

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

JERI J. BARR, JOHN BARRINGTON,)
PEGGY FREESE, REBECCA TONIGAN,)
GARY P. RAUPP, DOUGLAS ALEXANDER,)
BRADFORD BUCKLEY, JAMES CARLINO,)
KIP URBAN, RICHARD CHAMBERS,)
DAVID STEIDINGER, and PETER VOSS,)

Plaintiffs,)

v.)

Case No. 2016 CV 10119

MARTIN P. PAULSON, Individually and in)
his official capacity as the appointed Chief)
County Assessment Official of Lake County,)
Illinois, and in his official capacity as Clerk)
of the Lake County Board of Review; and)
THE COUNTY OF LAKE, ILLINOIS, an)
Illinois unit of local government; THE LAKE)
COUNTY BOARD OF REVIEW, an Illinois)
unit of local government; PETE FLEMING,)
individually and in his official capacity as a)
member of the LAKE COUNTY BOARD)
OF REVIEW; WENDY M. KOTULLA,)
individually and in her official capacity)
as a member of the LAKE COUNTY)
BOARD OF REVIEW; MARIA R. HELM,)
individually and in her official capacity as)
a member of the LAKE COUNTY BOARD)
OF REVIEW; and DAVID STOLMAN,)
in his official capacity as the TREASURER)
of LAKE COUNTY, ILLINOIS,)

Defendants.)

JURY DEMANDED

**COMPLAINT FOR RELIEF FOR VIOLATIONS AND
DEPRIVATIONS OF PLAINTIFFS' CIVIL RIGHTS
AND FOR DECLARATORY ACTION**

The Plaintiffs, JERI J. BARR, JOHN BARRINGTON, PEGGY FREESE, REBECCA
TONIGAN, GARY P. RAUPP, DOUGLAS ALEXANDER, BRADFORD BUCKLEY, JAMES

CARLINO, KIP URBAN, RICHARD CHAMBERS, DAVID STEIDINGER, and PETER VOSS, by and through their attorneys, ANCEL, GLINK, DIAMOND, BUSH, DICIANNI & KRAFTHOFER, P.C., for their Complaint against the Defendants, MARTIN P. PAULSON, Individually and in his official capacity as the appointed Chief County Assessment Official of Lake County, Illinois, and his official capacity as Clerk of the Lake County Board of Review, and THE COUNTY OF LAKE, ILLINOIS, an Illinois unit of local government, THE LAKE COUNTY BOARD OF REVIEW, an Illinois unit of local government, PETE FLEMING, individually and in his official capacity as a member of the LAKE COUNTY BOARD OF REVIEW, WENDY M. KOTULLA, individually and in her official capacity as a member of the LAKE COUNTY BOARD OF REVIEW, MARIA R. HELM, individually and in her official capacity as a member of the LAKE COUNTY BOARD OF REVIEW, and DAVID STOLMAN, in his official capacity as the TREASURER OF LAKE COUNTY, ILLINOIS, state as follows:

INTRODUCTION

Plaintiffs, JERI J. BARR (“Barr”), JOHN BARRINGTON (“Barrington”), PEGGY FREESE (“Freese”), REBECCA TONIGAN (“Tonigan”) and GARY P. RAUPP, (“Raupp”) are the elected township assessors of the Townships of Grant, Ela, Libertyville, Cuba and Vernon, respectively. (These Plaintiffs are collectively referred to hereinafter as the “Township Assessors.”) They bring this action pursuant to Title VII of the Civil Rights Act of 1964, as amended, Section 1983, for violations of their equal protection, due process rights, as well as rights guaranteed to them by the First and Fourteenth Amendments.

As elected township assessors, they have a right to perform the functions of their elected offices. These include certain functions related to property valuation that they are required to

perform, by Illinois law. Defendant Martin Paulson, the Chief County Assessment Official, is not an elected official. He has been appointed by the Defendant County of Lake to serve as the County's Chief County Assessment Official ("CCAO"). Paulson has been hindering and preventing the Township Assessors from performing the functions of their elected offices and, in some cases, arbitrarily reducing or completely nullifying their acts of property equalization and valuation. Paulson is doing this because he believes that the functions of township assessors should be abolished and consolidated into his office. He is depriving the elected Assessors of their right to perform the functions of their elected offices without due process or equal protection. The Township Assessors seek injunctive relief to prevent him from continuing to interfere with the performance of the duties of their elected offices. They also seek a declaration that many of his actions are unlawful under Illinois law. Lake County, Illinois is named as a defendant because the Lake County Board employs Paulson, is aware that he is preventing the Township Assessors from performing their statutory functions and is taking no action to stop Paulson, its agent.

