single lot is sold, the rest of the land continues to receive the preferential assessment. The assessed value of the unsold land is reduced proportionally to reflect the fact that the lot no longer qualifies for the preferential assessment.

Compare developers' assessment

Section 10-30

Qualifications

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Compare developers' assessment

Section 10-30

Valuation

...the assessed valuation ... shall be determined *each year* based on the *estimated price the property would bring at a fair voluntary sale for use by the buyer for the same purposes for which the property was used when last assessed prior to its platting.*

Section 10-31

Valuation

... the assessed valuation...shall be determined based on the *assessed value assigned to the property when last assessed prior to its last transfer or conveyance.*

Compare developers' assessment

Section 10-30

Valuation

Section 10-31

Valuation

An initial sale of any platted lot, including a lot that is vacant, or a transfer to a holder of a mortgage, as defined in Section 15-1207 of the Code of Civil Procedure, pursuant to a mortgage foreclosure proceeding or pursuant to a transfer in lieu of foreclosure, does not disqualify that lot from the provisions of this subsection (b).

Compare developers' assessment

Section 10-30

Removal

Upon completion of a habitable structure on any lot of subdivided property, or upon the use of any lot, either alone or in conjunction with any contiguous property, for any business, commercial or residential purpose, ***or upon the initial sale of any platted lot, including a platted lot which is vacant:***

Section 10-31

Removal

Upon completion of a habitable structure on any lot of subdivided property, or upon the use of any lot, either alone or in conjunction with any contiguous property, for any business, commercial or residential purpose

Compare developers' assessment

Section 10-30

Removal

(i) the provisions of subsection (b) of this Section shall no longer apply in determining the assessed valuation of the lot, (ii) each lot shall be assessed without regard to any provision of this Section, and (iii) the assessed valuation of the remaining property, when next determined, shall be reduced proportionately to reflect the exclusion of the property that no longer qualifies for valuation under this Section.

Section 10-31

Removal

(i) the provisions of subsection (b) of this Section shall no longer apply in determining the assessed valuation of the lot, (ii) each lot shall be assessed without regard to any provision of this Section, and (iii) the assessed valuation of the remaining property, when next determined, shall be reduced proportionately to reflect the exclusion of the property that no longer qualifies for valuation under this Section.

Compare developers' assessment

Section 10-30

Removal

Holding or offering a platted lot for initial sale shall not constitute a use of the lot for business, commercial or residential purposes unless a habitable structure is situated on the lot or unless the lot is otherwise used for a business, commercial or residential purpose.

Section 10-31

Removal

Holding or offering a platted lot for initial sale shall not constitute a use of the lot for business, commercial or residential purposes unless a habitable structure is situated on the lot or unless the lot is otherwise used for a business, commercial or residential purpose. ***The replatting of a subdivision or portion of a subdivision does not disqualify the replatted lots from the provisions of subsection (b).***

Effective Date

- *Temporarily replaces* the existing developer's preferential assessment for platted and subdivided land under Section 10-30 of the Property Tax Code beginning August 14, 2009.
- Implement January 1, 2010. Property is assessed as of its condition on January 1. (Section 9-155 of the Property Tax Code)
- The preferential assessment under Section 10-30 of the Property Tax Code resumes January 1, 2012.

Effective Date

Example: Prior to the platting and subdivision, the property was assessed under the Farmland Assessment Law. On January 1, 2009, the subdivided land was assessed under Section 10-30 of the Property Tax Code and the equalized assessed value was based on the farmland values the Department of Revenue certified for the 2009 assessment year. On May 1, 2009, (prior to the enactment of Public Act 96-480), the property was transferred to a mortgage holder as part of a foreclosure proceeding. The property continues to be assessed under Section 10-30 for the remainder of 2009. The property is then valued as of its condition on January 1, 2010. The property qualifies for the new Section 10-31 preferential assessment valuation procedure and is assessed under Section 10-31 of the Property Tax Code.

Common Questions

- Do 2008 transactions qualify?
 - No. Those properties should have been revalued on January 1, 2009.
- Does a sale to another developer in 2009 qualify?
 - Yes. Leave the 10-30 valuation in place until January 1, 2010 and then assess under Section 10-31 (basically the same, but change ownership information).
- What should I do if a lot or subdivision was sold or transferred in 2009, I reassessed before the effective date, and I have already closed my books?
 - Your Board of Review can correct the assessment if they are still in session.

Common Questions

- What happens on January 1, 2012?
 - If the legislature does not take action to continue this preferential assessment, it is removed and assessed based on its fair cash value. If the General Assembly takes other action, we'll be in touch!