



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

APPELLANT: Betty Horn
DOCKET NO.: 06-02506.001-R-1 through 06-02506.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Betty Horn, the appellant, by attorney Carl L. Favreau of Carbondale, and the Randolph County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Randolph County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
06-02506.001-R-1	16-049-015-00	1,540	0	\$1,540
06-02506.002-R-1	16-050-001-00	1,540	0	\$1,540

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two adjacent parcels one of which is vacant and the other is improved with a double-wide mobile home, a pole frame metal clad garage measuring 30 feet by 48 feet with 1,440 square feet of building area and a breezeway. Construction of the garage and breezeway began in 2004 and was completed in 2005. The garage and breezeway have a concrete slab floor. The property is located in Tilden, Randolph County.

The appellant appeared before the Property Tax Appeal Board contending the garage should not be assessed as real estate.¹ The appellant argued in part that prior to construction of the additions to the mobile home she was informed by assessing officials that the new construction would be subject to the privilege tax under the Mobile Home Local Services Tax Act (35 ILCS 515/1 et seq.) and not subject to real property taxation. She argued that the board of review should be bound by these representations. The appellant also argued that because the

¹ At the hearing the appellant withdrew her argument contesting the land assessments on each of the subject parcels.

garage is attached to the mobile home, which is not considered real property but is receiving the privilege tax under the Mobile Home Local Services Tax Act, the garage cannot be considered real estate in accordance with the common law of Illinois. As an additional argument the appellant contends the uniformity provision contained in Article IX, Section 4(a) of the Illinois Constitution of 1970 and case law prohibits the assessment and the taxation of the garage as real estate due to the fact that similar additions to other mobile homes were classified for 2006 and prior years by the Randolph County Board of Review as exempt under the Property Tax Code and subject to the privilege tax under the Mobile Home Local Services Tax Act.

Counsel called the appellant, Betty Horn, as a witness. Horn testified she is the owner of the parcels at issue and the owner of the mobile home on the parcels. She testified the mobile home itself has been receiving the privilege tax provided by the Mobile Home Local Services Tax Act since approximately 2004 or 2005. She testified the mobile home has never been taxed as part of the real property but has always been subject to the privilege tax.

Prior to 2006 Horn contemplated making additions to the mobile home. She then spoke with persons associated with the supervisor of assessments office and inquired about what the taxes would be based on the plans she had drawn. She testified she spoke with Don Garrison, who was in charge of estimating taxes on new construction. She testified that he informed her that the additions would be subject to the privilege tax. The plan that she had drawn consisted of a garage, a breezeway and a room addition.

She subsequently began construction which was to be completed over time commencing with the garage, the breezeway and then the room addition. The plan was to have the garage attached to the mobile home by a breezeway. She testified that in 2006 there was a garage and breezeway attached to the mobile home. The appellant testified the breezeway is attached to the roof of the mobile home because of the elevation of the garage, to prevent wind damage and due to the room addition that was going to be put on. She explained there are 2 x 4s and 4 x 6s (pieces of lumber) attached to the roof of the mobile home with the metal attached to the wood. Horn testified an eight foot length of the breezeway is attached to the mobile home.

The appellant testified that upon receiving the tax bill in 2007 she learned the garage and breezeway were being taxed as real estate because the bill listed both land and buildings. She testified that after receiving the bill she spoke with Wayne Voss, Randolph County Chief County Assessment Officer, who informed her that she would need to go to the board of review. She then began checking on other properties with mobile homes that had attached garages and breezeways. She explained there were several properties with attached garages and breezeways that were treated as privilege tax. These properties were submitted

to the Property Tax Appeal Board as Appellant's Group Exhibit #1. She testified that one in particular did not have a breezeway attached to it but had a porch that measured approximately 65 feet long by 8 feet wide that ran the length of the mobile home that was attached at one end to a garage. This property was submitted by the appellant as a comparable and identified with Parcel No. 10-028-006-00 (Grau property). She thought this comparable was most similar to her situation with the exception the porch was attached to the side of the garage. The garage on this comparable property was not assessed as real estate.