In addition, Paulson and the Defendant Lake County Board of Review are not uniformly following the procedure established by Illinois law to make changes to property assessments when requested by property owners. While Illinois law established a procedure for property owners to challenge their assessments before the Board of Review, at times property owners can simply bypass all statutory procedures and call Paulson, or his staff, and receive a property valuation change without any procedure or record, and without the required participation of the Township Assessors. For example, a representative of a large commercial and industrial taxpayer in Libertyville Township placed a phone call to Paulson challenging the property's

valuation, and received, as a result of the phone call, a reduction of property valuation resulting in a tax assessment reduction for that taxpayer in excess of \$11,000,000, resulting in that taxpayer's taxes being lowered by approximately \$910,000, simply at Paulson's whim. The Lake County Board of Review and its individual members are named as Defendants because they have either permitted Paulson, who serves as Clerk of the Board of Review, to engage in these arbitrary property assessment reductions, or they have been, in other instances, party to simply rubber-stamping Paulson's arbitrary decisions. When certain properties receive arbitrary reductions in property values, such as in this example, those decreased tax revenues have to be paid by other taxpayers within the township, who are then subject to paying more simply because other similarly-situated taxpayers have had the benefit of an arbitrary, beneficial property tax reduction.

For these reasons, the Assessors are joined in this litigation by Plaintiffs, DOUGLAS ALEXANDER, BRADFORD BUCKLEY, JAMES CARLINO, KIP URBAN, RICHARD CHAMBERS, DAVID STEIDINGER, and PETER VOSS who are owners of residential, commercial or industrial property in Lake County, Illinois. (These plaintiffs are hereinafter referred to as the "Taxpayer Plaintiffs.") Because of the illegal acts of Defendant Paulson and the Defendant Board of Review in reversing or eliminating the Township Assessors' property valuation determinations in an arbitrary and capricious manner to undermine and effectively abolish the role of the Township Assessors, the Taxpayer Plaintiffs have had to pay taxes in excess of what they should be paying because they have not received the benefit that was given to other property taxpayers in an arbitrary manner.

While Illinois law has a system for taxpayers to challenge property tax rates and property tax assessments, there is no remedy under Illinois law for a situation like this, where governmental actors are not properly following laws or applying them arbitrarily and, as a result of their failure to uniformly follow the laws, other property taxpayers are having their otherwise proper tax bills inflated. The equal protection rights of the Taxpayer Plaintiffs are being violated because of the Defendants' selective, intentional systemic undervaluation of certain taxable property in the same class which is causing them to pay higher taxes than those taxpayers given arbitrary favor by the Defendants. They seek relief for the violation of their Constitutional rights.

VENUE AND JURISDICTION

1. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b)(2) because the events giving rise to this claim occurred in this District.

2. This Court has jurisdiction over the Plaintiffs' 42 U.S.C. §1983 civil rights claims pursuant to 28 U.S.C § 1331 because those claims arise under the laws and Constitution of the United States.

3. This Court has jurisdiction over the Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367(a) because they are so related to the Section 1983 claims that they form part of the same case or controversy under Article III of the United States Constitution.

PARTIES

Plaintiffs

4. Plaintiff JERI J. BARR ("Barr") is the duly elected Township Assessor of Grant Township, Lake County, Illinois.

5. Plaintiff JOHN BARRINGTON (“Barrington”) is the duly elected Township Assessor of Ela Township, Lake County, Illinois.

6. Plaintiff PEGGY FREESE (“Freese”) is the duly elected Township Assessor of Libertyville Township, Lake County, Illinois.

7. Plaintiff REBECCA TONIGAN (“Tonigan”) is the duly elected Township Assessor of Cuba Township, Lake County, Illinois.

8. Plaintiff GARY P. RAUPP (“Raupp”) is the duly elected Township Assessor of Vernon Township, Lake County, Illinois.

9. Plaintiff DOUGLAS ALEXANDER is a property owner subject to taxation on his property, which is located in Cuba Township, Lake County, Illinois.

10. Plaintiff BRADFORD BUCKLEY is a property owner subject to taxation on his property, which is located in Grant Township, Lake County, Illinois.

