

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Kevin & Natalie Bumann  
DOCKET NO.: 06-02611.001-R-1  
PARCEL NO.: 09-15-24-100-008

The parties of record before the Property Tax Appeal Board are Kevin & Natalie Bumann, the appellants; and the Washington County Board of Review.

The subject property consists of a 6.5-acre parcel, upon which is situated a 2004 model Schult mobile home that contains approximately 2,432 square feet of living area. The parcel also includes a pole-barn type garage containing 1,200 square feet of building area.

The appellants appeared before the Property Tax Appeal Board contending the subject dwelling had been improperly classified and assessed as real property as the basis of the appeal. In support of this contention, the appellants submitted photographs, a copy of the sales contract they negotiated with the home dealer and a copy of the mobile home title issued by the Secretary of State's office. The appellants also claimed the size of their garage had been miscalculated by the board of review. The appellants did not contest the subject's land assessment. In support of the classification issue, the appellants submitted a copy of the receipt from a lumber yard which indicates the pole-barn garage's dimensions were 30 x 40 feet, or 1,200 square feet of building area. In additional support of this contention, the appellants submitted a statement by a construction contractor who physically measured the pole-barn and stated it is 30 x 40 feet. At the hearing, the board of review stipulated to the size of the pole-barn garage as containing 1,200 square feet of building area. Subsequent to the hearing, the board of review submitted a revised property record card for the subject that indicates the garage contains 1,200 square feet and adjusted its assessment to \$3,854. Based on this evidence, the appellants contend the subject dwelling should be classified and assessed as a mobile home, subject to the privilege tax as provided for in the Mobile Home Local Services Tax Act.

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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 Washington County Board of Review is warranted. The correct assessed valuation of the property is:

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|--------|----|-------|
| LAND:  | \$ | 4,456 |
| IMPR.: | \$ | 3,854 |
| TOTAL: | \$ | 8,310 |

Subject only to the State multiplier as applicable.

At the hearing, the appellants testified the subject dwelling is resting on piers of non-mortared concrete blocks with wood shims and is not resting in whole on a permanent foundation. The photographs submitted by the appellants do indeed depict the home as resting on non-mortared concrete blocks with wood shims. Straps that anchor the home to the ground are also evident in the photos, as is a false stone skirting which does not appear to be a load-bearing appurtenance.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject property's total assessment of \$37,631 was disclosed. The board of review also submitted a letter, a copy of a Final Certificate of Zoning Compliance regarding the subject property and the appellants' application for this zoning compliance, which indicated the subject dwelling was to be a "Modular or Manufactured home on perm. foundation." The board of review's letter claimed that in receiving a permit from the Washington County Zoning Administrator, the appellants acknowledged their home "was to be considered as having a permanent foundation and would be assessed as such." The letter further stated that the subject is mortgaged as real estate. Based on this evidence, the board of review requested the subject's assessment be confirmed.

After reviewing the record 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 Property Tax Appeal Board further finds a reduction in the subject's assessment is warranted. The Board finds the Washington County Board of Review erred in classifying and assessing the subject dwelling as real estate.

The Board finds the appellants provided testimony and submitted photographs that depict the subject dwelling as resting on stacks of non-mortared concrete blocks with wood shims. The photos also depict metal tie-down straps anchoring the home to the ground and show a false stone skirting around the home, which does not appear to bear any of the home's weight. The board of review contends that because the appellants have a mortgage and a zoning compliance certificate refers to a home on a permanent foundation, that the subject dwelling should be classified and assessed as real estate. The Property Tax Appeal Board finds the appellants have met their burden and the subject dwelling should be classified and assessed as a mobile home. The Board finds Section 1-130 of the Property Tax Code defines real property in part as:

The land itself, with all things contained therein, and also buildings, structures and improvements, and other permanent fixtures thereon, . . . and all rights and privileges belonging or pertaining thereto, except where otherwise specified by this Code. Included therein is any vehicle or similar portable structure used or so constructed as to permit its use as a

dwelling place, if the structure is resting in whole on a permanent foundation. . . . (35 ILCS 200/1-130).

Additionally, section 1 of the Mobile Home Local Services Tax Act defines a mobile home as:

[a] factory assembled structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, and placement on a temporary foundation, at which it is intended to be a permanent habitation, and situated so as to permit the occupancy thereof as a dwelling place for one or more persons, provided that any such structure resting in whole on a permanent foundation, with wheels, tongue and hitch removed at the time of registration provided for in Section 4 of this Act, shall not be construed as a 'mobile home', but shall be assessed and taxed as real property as defined by Section 1-130 of the Property Tax Code. (35 ILCS 515/1).

