



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Sheridan Point Condominium Association
DOCKET NO.: 10-20984.001-R-1
PARCEL NO.: 14-05-203-012-1091

The parties of record before the Property Tax Appeal Board are Sheridan Point Condominium Association, the appellant, by attorney Kerry T. Bartell, of Kovitz Shifrin Nesbit in Buffalo Grove; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 465
IMPR.: \$13,494
TOTAL: \$13,959

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2010 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property is a residential condominium unit contained in a 39 year-old, multi-story, 136-unit residential condominium building of masonry construction. Both the subject and the building are owned by Sheridan Point Condominium Association

(hereinafter, "Sheridan Point"). The property has a 14,392 square foot site and is located in Lake View Township, Cook County. The subject is classified as a class 2-99 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on a contention of law that the subject is overvalued. In support of this argument, the appellant submitted a brief arguing the subject is part of the common elements of Sheridan Point and, as such, should have an assessed valuation of \$1.00 for the land and \$1.00 for the unit, for a total assessment of \$2.00. In support of this argument, Sheridan Point attached various exhibits to the brief. Exhibit "A" is a two-page Special Warranty Deed disclosing that Unit 1603 of Sheridan Point was sold by grantor Anncourt Limited Partnership (hereinafter, "Anncourt") to grantee Sheridan Point on September 1, 1979 "in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration." Exhibit "B" is a one-page affidavit of an agent appointed by the Board of Directors of Sheridan Point. The agent attested that "the property in question" is subject to the Declaration of Condominium Ownership, that "it is exclusively used by the janitor for janitorial purposes," that the "property in question" has been used as common area of Sheridan Point and has benefitted every member of the condominium association, and that Sheridan Point is the owner of "the subject property" as evidenced by the deed disclosed in Exhibit "A." Exhibits "C," "D" and "E" are copies of the board of review letters for tax lien years 2006, 2009 and 2010. Exhibit "F" is a copy of the Sheridan Point Condominium Declaration and By-Laws. The declaration identifies Anncourt as the developer and Sheridan Point as the condominium association. In its brief, Sheridan Point cited various clauses from the association declaration that, it argued, empowered it to adopt reasonable rules and regulations for use and occupancy of units. The appellant argued that those powers "could be construed" to authorize it to designate a unit to be the janitor's residence, thereby benefitting all the members of the janitor's service. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$13,959. The subject's assessment reflects a market value of \$156,141 when applying the 2010 three-year median level of assessment of 8.94% for class 2 property as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted a condominium analysis with information on suggested comparable sales for ten units in the building. These sold from 2008 through 2010 for prices ranging from \$98,500 to \$170,000, for a total of \$1,369,000. The board of review applied a 2.00% market value reduction to the subject for personal property without further evidence to arrive at a full market value of \$1,341,620 of the ten units sold. The board of review disclosed the units sold consisted of 7.5682% of all units in the building. The result was a full value of the property at \$17,727,068. Since the subject was 0.8982% of all the units in the building, the board of review suggested the market value of the subject to be \$159,225.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The appellant may also base an appeal upon contentions of law. (86 Ill.Admin.Code §1910.65 (d)). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

Section 10-35(a) of the Property Tax Code provides:

Residential property which is part of a development, but which is individually owned and ownership of which includes the right, by easement, covenant, deed or other interest in property, to the use of any common area for recreational or similar residential purposes shall be assessed at a value which includes the proportional share of the value of that common area or areas.

Property is used as a "common area or areas" under this Section if it is a lot, parcel, or area, the beneficial use and enjoyment of which is reserved in whole as an appurtenance to the separately owned lots, parcels, or areas within the planned development.

The common area or areas which are used for recreational or similar residential purposes and which are assessed to a separate owner and are located on separately identified parcels, shall be listed for assessment purposes at \$1 per year.

35 ILCS 200/10-35(a).

The Illinois Condominium Property Act defines condominium property, a unit and common area as:

(c) "Property" means all the land, property and space comprising the parcel, all improvements and structures erected, constructed or contained therein or thereon, including the building and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the unit owners, submitted to the provisions of this Act.