11. Plaintiff JAMES CARLINO is a property owner subject to taxation on his property, which is located in Grant Township, Lake County, Illinois.

12. Plaintiff KIP URBAN is a property owner subject to taxation on his property, which is located in Libertyville Township, Lake County, Illinois.

13. Plaintiff RICHARD CHAMBERS is a property owner subject to taxation on his property, which is located in Cuba Township, Lake County, Illinois.

14. Plaintiff DAVID STEIDINGER is a property owner subject to taxation on this property, which is located in Ela Township, Lake County, Illinois.

15. Plaintiff PETER VOSS is a property owner subject to taxation on his property, which is located in Ela Township, Lake County, Illinois.

Defendants

16. Defendant MARTIN P. PAULSON (“Paulson”) is the appointed Chief County Assessment Official of Lake County, Illinois. He is also the Clerk of the Lake County Board of Review. He is sued in his individual and official capacities.

17. Defendant COUNTY OF LAKE, ILLINOIS, is an Illinois unit of local government.

18. Defendant LAKE COUNTY BOARD OF REVIEW is a statutorily-created administrative body, vested with the responsibility to review property assessments when it has received a written complaint that any property is over assessed or under assessed.

19. Defendant PETE FLEMING is a member of the LAKE COUNTY BOARD OF REVIEW. He is sued in his individual and official capacities.

20. Defendant WENDY M. KOTULLA is a member of the LAKE COUNTY BOARD OF REVIEW. She is sued in her individual and official capacities.

21. Defendant MARIA R. HELM is a member of the LAKE COUNTY BOARD OF REVIEW. She is sued in her individual and official capacities.

22. Defendant DAVID STOLMAN is the Treasurer of the COUNTY OF LAKE. He is sued solely in his official capacity.

ALLEGATIONS COMMON TO ALL COUNTS

23. Illinois township assessors, including the Township Assessors who are plaintiffs in this action are elected to perform certain statutory functions. See 35 ILCS 200/2-5, *et seq.*

24. Among other duties, the Township Assessors statutory responsibilities include the valuation of property in general assessment years (35 ILCS 200/9-155); certain revaluation

functions in non-general assessment years, including the addition of new property (35 ILCS 200/9-160); decreasing valuation for properties that were destroyed and rendered uninhabitable or otherwise unfit for occupancy (35 ILCS 200/9-180); equalization of property within townships or between classes of property (35 ILCS 200/9-205); applying exemptions; and revising and correcting assessments (35 ILCS 200/9-75).

25. When Township Assessors perform these statutory functions resulting in an added or changed assessment, the county is required to publish notices in newspapers informing property owners of the changes in their valuation. 35 ILCS 200/12-10.

26. Illinois counties with populations of less than 3,000,000 inhabitants appoint chief county assessment officers (“CCAO’s), who then perform certain functions within the local property tax valuation process. 35 ILCS 200/3-5.

27. Appointed CCAO’s are not given the statutory authority to supervise elected township assessors. However, CCAO’s also perform a role in the property valuation process, such as equalization and applying exemptions. Once property valuation has been determined, and once local governments have submitted their levies informing the county how much revenue they need in a given year, the levy amounts are apportioned to the taxpayers based upon the equalized assessed valuation of the property.

28. If taxpayers dispute their property’s assessment, they can file a property tax assessment complaint in writing with their local Board of Review. See 35 ILCS 200/16-55.

29. The process for property valuation, and for appeals, is set forth in the Property Tax Code. This system is broken in Lake County, Illinois. The Township Assessors are attempting to perform their statutory functions related to property valuation, but they are being

blocked and hindered from doing so by Lake County's CCAO, Defendant Martin Paulson, ("Paulson") because of his personal political views that a) the office of township assessor should be abolished and the assessors' functions should only be performed by the CCAO, b) property taxes should only be lowered, not raised, and c) costs to County government can be reduced if the township assessors are prevented from performing their statutory functions because the County can save publication costs.

30. This lawsuit has been filed by five assessors who have been elected in different townships in Lake County, Illinois to stop Lake County's appointed CCAO, Martin Paulson, from continuing to interfere with their protected rights to perform their statutory functions because of his opposing political beliefs.

31. Paulson is not an elected official; he is appointed by the Lake County Board.

32. In an attempt to prove his purported superiority, knowledge and value, as well as to diminish the importance of township assessors, Paulson has embarked upon a course of actions designed to hinder and prevent the Township Assessors from performing their statutory functions.

