

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Tim C. & Donna S. Hicks
DOCKET NO.: 06-02792.001-R-1
PARCEL NO.: 05-19-10-253-002

The parties of record before the Property Tax Appeal Board are Tim C. and Donna S. Hicks, the appellants; and the Washington County Board of Review.

The subject property consists of 2,128 square foot Fleetwood double-wide mobile home that was built in 2002. The subject also has a two-car detached garage and a 10 foot by 12 foot wooden deck. The property is located in Radom, DuBois Township, Washington County.

The appellant, Donna S. Hicks, appeared before the Property Tax Appeal Board contesting the assessment on the mobile home. The appellant contends the mobile home should not be classified and assessed as real estate due to its lack of a permanent foundation. The appellant testified the home was purchased from a mobile home dealer in Mt. Vernon. The appellant submitted a copy of the purchase agreement disclosing the subject home was a Fleetwood model that was purchased in July 2001 for a price of \$66,126. The appellant also submitted a copy of Certificate of Title of Vehicle describing the subject as a 2002 Fleetwood with 2,128 square feet that was purchased on July 9, 2001. The appellant also submitted a copy of a document entitled Appraiser's Manufactured Housing Checklist dated April 1, 2005, indicating the home is not permanently affixed on a concrete/masonry perimeter with concrete/masonry footings and further indicating the home is not permanently affixed to blocks. The form also indicated, however, that the subject had been converted to real property.

The appellant testified the mobile home is on blocks but not permanently attached to the blocks and can be removed off of the blocks. She testified that when the mobile was purchased they had problems obtaining a loan because they were told that loans were not made for mobile homes. She also testified that she could not obtain insurance from State Farm Insurance because it does not insure mobile homes. Her main complaint was that her

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

LAND:	\$	1,330
IMPR.:	\$	28,795
TOTAL:	\$	30,125

Subject only to the State multiplier as applicable.

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taxes are high and should be based on a mobile home privilege tax.

She testified the home was delivered to its present location in two sections and was pulled by a tractor. She observed the home being set up. The appellant stated the subject has three high mortared blocks around the perimeter of the home. The appellant testified the home sits on top of this perimeter foundation. The appellant stated the home is anchored in place by the blocks that it sits on. The appellant assumed the home was attached to these blocks. The appellant did not know how deep the concrete blocks extended into the ground but indicated that in setting up the home they did not dig into the ground.

Under cross-examination the appellant did not know how the home was attached to the perimeter mortared concrete block foundation.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment totaling \$30,125 was disclosed. The board of review provided testimony that the appellants did obtain a building permit wherein the subject was described as a modular or manufactured home on a permanent foundation. The board of review also noted the appellants submitted an appraiser's manufactured housing checklist wherein the appraiser indicated the subject dwelling had been converted to real property. The board's witness indicated that an inspection was made of the exterior of the home and the subject had a mortared concrete block foundation as described by the appellant. The witness said from appearances it looked as though the perimeter mortared concrete block foundation supported the home; however, no one looked under the home.

The board of review also submitted information on comparable sales disclosing that mobile homes have been sold as part of the real estate. The homes ranged built from 1997 to 1998 and ranged in size from 1,716 to 1,850 square foot of living area. The sales occurred from June 2004 to December 2005 for prices ranging from \$68,000 to \$79,000 or from \$36.76 to \$43.07 per square foot of living area. The subject has an assessment reflecting a market value of approximately \$91,500 or \$43.00 per square foot of living area using the 2006 three year median level of assessments for Washington County of 32.92%. The board of review also submitted information on equity comparables to demonstrate the subject was equitably assessed. The comparables were improved with mobile homes that ranged in size from 1,352 to 2,135 square feet of living area and were constructed from 1996 to 2001. These properties had improvement assessments that ranged from \$19,928 to \$27,099 or from \$11.88 to \$16.69 per square foot of living area. The subject had an improvement assessment of \$28,795 or \$13.53 per square foot of living area.

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 a reduction in the subject's assessment is not justified based on this record.

The appellant contends that the mobile home on the subject property should not be classified and assessed as real estate because of the nature of the home's foundation. The appellant argued the mobile home should not be classified and taxed as real estate but subject to privilege tax provided by the Mobile Home Local Services Tax Act.

Section 1-130 of the Property Tax Code defines real property in part as:

[A]ny 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 by the Mobile Home Local Services Tax Act. Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d 711, 719(2nd 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 is 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 Property Tax Appeal 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, 368 Ill.App.3d 792, 800 (5th Dist. 2006).

The Illinois Manufactured Housing and Mobile Home Safety Act contains a definition of "permanent foundation". 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 in defining "Manufactured Home" provides a definition of a permanent foundation stating in part:

[T]hat any such structure resting wholly 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.Admin.Code 870) also contains a definition of "permanent foundation" which mirrors the 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 such as mortared concrete blocks, 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.Admin.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, supported and anchored by this type of continuous perimeter foundation to be considered a permanent foundation.

After considering the evidence and testimony the Board finds the appellant did not present sufficient evidence to establish that the subject mobile home was not resting in whole on a permanent foundation so as not to be classified and assessed as real estate under the provisions of the Property Tax Code. The appellant's evidence with respect to the nature of the subject's foundation was contradictory. The appellant provided a copy of a document entitled Appraiser's Manufactured Housing Checklist dated April 1, 2005, indicating the home is not permanently affixed on a concrete/masonry perimeter with concrete/masonry footings and further indicating the home is not permanently affixed to blocks. However, the document also indicated the home had been converted to real estate. Additionally, the appellant testified that the subject was resting upon and supported by a mortared concrete block perimeter foundation. At other times the appellant indicated the subject was resting on concrete blocks and could move. The Board finds this testimony and evidence was equivocal and inconclusive with respect to the nature of the subject's foundation. The Board finds the appellant provided no photographs or testimony concerning the nature of crawl space under the home to demonstrate the property was not resting in whole on a permanent foundation. The Board finds under the facts of this appeal the appellant did not satisfy the burden of challenging the correctness of the assessment by providing descriptive data, testimony and photographs establishing the mobile home was not resting on a permanent foundation.

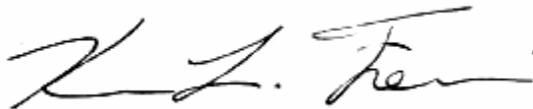
The Board finds the board of review did provide assessment and market data to demonstrate the subject property was equitably assessed and the assessment was reflective of its market value.

In conclusion, the Property Tax Appeal Board finds a reduction in the subject's assessment is not supported based on this record.

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: October 31, 2008



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.