Under cross-examination it was clarified the appellant became aware of the assessment change through a notice and filed an appeal with the board of review and subsequently received a decision from the board of review. Horn testified the mobile home was placed on the subject property in September 2003. The home is a double-wide mobile home with a concrete block perimeter skirting but is resting on piers. Construction on the garage began in November 2004 and was completed in 2005. She testified the garage is similar to a pole building and is metal clad with a concrete slab. She testified that the garage was free standing for a couple of weeks before the breezeway was built and attached to the mobile home's roof. The appellant testified the breezeway measures approximately 17 feet by 21 feet. The breezeway was open air but subsequently enclosed beginning in 2007 and completed in October 2008. She further explained that if the mobile home was moved the breezeway would not have collapsed, it was supported by poles.

The appellant testified she provided copies of the property record cards and photographs of the seven properties considered comparable to her property that were identified on Appellant's Group Exhibit No. 1. The appellant testified these seven comparables have garages attached to the mobile homes and the garages are not assessed as real estate. A summary of the comparables as taken from the property record cards, photographs and notations as submitted by the appellant is as follows:

- (1) Parcel No. 01-080-015-00 is improved with a double-wide mobile home and an attached 26 foot by 32 foot garage. The improvements are not being assessed as real estate but are receiving the privilege tax.
- (2) Parcel No. 09-043-002-50 is improved with a double-wide mobile home with a 24 foot by 32 foot attached garage connected to the mobile home by an enclosed porch. The improvements are not being assessed as real estate but are receiving the privilege tax.
- (3) Parcel No. 10-028-006-00 is improved with a 14 foot by 66 foot mobile home with an 8 foot by 66 foot open frame porch. The open frame porch is connected to a 40 foot by 30 foot garage. The improvements are not being assessed as real estate but are receiving the privilege tax.
- (4) Parcel No. 11-055-013-00 is improved with a double-wide mobile home with a two-car garage attached to the home by an enclosed breezeway. The improvements are not being

- assessed as real estate but are receiving the privilege tax.
- (5) Parcel No. 06-007-007-00 is improved with a double-wide mobile home with a three-car attached garage. The mobile home and garage are not being taxed as real estate but are receiving the privilege tax.
 - (6) Parcel No. 19-072-010-00 is improved with a mobile home with an attached one-car garage. The mobile home and garage are not being taxed as real estate but are receiving the privilege tax.
 - (7) Parcel No. 19-123-009-00 is improved with a double-wide mobile home and a three-car attached garage that measures 32 feet by 40 feet connected to the home with an enclosed breezeway. The mobile home and garage are not being taxed as real estate but are receiving the privilege tax. On page two of the property record card a notation states, "2006 garage removed attached to double wide."

The appellant's counsel also submitted a legal memorandum citing Article IX, Section 4(a) of the Illinois Constitution of 1970, Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 544 N.E.2d 762, 136 Ill.Dec. 76 (1989); Oregon Community Unity School Dist. No. 220 v. Property Tax Appeal Board, 285 Ill.App.3d 170, 220 Ill.Dec. 858, 674, N.E.2d 129, (2nd Dist. 1996) and Christian County Board of Review v. Property Tax Appeal Board, 368 Ill.App.3d 792, 858 N.E.2d 909, 206 Ill.Dec. 851 (5th Dist. 2006) for the proposition that uniformity of taxation requires equality in the burden of taxation and requires that similar properties within the same district be assessed on a similar basis. He also argued that both Oregon and Christian County prohibit an assessor from exempting one kind of property while classifying the same kind of property in the same district as not exempt. He argued that similar additions to mobile homes had been classified as exempt under the Property Tax Code (35 ILCS 200/1 et seq.) in Randolph County and subject to the privilege tax under the Mobile Home Local Services Tax Act and the subject's garage and breezeway should be given the same treatment.