33. There are several egregious acts that Paulson has engaged in to beat the Township Assessors into submission with his political views and to hinder them from performing their statutory functions of their elected offices. These include Paulson's act of locking the Township Assessors out of "trending" and "batch posting" portions of the County's computer system that permit the assessors to easily and uniformly equalize neighborhoods and to revalue parcels which have had condition changes since their last assessment.

34. After certain Township Assessors submitted their statutorily-authorized property valuation changes to the County (for example, for properties that were fire damaged, added improvements such as decks, or properties that were equalized by the Township Assessors, etc.), Paulson and his staff completely reversed and eliminated the changes the Township Assessors made to over 17,000 parcels of property within 72 hours, not based upon any unique criteria related to those parcels or because the values were incorrect, but instead in an act of political retaliation against the Township Assessors.

35. These actions are in violation of federal constitutional guarantees given to the Township Assessors which give them a protected interest in performing the statutory functions of their elected offices.

36. In addition, Paulson has also misapplied several statutes to benefit taxpayers so that certain taxpayers will have lower taxes.

37. Paulson's act of lowering the tax assessments for certain properties, especially larger commercial or industrial properties, results in higher taxes for other taxpayers, who must make up the difference to raise the funds needed for the local governmental levies.

38. Paulson has altered the records and computer data of Township Assessors that have adjusted property valuation to make it appear that the adjustments Paulson has made were actually made by Township Assessors by changing their line items on the computer under the areas designated for the Township Assessors to make their changes.

39. Paulson also serves as the clerk for the Lake County Board of Review. Paulson has submitted falsified documents to the Lake County Board of Review to make it appear that

certain changes in valuation were implemented by the Township Assessors when they, in fact, were not and were made by Paulson's office.

40. Based upon the phone call from the tax representative from one large commercial/industrial taxpayer, Paulson submitted documentation to the Board of Review reducing the property assessments for that one taxpayer by over \$11,000,000, and indicating that the adjustment was requested by the township assessor when it was, in fact, not requested by the assessor at all.

41. Paulson and the Board of Review have made changes to property assessments without written complaints having been filed and without the hearings required by the Property Tax Code.

42. The actions of the CCAO and the Lake County Board of Review in changing property valuation without a complaint or hearing, and not predicated upon any articulable standard violates the Plaintiff Taxpayers' equal protection rights.

43. Changes to property assessments are required to be predicated upon specific valuation criteria, not upon the CCAO's view that Township Assessors are incompetent or should be eliminated.

44. Paulson has informed the Township Assessors that he believes assessments should only be lowered, not raised, in most cases.

45. Paulson is using his appointed office to override the statutory duties of the elected Township Assessors based upon Paulson's belief that Township Assessors should be eliminated.

46. Paulson is abusing his appointed office to artificially and arbitrarily lower some property assessments in accordance with his personal and political beliefs, causing the Plaintiff Taxpayers, who are similarly situated the denial of their equal protection rights.

47. The Township Assessors have attempted to resolve these issues with members of the Lake County Board and their representatives. Those attempts have failed.

48. Instead, in response to the complaints of the Township Assessors, Paulson and the County have embarked upon an attempt to study the consolidation of township assessors' offices into the County, in an attempt to eliminate the statutory functions of township assessors, although currently County Boards have no statutory or lawful ability to abolish the elected officers of other units of local government located within the County.

49. The Defendant County of Lake has also compelled the Township Assessors to justify their existence to them under the guise of governmental consolidation.

50. Property assessment should not be based on personal and political views of an assessing officer. Lake County's taxpayers should not have their property values caught up in a political vendetta that Lake County and its CCAO have against the Township Assessors.

51. Paulson has been using his appointed office to make changes to property tax valuation based not on any objective criteria, but on his own personal view and political beliefs. Lake County has refused to stop him. The Board of Review often simply rubberstamps Paulson's recommendations, at times without performing the hearing required by statute.

COUNT I
SECTION 1983 – DUE PROCESS AND EQUAL PROTECTION VIOLATIONS
(TOWNSHIP ASSESSORS AGAINST PAULSON AND THE COUNTY OF LAKE)

52. Plaintiffs reallege and reassert the allegations set forth in paragraphs 1 through 53 of this Complaint as though fully set forth herein.

53. The elected Township Assessors have a vested property interest in holding the offices to which they were duly elected.

