



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

APPELLANT: Fountain Hills Condominium Association  
DOCKET NO.: 12-28353.001-R-1  
PARCEL NO.: 27-32-312-004-0000

The parties of record before the Property Tax Appeal Board are Fountain Hills 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 in this matter, 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:** \$11,440  
**IMPR.:** \$0  
**TOTAL:** \$11,440

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 2012 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 parcel of vacant land. The property has a 14,392 square foot site and is located in Orland Township, Cook County. The subject is classified as a class 1-00 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 should be assessed at \$1.00 because it was common area of the appellant and was used exclusively by the unit owners for residential purposes. The appellant cited relevant passages from the Property Tax Code and Illinois Condominium Property Act and attached Exhibits A, B and C. Exhibit A was a Quit Claim Deed recorded on October 15, 2012 under document number 1228949008. The Deed conveyed two outlots, identified in the Deed as "U" and "W" and described in metes and bounds in a legal description. The conveyance was from Floramo Construction Company to Fountain

Hills, the appellant herein. Exhibit B was an affidavit of Fountain Hills' agent attesting: that outlots U, W and a remainder parcel are used exclusively for residential and/or recreational purposes; that they are identified by their Property Index Numbers 313-001, 313-003 and 312-004; and that those parcels are owned by Fountain Hills as evidenced by the Deed recorded on October 15, 2012 under number 1228949008. Exhibit C was a copy of Fountain Hills' condominium declaration. The appellant referred to the condominium declaration as evidence that the subject is included in the declaration's definition of common area. In its brief, the appellant stated that the subject parcel and the two common area parcels are owned by it, "as evidenced by the Deed recorded ..." as document 1228949008 on October 15, 2012.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$11,400. The subject's assessment reflects a market value of \$114,000, or \$4.75 per square foot of land, when applying the 2012 level of assessment of 10.00% for Class 1 property under the Cook County Real Property Assessment Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted information on six suggested sales comparables of vacant land. These sold from 2007 through 2011 and for prices ranging from \$1.84 to \$24.42 per square foot of land.

### **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, common area used for residential purposes is defined, in relevant part, as:

For purposes of property taxes, real property owned and used for residential purposes by a condominium association, including a master association, but subject to the exclusive right by easement, covenant, deed or other interest of the owners of one or more condominium properties and used exclusively by the unit owners for recreational or other residential purposes shall be assessed at \$1.00 per year.

765 ILCS 605/10(a).

The definition of common area of a condominium association used exclusively for residential purposes is not in dispute. The salient question then is whether the appellant has submitted sufficient evidence to establish as a matter of law that the parcel referred to in the appellant's Exhibit B as a "remainder" is its common area deserving the \$1.00 assessment. The Board finds the appellant did not submit sufficient evidence that the subject property is included in the common area deserving the nominal \$1.00 assessment. The key evidence is the appellant's Exhibit A, the Quit Claim Deed. It plainly describes outlots "U" and "W," but nowhere includes a description or reference to the "remainder" subject parcel. Exhibit B, the affidavit, states that the same Deed constitutes evidence the "remainder," the subject parcel herein, was conveyed to the appellant. A careful examination of the Deed does not support this assertion. The affidavit specifically refers to outlots "U," "W" and a "remainder" parcel. But, the Deed specifically includes information about only outlots "U" and "W." The Board does not express an opinion of whether the common area of Fountain Hills includes the subject parcel. The Board does, however, find the appellant has failed to meet its burden of proof by a preponderance of the evidence that it does.

Further, the board of review submitted descriptive information on six comparable sales. The Board finds the best evidence of market value to be the board of review comparable sales #1, #2, #4 and #5. These comparables sold for prices ranging from \$1.52 to \$13.28 per square foot of living area, including land. The subject's assessment reflects a market value of \$4.75 per square foot of living area including land, which is within the range established by the best comparable sales in this record. Therefore, the Board 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: \_\_\_\_\_

CERTIFICATION

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 23, 2016



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.