



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

APPELLANT: Stanley Weiss  
DOCKET NO.: 13-20855.001-R-1 through 13-20855.004-R-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Stanley Weiss, the appellant(s), by attorney Kevin P. Burke, of Smith Hemmesch Burke & Kaczynski in Chicago; 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:

<b>DOCKET NO</b>	<b>PARCEL NUMBER</b>	<b>LAND</b>	<b>IMPRVMT</b>	<b>TOTAL</b>
13-20855.001-R-1	11-18-320-010-1002	8,249	41,699	\$ 49,948
13-20855.002-R-1	11-18-320-010-1003	16,499	83,399	\$ 99,898
13-20855.003-R-1	11-18-320-010-1004	16,499	83,399	\$ 99,898
13-20855.004-R-1	11-18-320-010-1006	8,249	41,699	\$ 49,948

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 2013 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

**Findings of Fact**

The subject consists of four condominium units with a combined 66.00% ownership interest in the common elements. The property is located in Evanston, Evanston Township, Cook County. The subject is classified as a class 2-99 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating PIN 11-18-320-010-1003 had a market value of \$725,000 as of January 1, 2013. The appraisal states that the PIN ending in -1003 is owner occupied.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$299,692. The subject's assessment reflects a market value of \$2,996,920 when applying the 2013 statutory level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 10.00%.

In support of the subject's assessment, the board of review submitted a memorandum showing that one unit in the subject's building, plus the subject unit with the PIN ending in -1002, or 22.00% of ownership, sold in August 2012 and June 2013 for \$550,000 and \$560,000, respectively. A 2.00% allocation for personal property was deducted from the aggregate sale price of \$1,110,000, and then divided by the percentage of interest of the units sold to arrive at a total market value for the building of \$4,944,545. The subject's percentage of ownership was then utilized to arrive at a market value for the subject of \$3,263,400.

In rebuttal, the appellant argued that the board of review's evidence should be given no weight because no evidence was submitted to substantiate the comparables.

At hearing, counsel for the appellant argued that the appraisal should be considered as evidence of the subject's market value. The board of review analyst objected to the subjective portion of the appraisal, arguing that those subjective portions of the appraisal are hearsay evidence as the appraiser was not present at the hearing, did not testify, and was not available for cross-examination. The Board reserved ruling on the objection.

Counsel for the appellant also sought to introduce a summary of the eight units in the subject's building, which showed the unit number, PIN, and 2013 assessment for each of the eight units, as well as the sale price and sale date for the PINs ending in -1002, -1005, and -1008. The summary sheet was marked as Appellant's Exhibit "A", and was allowed to be used for demonstrative purposes.

The appellant, Stanley Weiss, testified that he is the owner of the subject unit with the PIN ending in -1003. Mr. Weiss testified that the unit he owns is currently pending a sale, and that the attorney review period expired the day prior to the hearing. Mr. Weiss described the subject units and the percentage of ownership for the units within the subject's building. The witness further stated that he is the current president of the condominium association for the subject, and has held the position of president for 15 years. Mr. Weiss testified that, as president of the condominium association, he is aware of the sales of other units within the subject's building, and that the units with PINs ending in -1002, -1005, and -1008 sold between 2011 and 2013. The appellant stated that the unit with PIN ending in -1008 sold for more than the units with PINs ending in -1002 and -1005, but that -1008 has a 6.00% ownership interest in the common elements, while the other two sold units each have an 11.00% ownership interest in the common elements. Mr. Weiss testified that the disparity in the various units' percentage of ownership creates an inequitable distribution of the real estate tax assessments. The inequitable distribution, thus, creates difficulty in selling the units that have a higher percentage of ownership. The witness also stated that the condominium association collects assessments from the unit owners, and that the amount of the assessment collected from each unit owner is calculated based on the unit's percentage of ownership.

On cross-examination, Mr. Weiss testified that the unit with PIN ending in -1008 was sold "by owner," and that the parties to the transaction were not related.

During the board of review's case-in-chief, the analyst testified that he conducted a condominium analysis for the subject's condominium building. The analyst testified that the condominium analysis he was testifying about was substantially similar to the one submitted in the "Board of Review-Notes on Appeal," but that he changed the personal property reduction from 2.00% to 0.00%, as he testified that he researched and confirmed that no personal property was included in those sales. The analyst further testified that the condominium analysis was done in accordance with the Condominium Property Act, which requires each unit to be assessed based on that unit's individual percentage of ownership.

During closing, counsel for the appellant argued that the Property Tax Code requires that the subject units be assessed separately and independently from any other property, including other units within the subject's building. The appellant also argued that the subject's percentages of ownership should not be used in determining the subject's market value. The board of review analyst argued that the Condominium Property Act requires each unit to be assessed based on that unit's individual percentage of ownership.

### **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 Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

In ruling on the board of review's hearsay objection made at hearing, the Board sustains the objection. At hearing, the board of review analyst argued that the appraisal was hearsay evidence because the appraiser was not available to testify. The Board finds this to be the case. For proceedings before the Board, "[t]he procedure, to the extent that the Board considers practicable, shall eliminate formal rules of pleading, practice and evidence, . . . ." 35 ILCS 200/16-180. However, in Novicki v. Department of Finance, 373 Ill. 342 (1940), the Illinois Supreme Court stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. Thus, while the Board's rules allow for informal rules of evidence, the Board cannot abrogate a basic rule of evidence under the Supreme Court's holding in Novicki. Therefore, the Board finds that the appraisal is hearsay evidence for which no exception exists, and that the appraisal shall not be considered as relevant evidence in this appeal. However, the Board will analyze the raw sales data submitted by the parties, including the sales data included in the sales comparison approach of the appraisal.

Initially, the Board notes that appellant sale comparable #5 found in the appraisal's sales comparison approach to value, and board of review sale comparable #2 represent the same property and sale transaction. The Board finds the best evidence of market value to be

appellant's comparables #3, #4, and #5, and board of review comparable #2. In accordance with the Condominium Property Act, the subject units shall be assessed using each individual unit's corresponding percentage of ownership. 765 ILCS 605/10(a) ("Real property taxes, special assessments, and any other special taxes or charges of the State of Illinois or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed against and levied upon real property shall be assessed against and levied upon each unit and the owner's corresponding percentage of ownership in the common elements as a tract, and not upon the property as a whole."). The aggregate sale price of these sales is \$1,924,000, and, using these units' total percentage of ownership of 28.00%, a total value for the building is \$6,871,429. Using the subject's individual percentages of ownership results in a market value of \$755,857 each for the units with the PINs ending in -1002 and -1006, and \$1,511,714 for each of the remaining units under appeal. These market values support the subject's current assessment. Therefore, the Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject is overvalued, and 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. Pursuant to Section 1910.50(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(b)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Acting Member

Member



Member



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: November 21, 2017



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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