54. An inherent part of that property interest is the right to perform the functions and duties of their elected offices as set forth by state law without interference from others.

55. This property interest cannot be taken from them by governmental action without due process of law.

56. Paulson's acts in hindering the Township Assessors from performing their functions, and undoing the statutory assessment functions that they have performed because he disagrees with them, or simply because he can, for reasons wholly unrelated to property assessment has deprived them of their due process rights.

57. The Township Assessors are also entitled to equal protection of the law in regards to their property interests. In rejecting all the property assessment changes that some, but not all, township assessors in Lake County have made, the Defendants have violated the Township Assessors' equal protection rights by treating them in a manner differently than other similarly situated elected township assessors without any rational basis for doing so.

58. The 14th Amendment of the United States Constitution prohibits any state acts to deny any person within the public jurisdiction the equal protection of the laws.

59. Defendant County of Lake is aware that Paulson is blocking the Township Assessors from performing their statutory functions and has continued to permit Paulson to do so.

60. At the time of these actions, Paulson and the County of Lake were acting under color of state law, singled out a particular group, namely the Township Assessors for disparate treatment because of their speaking out against the operations of Paulson's office in the advancement of their First Amendment rights.

61. The actions of Defendants have been discriminatory against the Township Assessors on the basis of their elected offices and Paulson's desire to abolish said offices rather than being properly based in law, fact or legitimate public policy.

62. The acts of Defendants amount to discrimination against Township Assessors and those Defendants' failure to protect Plaintiffs against political or associational discrimination constitutes state action within the meaning of the 14th Amendment to the United States Constitution. Those Defendants have, therefore, violated the Township Assessors' rights to equal protection of the laws secured to them by the 14th Amendment.

63. At all times, Paulson and Defendant County of Lake functioned as public employees or policy makers with respect to the allegations of this Complaint.

64. Because of the actions of these Defendants, the Township Assessors have suffered, and continue to suffer, damages.

65. By reason of the foregoing, these Defendants have subjected Plaintiffs to deprivation of their rights to equal protection under the laws and are liable in equity and for damages to Plaintiffs under the law.

66. Paulson's desire and the desire of the governing board of the County of Lake, Illinois, to abolish Township Assessors is the motivating factor behind the deprivation of the Township Assessors' federal rights.

67. Paulson has engaged in a course of conduct that has violated the Township Assessors' rights while operating under color of state law in their capacities as an appointed official of the County of Lake.

68. Defendants Paulson and the County of Lake have impermissibly acted to deprive the Plaintiffs of their First Amendment Rights and to equal protection under the law as provided by both the 14th Amendment of the United States Constitution and Article III, Section 3 of the Illinois State Constitution.

WHEREFORE, the Township Assessors respectfully request this Honorable Court to grant the following relief:

- A. For an order finding that Paulson has violated their rights and hindered the performance of the Township Assessors' official functions.
- B. For an order prohibiting Paulson from locking the Township Assessors out of the "trending" and "batch posting" functions of the shared computer system.
- C. For an order prohibiting Paulson from changing property assessments or removing township factors at whim not based on any facts or evidence related to property values or in retaliation against Township Assessors.
- D. For an order prohibiting Paulson from interfering with the Township Assessors' performance of their statutory duties.
- E. For an order prohibiting Paulson from politicizing property valuation based upon his personal political beliefs so that only lower, not higher, taxes result to certain taxpayers.
- F. For an order prohibiting Paulson from making wholesale revisions to Township Assessors' revisions and corrections to properties without any support for same and in retaliation against the Township Assessors.
- G. For punitive damages in an appropriate amount;
- H. For attorneys' fees and costs;
- I. For such other and further or different relief as this Court deems just.

COUNT II

**DECLARATORY ACTION
(DEFENDANTS ARE NOT FOLLOWING STATE LAW)**

69. The Plaintiffs reallege and reassert the allegations set forth in paragraphs 1 through 70 of this Complaint as though fully set forth herein.

70. As a part of Paulson's attempt to systematically undermine the primary work of the elected Township Assessors, Paulson has improperly construed several provisions of the Property Tax Code, and then used his misinterpretations to achieve his desired results.

71. Paulson has informed the Township Assessors that he believes they cannot equalize or revalue property in a non-general reassessment year.

72. Section 9-75 of the Illinois Property Tax Code, 35 ILCS 200/9-75, provides that township assessors may, in any year, revise and correct assessments as appears to be just.