(d) "Unit" means a part of the property designed and intended for any type of independent use.

(e) "Common Elements" means all portions of the property except the units, including limited common elements unless otherwise specified.

765 ILCS 605/2(c) through (e).

Unit 1603, which is the janitor's unit and the subject herein, was sold by the developer Anncourt to the association Sheridan Point for consideration in January 1979, as disclosed in Exhibit "A." Sheridan Point's Exhibit "B" asserts that Unit 1603 has since been used as "common area for recreational or similar residential purposes and further, has benefited every member of the Association." The question then is whether the appellant has submitted sufficient evidence to establish as a matter of law that Unit 1603 is common area.

In Lake Point Tower Garage Association v. The Property Tax Appeal Board, 346 Ill.App.3d 389 (1st Dist. 2004), the developer of a condominium building designated one of the building's parking garage levels as Level A. When the developer sold Level A to Lake Point Tower (hereinafter, "Tower"), it was identified as "Unit A-1" or "Unit No. A-1." Tower appealed the \$633,184 property assessment of Level A to the Cook County Board of Review arguing that it was common area for recreational or

similar residential purposes qualifying for a \$1.00 assessment under the Property Tax Code and the Condominium Property Act. The board of review found that Level A was a condominium unit and, therefore, not eligible for the favorable \$1.00 assessment. Tower then appealed to the Property Tax Appeal Board (hereinafter, "the Board") which held no change in the assessment was warranted. Tower then appealed directly to the Appellate Court. The Court affirmed the finding of the Board because Level A, identified as Unit A-1 by Tower, was a unit as defined by the Condominium Property Act. *Id.* at 393-94. The Court observed that the act also defined common elements as all portions of the property except units, and found that "[s]ince Level A was classified as a 'unit,' it simply could not be a common area at the same time." *Id.* at 394; Compare 400 Condominium Association v. Tully, 79 Ill.App.3d 686 (1st Dist. 1979)(where the property at issue was designated a common element rather than a unit).

In the instant appeal, Sheridan Point designated the janitor's unit as "Unit 1603" in the Special Warranty Deed. The Deed did not disclose any qualifications or limitations on the subject proving or tending to prove Unit 1603 was anything other than a unit as defined by the Property Tax Code and Condominium Property Act.

Beyond the nomenclature utilized by Sheridan Point to designate the subject as a unit rather than as common area, the cited statutes require that the subject must be "used exclusively by the unit owners for recreational or other similar residential purposes." Lake Point Tower, at 395. Recreation is defined as the "refreshment of the strength and spirits after toil." Ozuk v. River Grove Board of Education, 281 Ill.App.3d 239, 243 (1st Dist. 1996), *cited* in Lake Point Tower, *supra* at 395. The facts submitted in the appeal plainly do not support a finding that Unit 1603 was used for recreational purposes. Further, the appellant has failed to submit evidence to establish that Unit 1603 is used for residential purposes. The agent's affidavit attested that Unit 1603 is used by the janitor for "janitorial purposes." Conversely, there is no evidence that Unit 1603 would be used exclusively for janitorial purposes if it were a residential unit. Nor is there any evidence in the record that Unit 1603 is used exclusively by the unit owners. All the appellant has offered in evidence is that Unit 1603 is used by the janitor and that the janitor performs services that benefit members of Sheridan Point. The appellant has failed to distinguish how it would be any less beneficial to the members if the janitor used property not owned by Sheridan Point for

janitorial purposes. The mere exercise of its powers under the association declaration to designate a unit as the residence of the janitor does not render that unit common area.

Therefore, the Board finds the appellant, Sheridan Point, has failed to meet its burden of proof by a preponderance of the evidence that the subject, Unit 1603, is overvalued and holds that a reduction in the subject's assessment is not warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

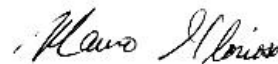
Chairman



Member



Member



Member



Acting Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: September 18, 2015



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.