



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

APPELLANT: Esther Emmons
DOCKET NO.: 06-02815.001-R-1
PARCEL NO.: 03-28-100-015

The parties of record before the Property Tax Appeal Board are Esther Emmons, the appellant, and the Massac County Board of Review.

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

FARMLAND:	\$	65
HOMESITE:	\$	7,910
RESIDENCE:	\$	40,000
FARM BLDGS:	\$	0
TOTAL:	\$	47,975

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel consists of .2-acres of farmland and a 3-acre homesite with a 2001 Fleetwood mobile home measuring thirty-two by seventy-six feet containing approximately 2,432 square feet square feet of living area. There is an attached two-car garage of 1,599 square feet of building area, a six-foot wide wooden deck, and a 192 square foot storage shed. The property is located in Metropolis, Massac County.

Appellant appealed the improvement assessment placed on the mobile home to the Property Tax Appeal Board. In support of the appeal, appellant filed letters arguing her legal contentions and submitted color photographs depicting both the exterior of the mobile home and steel I-beams that are visible from stairs to the basement and steel I-beams that are behind acoustical tiles forming the basement ceiling. Appellant's exterior color photographs also appear to depict a concrete "wall" that forms the skirting of the mobile home. In her letters, the appellant argued the mobile home should not be classified and assessed as real estate, but rather as a mobile home should have a Privilege Tax. Appellant contended that the mobile home is "sitting on

steel beams" and "the basement was built for shelter in case of storms." The appellant further argued that her daughter lives next door with a same size home, but pays greatly lower taxes than does the appellant. Appellant contends that she should arguably pay taxes twice as high as her daughter since appellant has twice the square footage with the basement, but appellant disputes paying "ten times" what her daughter pays in taxes.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment of the subject of \$47,975. In support of the subject's current assessment, a letter from Tammy M. Robinson, Supervisor of Assessments of Massac County was submitted wherein she reported that Massac County values manufactured homes on a basement foundation as real estate. In support of this interpretation of law, Robinson cited to the definition of a permanent foundation as found in the Manufactured Housing and Mobile Home Safety Act, the definition of a mobile home found in the Mobile Home Local Services Tax Act and the definition of real property found in Section 1-130 of the Illinois Property Tax Code.

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 Board further finds a reduction in the subject's assessment is not warranted.

The appellant argued that the mobile home on the subject property was improperly classified and assessed as real estate. The appellant argued the mobile home should not be taxed as real estate but should be subject to the Mobile Home Local Services Tax Act ("privilege tax").

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.** . . . [Emphasis added.] (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. [Emphasis added.] (35 ILCS 515/1).

Finally, Section 870.10 of the Manufactured Home Installation Code provides:

"Manufactured home" is synonymous with "mobile home" and means a structure that is factory-assembled, completely integrated structure designed for permanent habitation, with a permanent chassis 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, at which it is placed on a support system for use as permanent habitation, and designed and situated so as to permit its occupancy as a dwelling place for one or more persons; provided, that any such structure **resting wholly on a permanent foundation**, as defined in this Part, shall not be construed as a mobile home or manufactured home. The term "manufactured home" includes manufactured homes constructed after June 30, 1976 in accordance with the federal National Manufactured Housing Construction and Safety Standards Act of 1974 and does not include an immobilized mobile home as defined in Section 2.10 of the Mobile Home Park Act. [Emphasis added.] [430 ILCS 117/10] (77 Ill.Admin.Code 870.10).

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 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 (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 provides a definition of permanent 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. Admin. 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** 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 Manufactured Home Community Code (77 Ill. Admin. Code 860.150) addresses the issue of immobilization of a mobile home, which appears to be analogous to having a permanent foundation. A manufactured home is considered immobilized when the following conditions are met:

- a) The home shall be provided with individual utilities as defined in Section 2.8 of this Act.
- b) The wheels, tongue, and hitch shall be removed and the home shall be supported by a continuous perimeter foundation of material such as concrete, mortared concrete block, or mortared brick which extends below the established frost depth. The home shall be secured to the continuous perimeter foundation with $\frac{1}{2}$ inch foundation bolts spaced every 6 feet and within one foot of the corners. The bolts shall be imbedded at least 7 inches into concrete foundations or 15 inches into block foundations. (77 Ill. Admin. Code 860.150).

The Board finds that each of these statutory and regulatory 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.

The Board finds under the facts of this appeal the subject dwelling is 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 appellant submitted four color exterior photographs clearly depicting a permanent concrete foundation that composes the supporting base of the mobile home. Based on this evidence and the existence of a finished basement beneath the mobile home, the Board finds the subject dwelling is anchored to a perimeter foundation that extends below the frost depth.

In conclusion, the Property Tax Appeal Board finds the mobile home located on the subject property should be classified and assessed as real property and thus no reduction in the subject's improvement assessment is 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. 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: November 25, 2009

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.