73. Because Paulson disagrees that Section 9-75 permits township assessors to revise and correct assessments in any year, he uses the powers of his appointed office of CCAO to eliminate revisions and corrections of assessments that the Township Assessors make, thereby undermining their offices and resulting in inequitable property assessments.

74. Section 9-205 of the Illinois Property Tax Code provides that township assessors may equalize property assessments "when deemed necessary to raise or lower assessments by a percentage increase or decrease to assessment." 35 ILCS 200/9-205.

75. Because Paulson disagrees that Section 9-205 permits township assessors to equalize assessments when they deem it necessary, he uses the powers of his appointed office of

CCAO to eliminate equalizations that the Township Assessors have made, thereby undermining their offices and resulting in inequitable property assessments.

76. Paulson's actions in locking the Township Assessors out of the "trending" and "batch posting" functions of the County's shared computer system was intended to make it much more difficult for the Township Assessors to perform their statutory equalization function.

77. Paulson has informed the Township Assessors that he believes they should not be changing assessments in a non-general reassessment year, unless they are doing so in a manner to lower the assessment.

78. Section 9-160 of the Illinois Property Tax Code provides that township assessors may, in any year, add new property, additional buildings or structures. 35 ILCS 200/9-160.

79. Because Paulson does not want the Township Assessors to implement any changes in assessments pursuant to Section 9-160, he uses the powers of his appointed office of CCAO to eliminate any changes in assessments that the Township Assessors make, thereby undermining their offices and resulting in inequitable property assessments.

80. Paulson also reverses and blocks the Township Assessors from performing their statutory functions because he does not want the County to incur the publication costs that would be incurred if the Township Assessors were permitted to perform their lawful duties.

81. Paulson has informed the Township Assessors that he believes Board of Review reductions for all parcels, homestead, commercial and industrial, and regardless of how they are occupied – whether by resident or tenant - should remain in effect for the remainder of the general assessment period, and that such reduced parcels are not subject to equalization by the Township Assessors.

82. Section 16-80 of the Illinois Property Tax Code provides only that owner-occupied homestead properties shall continue to receive a Board of Review reduction for the remainder of the general assessment period, and further provides that such properties are subject to equalization, contrary to Paulson's position. 35 ILCS 200/16-80.

83. Because, in his position as Clerk of the Board of Review, Paulson misinterprets and misapplies the exemption in Section 16-80 to apply to many more categories of properties than it does, he and the Defendant Board of Review are extending the exemption to all properties that have received reductions from the Board of Review, regardless of whether the properties involved are homestead or non-homestead and owner occupied or leased, contrary to the statute.

84. The Defendants' disregard of the exemption law is causing an inequity in property assessments and property tax payments because properties that are not entitled to exemptions for Board of Review reductions are continuing to get the benefit of the reduction when they are not entitled to them by law.

85. Further, Section 16-80 specifies that the reduced assessment of homestead property, subject to equalization, shall remain in effect 'unless the taxpayer, county assessor, or other interested party can show substantial cause why the reduced assessment should not remain in effect.' 35 ILCS 200/16-80. When the Township Assessors have attempted to demonstrate "substantial cause" by producing evidence that a property's physical characteristics have changed after a BOR reduction, or where there was a factual error that needed to be corrected, or where the actual fair market value of the property is determined by the sale of the property in question, Paulson and the BOR have refused to deem these events to be "substantial cause,"

again in an attempt to diminish the statutory role of the Township Assessors and to prevent them from performing their functions.

86. The refusal of Defendant Paulson and the Defendant Board of Review to properly remove the continued reduction when there is substantial cause for a change in the property's assessment after the date that the property received a BOR reduction, but within the remainder of the general assessment period, is resulting in certain properties that meet these conditions being under assessed and, as a result, other property taxpayers who are similarly situated are required to pay a higher amount of taxes based on the proper valuation of their own properties.

87. Because Paulson does not want the Township Assessors to implement any changes in assessments pursuant to Section 16-80, he uses the powers of his appointed office of CCAO and as Clerk of the Defendant Board of Review to eliminate any lawful changes in assessments that the Township Assessors make, thereby undermining their offices and resulting in inequitable property assessments.

88. Section 9-213 of the Illinois Property Tax Code requires CCAO's to provide a "plain-English explanation of all township, county and State equalization factors, including the rationale and methods used to determine the equalizations." 35 ILCS 200/9-213.