Counsel further cited Boone County Board of Review v. Property Tax Appeal Board, 276 Ill.App.3d 989, 659 N.E.2d 72, 213 Ill.Dec. 442 (2nd Dist. 1995) and Christian County for the proposition that attachments to mobile homes cannot be properly assessed as real estate. For these reasons the appellant requested the real estate assessment of the garage and breezeway be removed.

The board of review submitted its "Board of Review Notes on Appeal" wherein its assessment of the subject property was disclosed. The board of review assigned an improvement assessment to parcel 16-049-015-00 of \$6,185 for the garage and breezeway. Wayne Voss, Randolph County Chief County Assessment Officer, testified the garage was built and later attached to the mobile home, thus it did not qualify for the privilege tax. It was the opinion of the board of review that as of January 1, 2006, the garage was real property. Voss further testified the

appellant has subsequently added an attachment to the mobile home that would be subject to the privilege tax but the garage would still remain real estate.

Voss further testified Don Garrison was a deputy assessor with the assessor's office but has moved to Ohio. Voss acknowledged that Garrison was the person that would provide estimates of taxes on potential new construction of buildings.

Voss explained that the difference between the subject and the comparables identified by the appellant was that the mobile homes and garages were put on at the same time and the garages are attached by a solid wall not by just a couple of boards. Voss further testified that pole buildings similar to the one constructed by Horn are assessed as real estate in Randolph County. He explained that all buildings are assessed as real estate as long as they are free-standing and not attached to a "privileged" mobile home. Voss identified BOR Exhibit #1 and BOR Exhibit #2 as photographs depicting the subject property.

Under cross-examination Voss testified that he has been the supervisor of assessments in Randolph County since December 1, 1990. The witness agreed that since he has been supervisor of assessments attachments to mobile homes in Randolph County have been treated as being subject to the privilege tax as opposed to being taxed as part of the real estate. Voss explained that in Randolph County the assessments of mobile homes was very mixed up and many times the mobile home would be classified as real estate or on the privilege tax based on what the taxpayer wanted, which depended on what was the least expensive. He further testified that prior to 2000 if the wheels and hitch were removed the mobile home was put on as real estate. Voss testified that in 2000 Randolph County had seven test cases that went to the Property Tax Appeal Board and the board of review lost the appeals based on how the mobile homes were attached to the real estate. He explained that if the mobile homes were on piers they were placed on the privilege tax and that was the basis for placing the appellant's mobile home on the privilege tax. Voss did not know how Randolph County treated mobile homes prior to 1979.

Voss also agreed that the building permit taken out by the appellant was for a garage and a breezeway. He also agreed that the garage was attached to the mobile home by the breezeway. He further explained the photographs depict one end of the breezeway being held up by the garage and the other end being held up by the posts, not the mobile home. Voss explained this manner of construction was why the assessing officials considered the garage a free standing building that should be assessed as real estate.

In looking at the property record card and photographs of the Grau property, the witness testified the mobile home was put in place in 1990 and the garage, shed and porch were added in 1992 and 1995. Therefore, the time line for the construction was not

the same. Voss testified the porch on the Grau property was not picked up as real estate due to its attachment to the mobile home. Voss further testified that the garage on the Grau property was not assessed as real estate due to the attachment to the mobile home via the porch. Photographs of the Grau property depict the garage being attached to the porch with two inch by eight inch piece of lumber approximately eight feet long, which is the approximate width of the porch. In reviewing the property record card for the Grau property, Voss testified that in 1995 the garage was assessed as real estate but in 2004 Mr. Garrison, of his office, removed the garage as real estate and put it on as privilege tax. Voss thought this was a mistake and the garage should be assessed as real estate.

