



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

APPELLANT: Engineer's Apartment - Unit 7LM  
DOCKET NO.: 21-44581.001-R-1 through 21-44581.002-R-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Engineer's Apartment - Unit 7LM, the appellant(s), by attorney Holly Zeilinga, of Worssek & Vihon LLP 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>
21-44581.001-R-1	14-21-307-052-1039	1	498	\$499
21-44581.002-R-1	14-21-307-052-1040	1	498	\$499

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 2021 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 consists of two units in a residential condominium building. The units were combined into one living space, designated Unit 7LM, each retaining its designated Property Index Number (PIN), 1039 and 1040. The building, commonly known as 3410 Lake Shore Drive Condominium Association (Association), contains 291 residential units. The property is in Lake View Township, Cook County and 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 supported by a one-page brief. The appellant argued Unit 7LM qualifies for a favorable improvement assessment of \$1 for each of the two combined PINs because it is "used exclusively by the unit owners for recreational or

other residential purposes...” pursuant to Section 10 of the Condominium Property Act. 765 *ILCS 605/10*.

The appellant submitted the affidavit of Shlomo Osher (Osher), dated October 19, 2022. The Osher attested that he was the property manager for the Association; that he had personal knowledge of the facts stated therein; that Unit 7LM had been owned by the Association since 1997 and used exclusively as a residence for an on-site engineer. At hearing, the board of review objected to the admission of the Osher affidavit since he was not present at hearing subject to cross-examination. The Board reserved ruling on the objection.

The appellant asserted the Cook County Assessor had reduced the improvement assessments for PINs 1039 and 1040 in 2020, 2019 and 2018 to \$1 for those years, but increased them to \$499 for each PIN for the instant 2021 lien year. The appellant submitted three documents from the Assessor’s database entitled Parcel Data Sheet and one document entitled Cook County Database as supporting evidence.

Based on this evidence, the appellant requested a reduction in the subject's improvement assessments for the two PINs of Unit 7LM to \$1 each to comport with the cited provision of the Condominium Property Act.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for each of the PINS of \$499 each, for a total of \$998. These assessments are the total of land assessments of \$1 for each PIN, and of improvement assessments of \$498 each. In support of its contention of the correct assessment, the board of review submitted a copy of Section 10-35 of the Property Tax Code. 35 *ILCS 200/10-35*

Paula Gutierrez (Gutierrez) testified for the appellant at hearing. She has been a property manager for 33 years, and the on-site property manager of the Association since November 2024. Gutierrez stated the Association owns Unit 7LM, and the on-site engineer for the Association lives in Unit 7LM and serves the Association. Unit 7LM is not used for recreational purposes.

The appellant reiterated its argument that Unit 7LM is used for the benefit of the Association. The board of review argued the appellant’s assertions lack supporting evidence, such as a Condominium Declaration pertaining to Unit 7LM.

### **Conclusion of Law**

The appellant raises a contention of law. “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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The question before the Board is whether the appellant has submitted sufficient evidence to establish that Unit 7LM is common area. 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).*

Section 2 of the Condominium Property Act provides the following definitions:

(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).*

Evidence offered by the appellant was the affidavit of Osher and the testimony of Gutierrez. The board of review objected to admission of the Osher affidavit because the affiant, Osher, did not appear at hearing and was not subject to cross-examination. The Board finds the affidavit to be inadmissible hearsay. The right to cross-examine a witness on an out-of-court statement offered to prove the truth of the matter asserted is axiomatic, and without testimony that statement is inadmissible hearsay. *People v. Whitfield, 2014 IL App (1<sup>st</sup>) 123135*. The Osher affidavit is especially so since the appellant provided the live testimony of Gutierrez for cross-examination. Her testimony consisted of three assertions: the Association owns Unit 7LM, the on-site engineer for the Association lives in Unit 7LM, and the engineer serves the Association.

The three documents entitled Parcel Data Sheet and one document entitled Cook County Database from the Cook County Assessor's Office database were submitted as evidence by the appellant. They display land, improvement, and total assessment information for each PIN for the years 2019 through 2021. Without further evidence or argument to highlight the purported significance of these documents the Board gives them no weight. The Board "will not give any weight or consideration to any prior actions by a local board of review..." 86 Ill.Admin.Code §1910.50(a). Whatever the Assessor may or may not have done regarding assessments are irrelevant in a *de novo* proceeding before this Board. What the Board is left with is the appellant's argument that Unit 7LM is common area eligible for the favorable \$1 improvement assessment because it was occupied by the on-site engineer. Absent from the appellant's case are supporting documents, such as Declarations, By-Laws, Deeds, or Conveyances.

The Appellate Court in *Lake Point Tower Garage Association v. The Property Tax Appeal Board*, 346 Ill.App.3d 389 (1<sup>st</sup> Dist. 2004), addressed whether condominium property designated a "unit" could be simultaneously common element under the Condominium Property Act, Section 10-35(a), *supra*. The Court held that since the property at issue was classified as a unit, "it could simply not be a common area at the same time." *Id.*, at 394.

Beyond the nomenclature utilized by the Association to designate the subject as a unit rather than common area, the cited statutes require that the subject must be "used exclusively by the unit owners for recreational or other similar residential purposes." 35 ILCS 200/10-35(a); *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 (1<sup>st</sup> Dist. 1996), cited in *Lake Point Tower*, *supra* at 395. The facts submitted in the appeal plainly do not support a finding that Unit 7LM was used for recreational purposes. Gutierrez testified that Unit 7LM is used by the engineer in service to the Association. Conversely, there is no evidence that Unit 7LM would be used exclusively for engineering services if it were a residential unit. Nor is there any evidence in the record that Unit 7LM is used exclusively by the unit owners. The appellant has failed to distinguish how it would be any less beneficial to the members if the engineer used property not owned by the Association for engineering services.

The appellant in its brief requests an assessment reduction by application of Section 10 of the Condominium Property Act. Section 10 provides:

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. 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. The balance of the value

of the property shall be assessed to the condominium unit owners. In counties containing 1,000,000 or more inhabitants, any person desiring to establish or to reestablish an assessment of \$1.00 under this Section shall make application therefor and be subject to the provisions of Section 10-35 of the Property Tax Code.

*765 ILCS 605/10.*

Based on the forgoing, the Board finds the appellant failed to meet its burden of proving its contention of law by a preponderance of the evidence. An assessment reduction 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(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:

August 19, 2025



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

AGENCY

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