89. The Township Assessors have repeatedly requested Paulson to provide the plain-English explanation of county equalization factors, and Paulson has refused to do so.

90. Section 16-55 of the Illinois Property Tax Code authorizes the Board of Review to review assessments only upon receipt of a written complaint. 35 ILCS 200/16-55. Paulson and the Defendant Board of Review review and change assessments for certain property taxpayers without requiring a written complaint or without conducting a hearing, at times just based upon a

phone call to Paulson. This arbitrary disregard of the written complaint process results in unlawful preferential treatment to certain taxpayers and not to others.

91. Said conduct also violates the Illinois Open Meetings Act, which requires that final decisions be made in an open session of a public meeting.

92. Section 16-55(g) requires that the Board of Review cannot make a reduction in assessments without first giving notice to the Township Assessors and giving the Township Assessors an opportunity to be heard thereon. 35 ILCS 200/16-55(g).

93. Paulson and the Board of Review routinely make reductions in assessments without providing the legally required notice to the Township Assessors and without providing the Township Assessors with a right to be heard as required by Section 16-55(g).

94. In addition, Paulson and the Board of Review routinely make “off the record” settlements with property taxpayers reducing their assessments without notice to, or participation of, the Township Assessors. This favorable, inequitable and arbitrary treatment of certain taxpayers results in skewed property assessments that are uneven and not remotely uniform for property taxpayers who are similarly situated.

95. In addition, Paulson and the Board of Review make “settlement deals” that impact how a property’s value will be assessed in the future. These Defendants have no legal ability whatsoever to enter into settlement agreements determining what a property’s value will be several years down the road. There is no legal support for such practice.

96. Section 9-80 of the Illinois Property Tax Code requires that any changes by the CCAO in valuations must be noted in a column provided for CCAO changes, with no changes being made by the CCAO in the Township Assessor’s figures. 35 ILCS 200/9-80. Contrary to

this legal requirement, Paulson and his staff have made changes to the Township Assessor's figures as if the changes made by the CCAO were made by the Township Assessors.

97. Further, when a property taxpayer requests a change in assessment that will reduce the taxpayers' assessment by in excess of \$100,000, any impacted taxing body is entitled to notice. Some "off the record" settlements are occurring without notice to the impacted taxing body that would otherwise be entitled to notice and to participate.

98. As a result of the Defendants' unlawful actions as described herein, the Plaintiffs rights are being violated.

WHEREFORE, the Township Assessors respectfully request this Honorable Court to grant the following declaratory relief:

- A. For an order declaring that Section 9-75 of the Illinois Property Tax Code, 35 ILCS 200/9-75, provides that township assessors may, in any year, revise and correct assessments as appears to be just and that the Defendants cannot eliminate the Township Assessors revised and corrected assessments on an arbitrary basis without just cause for doing so.
- B. For an order declaring that Section 9-205 of the Illinois Property Tax Code permits the Township Assessors to equalize property assessments "when deemed necessary to raise or lower assessments by a percentage increase or decrease to assessment" each year.
- C. For an order declaring that Section 9-160 of the Illinois Property Tax Code permits Township Assessors to add new property, additional buildings or structures in any year.
- D. For an order declaring that lawful changes in valuation and equalization effectuated by the Township Assessors cannot be undone by the Defendants simply so that the County will not have to pay the required publication costs.
- E. For an order declaring that Section 16-80 of the Illinois Property Tax Code provides only that owner-occupied homestead properties shall continue to receive a Board of Review reduction for the remainder of the general assessment period, and further provides that such properties are subject to equalization, and declaring that homestead properties that are not owner-occupied and commercial and

industrial properties are not permitted by law to continue to receive a Board of Review reduction for the remainder of the general assessment period.