In rebuttal the appellant called as a witness board of review member Carol Hamilton. Ms. Hamilton testified that she worked in the assessor's office prior to 1979. She testified that routinely double-wide mobile homes prior to 1979 were automatically put on as real estate. Therefore, she was of the opinion, buildings would also have been assessed as real estate.

In rebuttal evidence the appellant submitted a photograph of the subject property with the substantially completed building project. (Appellant's Group Exhibit No. 3.) The photograph depicts the breezeway between the mobile home and garage as being completely enclosed and a more fully integrated structure.

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 the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment on grounds of lack of uniformity.

The Illinois property tax scheme is founded upon Article IX, section 4(a), of the Illinois Constitution of 1970. Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 234, 692 N.E.2d 260, 229 Ill.Dec. 487 (1998). Article IX, section 4(a), of the Illinois Constitution of 1970 provides:

Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law.

Ill.Const.1970 art. IX §4(a). As explained by the Supreme Court of Illinois in Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 544 N.E.2d 762, 136 Ill.Dec. 76 (1989):

The principle of uniformity of taxation requires equality in the burden of taxation. [Citation.] This court has held that an equal tax burden cannot exist without uniformity in both the basis of assessment and in the rate of taxation. [Citation.] The uniformity requirement prohibits taxing officials from valuating

one kind of property within a taxing district at a certain proportion of its true value while valuating the same kind of property in the same district at a substantially lesser or greater proportion of its true value.

Kankakee County, 131 Ill.2d at 20.

The appellant contends the subject's garage and breezeway should not be assessed and taxed as real estate but taxed under the privilege tax provided by the Mobile Home Local Services Tax Act (35 ILCS 515/1 et seq.) due to the fact the improvements are attached to the mobile home located on the parcel.

The parties did not dispute the fact that the double-wide mobile home located on the subject property owned by the appellant was receiving the privilege tax provided by the Mobile Home Local Services Tax Act. The parties also did not dispute the fact that other parcels, identified by the appellant and listed in Appellant's Group Exhibit No. 1, were improved with mobile homes with attached garages that were not being classified, assessed and taxed as real estate but were receiving the privilege tax provided by the Mobile Home Local Services Tax Act. The parties also did not dispute the fact that the breezeway on the subject property connecting the garage to the mobile home was attached to the roof of the mobile home. The testimony provided by the appellant was that the breezeway was attached to the roof of the mobile home, as of January 1, 2006, along approximately 8 feet of roofline using lumber measuring 2" x 4" and 4" x 6" with the metal attached to the wood. Photographs of the subject contained in Appellant's Group Exhibit No. 1, BOR Exhibit #1 and BOR Exhibit #2 depict the breezeway being attached to the mobile home roofline. These photographs also depict the subject garage and breezeway as being a typical metal clan pole frame building that would be classified and assessed as real estate if it were free standing.

The evidence in this appeal as demonstrated by the comparables submitted by the appellant and the testimony of the Randolph County Chief County Assessment Officer disclosed there is a practice of not classifying, assessing and taxing garages and breezeways as real estate when these types of buildings or structures are attached to a mobile home receiving the privilege tax as provided by the Mobile Home Local Services Tax Act. In this appeal, the evidence demonstrated the garage and breezeway located on the subject property were attached, although the connection is minimal, to the roof of the subject mobile home. The subject mobile home is also receiving the privilege tax. The Property Tax Appeal Board finds there is no objective standard in this record, nor did the board of review articulate such a standard, establishing when the connection, affixation and fastening of a garage or breezeway to a mobile home is too minimal or tenuous so as to be considered not attached to a mobile home. Based on this record and the principles of uniformity as articulated herein, the Property Tax Appeal Board

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finds the subject garage and breezeway should not be assessed and taxed as real estate.

Due to the finding that the subject garage and breezeway should not be assessed due to uniformity, the Board finds it does not need to address other aspects of the appellant's argument.

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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario M. Louie

Member

Shawn P. Lerbis

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: March 18, 2011

Allen Castrovillari

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.