

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Lake Terrace Condominium Association  
DOCKET NO.: 04-26861.001-R-1 & 04-26861.002-R-1  
PARCEL NO.: 21-30-114-029-1014 & 21-30-114-029-1335

The parties of record before the Property Tax Appeal Board (PTAB) are Lake Terrace Condominium Association, the appellant, by attorney Steven Kandelman of Sarnoff & Baccash of Chicago and the Cook County Board of Review (board).

The subjects consist of 28-year-old properties described by the appellant as Units #130 and #102 in the Lake Terrace Condominium building and located in Hyde Park Township.

With respect to the subject property, the appellant's counsel appeared before the PTAB and argued that the subject condominium units were entitled to a \$1.00 assessment as required by Section 10-35(a) of the Illinois Property Tax Code (35 ILCS 200/10-35(a)). The provision provides in part that:

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

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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:

DOCKET NO.	PROPERTY NO.	LAND	IMPR.	TOTAL
03-26783.001-R-1	21-30-114-029-1014	\$158	\$2,119	\$2,277
03-26783.002-R-1	21-30-114-029-1335	\$158	\$2,119	\$2,277

Subject only to the State multiplier as applicable.

PTAB/TMcG.

are assessed to a separate owner and are located on separately identified parcels shall be listed for assessment purposes at \$1.00 per year.

In support of this claim, the appellant's attorney submitted an affidavit from the Assistant Manager of the Lake Terrace Condominium Association testifying that Units #130 and #102 are owned by the Association. That the building's engineer has occupied Unit #130 throughout 2004 and 2005 and has paid no rent. Unit #102 is used by the Association for miscellaneous purposes such as storage, and association meetings. No income is generated by this residential unit. Accordingly, the appellant requested that the residential units owned by the Association which generate no income both be assessed at \$1.00 each for tax years 2003, 2004 and 2005.

The board submitted its "Board of Review Notes on Appeal" wherein both units' final total assessments of \$2,277 and improvement assessments of \$2,119 were disclosed. In support of the subject's assessment, the board offered an Assessor's printout of the subject. The board disclosed that neither unit has ever been assessed at \$1.00. The board has requested the condo declaration disclosing these units as common area to no avail. The board offered no other evidence. Based on this evidence, the board requested confirmation of the subject property's assessment.

When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist, 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arms-length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (86 Ill.Adm.Code §1910.65(c)) Having reviewed the record and considering the evidence, the Board finds the appellant has not satisfied this burden.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The Property Tax Appeal Board finds that, based on Section 10-35(a), the common areas of any type of residential real property development can be assessed at \$1.00, if they conform to the definition and requirements of a common area as defined in the statutes.

The Condominium Act 765 ILCS 605/2, contains the following Definitions:

(c) "Property" means all the land, property and space comprising the parcel, all the improvements and structures erected constructed or contained therein...

(d) "Unit" means a part of the property designated 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.  
(*Emphasis added*)

The legislature specifically stated in the Property Tax Code that common areas "used for recreational or similar residential purposes" shall be assessed at \$1.00 per year. 35 ILCS 200/10-35(a). The General Assembly broadly defined common areas in section 10-35(a) as property "the beneficial use and enjoyment of which is reserved in whole as an appurtenance to the separately defined lots..." 35 ILCS 200/10-35(a). Likewise, the legislature specifically stated in the Condominium Property Act that "real property owned and used for residential purposes by a condominium association...used exclusively by the unit owners for recreational or other residential purposes" shall be assess at \$1.00 per year. 765 ILCS 605/10(a).

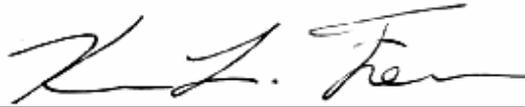
The Property Tax Appeal Board finds that Units #130 and #102 are located within a residential development; and that they are owned and maintained by the Association as separate parcels. However, Units #103 and #102 are not reserved in whole as an appurtenance to the separately owned lots, parcels, or areas within the planned development. The Units, as part of the 360 units, are, in fact, recorded residential units that are designated, intended and used for independent use. Each of the subject units is a legal lot of record insofar as each lot was recorded and identified with a specific legal description and covenants that designate the lot for independent use. Each legal lot of record as a unit is excepted from the above definition of a common area. In order to create a common area it would be necessary for the Association to convey and record a lot of record into common area status.

The Board further finds that Units #130 and #102 do not meet all the above requirements and definition of "common area" and thus do not qualify for a \$1.00 common area assessment.

This is a final administrative decision of the Property Tax Appeal Board are 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



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 28, 2007



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.