Both the Property Tax Code and the Mobile Home Local Services Tax Act require a mobile home to be resting in whole on a permanent foundation before it can be classified and assessed as real estate. Absent a permanent foundation a mobile home is subject to the privilege tax provided for in the Mobile Home Local Services Tax Act. Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d 711, 719(2<sup>nd</sup> Dist. 1996); Berry v. Costello, 62 Ill.2d 342, 347 (1976). The Property Tax Code and the Mobile Home Local Services Tax Act provide that the determining factor in classifying a mobile home as real estate as being the physical nature of the structure's foundation. Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d at 724.

Neither the Property Tax Code nor the Mobile Home Local Services Tax Act defines "permanent foundation." The Board may, however, look to other statutes that relate to the same subject to determine what constitutes a permanent foundation for assessment purposes. Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d at 720; Christian County Board of Review v. Property Tax Appeal Board, 858 N.E.2d 909, 306 Ill.Dec. 851 (5<sup>th</sup> Dist. 2006).

Section 2(1) of the Illinois Manufactured Housing and Mobile Home Safety Act defines a "permanent foundation" as:

a closed perimeter formation consisting of materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line which shall include, but not necessarily be limited to

cellars, basements, or crawl spaces, but does exclude the use of piers. (430 ILCS 115/2(1)).

The Manufactured Home Quality Assurance Act provides a definition of permanent foundation, stating in part:

[T]hat any such [factory assembled] structure resting on a permanent foundation, which is a continuous perimeter foundation of material such as mortared concrete block, mortared brick, or concrete which extends into the ground below the established frost depth and to which the home is secured with foundation bolts at least one-half inch in diameter, spaced at intervals of no more than 6 feet and within one foot of the corners, and embedded at least 7 inches into concrete foundations or 15 inches into block foundations, shall not be construed as a mobile home or manufactured home. . . . (430 ILCS 117/10).

The Mobile Home Park Act also speaks in terms of an "immobilized mobile home" which means:

[A] mobile home served by individual utilities, resting on a permanent perimeter foundation which extends below the established frost depth with the wheels, tongue and hitch removed and the home secured in compliance with the Mobile Home Tiedown Act. 210 ILCS 115/2.10.

The Manufactured Home Installation Code (77 Ill.Adm.Code 870) also contains a definition of "permanent foundation" which mirrors language contained in Manufactured Home Quality Assurance Act as quoted above. Section 870.10 of the Illinois Manufactured Home Tiedown Code states in part that:

"Permanent Foundation" is a continuous perimeter foundation of material such as mortared concrete block, mortared brick, or concrete that extends into the ground below the established frost depth and to which the home is secured with foundation bolts at least one-half inch in diameter, spaced at intervals of no more than 6 feet and within one foot of the corners, and embedded at least 7 inches into concrete foundations or 15 inches into block foundations. (77 Ill.Adm.Code 870.10).

The Board finds that each of these statutory provisions requires that a permanent foundation must be a continuous perimeter foundation composed of concrete, mortared concrete block, or mortared brick that extends below the frost line. The home must be actually attached to, supported by and anchored to this type of continuous perimeter foundation to be considered a permanent foundation.

The Board finds under the facts of this appeal the mobile home is not resting in whole on a permanent foundation so as to be classified and assessed as real estate under the provisions of the Property Tax Code. The Board finds the subject mobile home is not resting on, supported by, or anchored to a perimeter foundation that extends below the frost depth. The evidence disclosed the subject mobile home was not attached to a permanent foundation because the home rests on non-mortared concrete block piers situated on concrete footings and is anchored to the ground with metal tie down straps to prevent the dwelling from shifting during inclement weather, with a false stone skirting around its perimeter that does not support the dwelling. Wood shims are placed between the non-mortared blocks and the under-frame of the mobile home to support and level the dwelling. The mobile home is not attached to the concrete blocks but is held in place by its own weight and further, that straps go through the frame of the home to anchors that are screwed into the ground.

In conclusion, the Property Tax Appeal Board finds the mobile home located on the subject property should not be classified and assessed as real property. The Board also finds the parties stipulated at the hearing to the pole-barn garage as having 1,200 square feet of building area. The Board finds the board of review submitted a letter and a revised property record card for the subject property subsequent to the hearing, wherein the garage's improvement assessment was indicated to be \$3,854. The Board finds the record contains no evidence to demonstrate this improvement assessment of the garage was incorrect or inappropriate.

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.



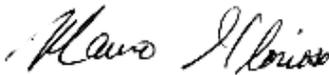
Chairman



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: March 20, 2009



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.