- F. For an order declaring that a property that has received a Board of Review reduction that changed its physical characteristics in a manner so as to increase its value is not entitled to carry forward a Section 16-80 Board of Review reduction after such time as its physical characteristics have changed.
- G. For an order declaring that a property that has received a Board of Review reduction that contains a factual error is not entitled to carry forward a Section 16-80 Board of Review reduction after such time as the factual error is determined.
- H. For an order declaring that a property that has received a Board of Review reduction that is subsequently sold in an arm's length transaction from which a fair market value can be determined is not entitled to carry forward a Section 16-80 Board of Review reduction after such time as the fair market value of the property can be determined from its actual sales price in an arm's length transaction.
- I. For an order declaring that there is substantial cause for a reduced assessment to no longer remain in effect when either a) a property's physical characteristics have changed after a BOR reduction, b) or where there was a factual error that needed to be corrected related to the property that received the reduction, or c) where the actual fair market value of the property is determined by the sale of the property in question.
- J. For an order declaring that Section 9-213 of the Illinois Property Tax Code requires Paulson to provide a "plain-English explanation of all township, county and State equalization factors, including the rationale and methods used to determine the equalizations" and requiring Paulson to do so.
- K. For an order declaring that Section 16-55 of the Illinois Property Tax Code authorizes the Board of Review to review assessments only upon receipt of a written complaint and requiring the Board of Review to render final decisions on assessments of property in public, not in secret.
- L. For an order declaring that the Board of Review is required to take final action on assessment complaints only in public at an open meeting in accordance with the Illinois Open Meetings Act.
- M. For an order declaring that Section 16-55(g) of the Illinois Property Tax Code requires that the Board of Review cannot make a reduction in assessments without

first giving notice to the Township Assessors and giving the Township Assessors an opportunity to be heard thereon.

- N. For an order declaring that Paulson and the Board of Review have no legal ability to make an “off the record” settlements with property taxpayers reducing their assessments without notice to, or participation of, the Township Assessors, or in the case of proposed reductions in excess of \$100,000, the taxing bodies, nor to make “settlement deals” that impact how a property’s value will be assessed **in the future**.
- O. For an order declaring that Section 9-80 of the Illinois Property Tax Code requires that any changes by the CCAO in valuations must be noted in a column provided for CCAO changes, with no changes being made by the CCAO in the Township Assessor’s figures and directing Paulson to stop making changes to the Township Assessor’s figures.
- P. For such other and further or different relief as this Court deems just.

COUNT III

SECTION 1983 – DUE PROCESS AND EQUAL PROTECTION VIOLATIONS (TAXPAYER PLAINTIFFS AGAINST PAULSON, THE COUNTY OF LAKE AND THE LAKE COUNTY BOARD OF REVIEW)

99. The Plaintiffs reallege and reassert the allegations set forth in paragraphs 1 through 99 of this Complaint as though fully set forth herein.

100. Plaintiffs, DOUGLAS ALEXANDER, BRADFORD BUCKLEY, JAMES CARLINO, KIP URBAN, RICHARD CHAMBERS, DAVID STEIDINGER, and PETER VOSS are all owners of residential, commercial or industrial property in Lake County, Illinois.

101. Because of the illegal acts of Defendant Paulson and the Defendant Board of Review and their failure to follow the law, as described above, and because of Defendant County of Lakes’ failure to prevent said actions of their agents, the Taxpayer Plaintiffs have had to pay taxes in excess of what they should be paying because they have not received the benefits that were arbitrarily given to other property taxpayers even though they are similarly situated.

102. Because of the Defendants' illegal actions as detailed in this complaint, The equal protection rights of the Taxpayer Plaintiffs are being violated because of the Defendants' selective, intentional systemic undervaluation of certain taxable property in the same class which is causing them to pay higher taxes than those taxpayers given arbitrary favor by the Defendants.

103. Because of the arbitrary application and misapplication of property valuation laws to other property taxpayers who are similarly situated, the Plaintiffs have suffered actual damages because they have had to pay higher taxes as a result of the improperly reduced valuation of other properties in their taxing districts, as described above.

WHEREFORE, the Taxpayer Plaintiffs respectfully request this Honorable Court to grant the following relief:

- A. For an order finding that Defendants have violated the Taxpayer Plaintiffs' federal constitutional rights to equal protection of the laws.
- B. For punitive damages against Defendants.
- C. For an order requiring Defendants to value property in Lake County in accordance with the mandates of the Illinois Property Tax Code in the future.
- D. For attorneys' fees and costs.

PLAINTIFFS

By: s/ Keri-Lyn J. Krafthefer
One of their attorneys

Keri-Lyn J. Krafthefer

Megan A. Mack

Kurt S. Asprooth

ANCEL, GLINK, DIAMOND, BUSH, DiCIANNI & KRAFTHEFER, P.C.

140 S. Dearborn Street - Sixth Floor

Chicago, IL 60603-5202

Telephone: (312) 782-7606

Email: kkrafthefer@ancelglink.com

mmack@ancelglink.com

kasprooth@ancelglink.com

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