



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

APPELLANT: Metropolitan Condominium Association
DOCKET NO.: 14-22192.001-R-1
PARCEL NO.: 14-08-209-022-1254

The parties of record before the Property Tax Appeal Board are Metropolitan Condominium Association, the appellant(s), 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 A Reduction 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: \$1
IMPR.: \$1
TOTAL: \$2

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 2014 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 750 square foot vacant laundry room contained in a 27 year-old residential condominium building. The building contains hundreds of residential and commercial condominium units. The property has a 32,651 square foot site and is located in Lake View Township, Cook County. The subject is classified as a class 5-99 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on a contention of law. It submitted a brief arguing the vacant laundry room should be assessed at \$1.00 pursuant to the Illinois Condominium Property Act (765 ILCS 605/10(a)) because it is used for the exclusive benefit and enjoyment of all unit owners. The appellant argued the subject is part of the common area of the condominium development as defined by the Declaration of Condominium, appended to the brief as Exhibit E. The appellant's Exhibit B is an affidavit of the agent of the condominium association

(hereinafter, "Association"), attesting: 1) that all the condominium parcels have been operated and maintained by the Association; 2) that the Declaration conforms to the Condominium Property Act; 3) that a vacant laundry room (the subject herein) is identified by Property Index Number 14-08-209-022-1254 (hereinafter, "PIN 1254") and is used exclusively by condominium unit owners for residential purposes; and 4) that the laundry room is owned by the Association. The appellant's Exhibit A is a Special Warranty Deed granting PIN 1254 to the Association and describing it as a common element. The appellant also appended two black-and-white photographs collectively marked Exhibit C. These photographs depict a vacant room filled with boxes, electrical equipment, and metal framing. The appellant requested the Board to assess the subject's land at \$1.00 and its improvement at \$1.00, for a total assessment of \$2.00.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$36,582. The subject's assessment reflects a market value of \$146,328, or \$195.10 per square foot of living area, when applying the 2014 level of assessment of 10.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance. The board of review submitted a brief disclosing the subject is a "750 square foot laundry room of a condominium building..." In support of its contention of the correct assessment, the board of review submitted information on four suggested comparable sales.

At hearing, the appellant reiterated the request for a \$1.00 assessment pursuant to Condominium Property Act. The appellant explained the subject was no longer used as a laundry room, but is now a storage room. The appellant stated that the first photograph of Exhibit C depicted storage boxes and electronic equipment. The second photograph depicted the metal framing for the former laundry machines and some stored items. The board of review representative testified that the subject should not be given a favorable common elements assessment because it is no longer used for the original purpose of a laundry room. He offered a copy of the Condominium Property Act section describing common elements (765 ILCS 605/10(a)). It was admitted into evidence as BOR Exhibit #1. In rebuttal argument, the appellant argued that no one resides in the former laundry room, that it now clearly contains stored items, and that there is no evidence it is not used for the exclusive benefit and enjoyment of the unit owners.

Conclusion of Law

The appellant's appeal is based on a contention of law. When a contention of law is the basis of the appeal, the appellant "shall submit a brief in support of his position" 86 Ill.Admin.Code §1910.65(d). The appellant must prove his case by a preponderance of the evidence. "Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence." 5 ILCS 100/10-15. The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

Both parties agree as to the applicable law. They do not dispute that, if the subject is used for the exclusive benefit and enjoyment of all unit owners, it qualifies as common element.

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).

Therefore, this appeal involves a question of fact: is the subject common element or not? The evidence establishes that it is common element and qualifies for the favorable \$1.00 assessment. The appellant’s two photographs clearly depict stored items. The appellant’s brief appended to its Petition and its arguments at hearing disclose the subject was a former laundry room now used as a storage room. Even the board of review’s brief appended to its Notes on Appeal discloses it was a “laundry room” in a condominium building. The evidence establishes that the subject continues to be used exclusively for the benefit and enjoyment of the unit owners. Its current use as a storage room does not detract from that fact, and the board of review’s evidence does not establish otherwise. Therefore, based on the evidence presented, the Board finds that the appellant has sustained its burden of proof by a preponderance of the evidence and that an assessment reduction is 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(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) 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



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: April 17, 2018



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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