

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: James Slater  
DOCKET NO.: 06-02825.001-R-1  
PARCEL NO.: 10-223-005-00

The parties of record before the Property Tax Appeal Board are James Slater, the appellant, and the Jersey County Board of Review.

The subject property consists of a double-wide mobile home measuring 24' by 60' containing approximately 1,440 square feet of living area. The property has also been improved with a 285 square foot carport and two concrete patios of 74 and 482 square feet, respectively. The home was manufactured in 1976 and is located on a 1-acre parcel in Grafton, Rosedale Township, Jersey County.

The appellant appeared before the Property Tax Appeal Board contesting the assessment on the mobile home. The appellant argued primarily that the mobile home should not be classified and assessed as real estate because the dwelling is not resting in whole on a permanent foundation. In the alternative, appellant argued lack of uniformity in the improvement assessment. The appellant submitted a written statement explaining the legal issue concerning how the mobile home was anchored, supported by photographs; as to the alternative argument, appellant presented assessment equity data on six suggested comparable properties.

Appellant testified he purchased the mobile home already situated on the property in 1991. As to the mobile home, the appellant testified the foundation consists of partially mortared concrete blocks; in this regard, appellant submitted eight color photographs at hearing depicting, from the interior of the perimeter, that the concrete blocks were horizontally mortared, but not vertically mortared. While the appellant has not dug down into the ground, it appeared to him that there are footings; whether those footings extend into the ground below the frost depth is unknown. He further testified that the home was not secured with foundation bolts at least one-half inch in diameter and spaced at intervals of no more than six feet and within one foot of the corners; he further explained there are no vertical

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

LAND:	\$	4,010
IMPR.:	\$	887
TOTAL:	\$	4,897

Subject only to the State multiplier as applicable.

bolts from the frame of the mobile home into the concrete blocks anywhere along the perimeter. Appellant testified the home rests on the perimeter solely by its own weight.

Furthermore, as depicted in eight additional color photographs, the center of the home, consisting of approximately five runners, is resting on unmortared concrete blocks set on the ground with wooden shims in order to level the home. As to the foundation, appellant noted the siding comes down below the outer perimeter concrete block so that appellant cannot see light beneath the home. In summary, appellant contended the mobile home was not resting and/or anchored to a permanent foundation; there are no tie-down straps that anchor the home in place. Appellant further testified that he desires to hire a professional so as to anchor the dwelling in place so that the property would be classified as real estate, but after an initial examination one such expert has failed to return the appellant's calls.

As an alternative argument, if the dwelling is determined to qualify as real estate, appellant contends the comparable data presented in his appeal establishes a lack of uniformity and justify a reduction in the assessed value of the subject.<sup>1</sup>

Based on the foregoing evidence, the appellant contends the home is not resting in whole on a permanent foundation and should not be classified and assessed as real estate for *ad valorem* taxation purposes. In the alternative, if the dwelling is found to qualify as real property, the assessment should be reduced to reflect the value set forth in the appellant's documentation.

Under cross-examination the appellant was questioned as to whether he has a title or has applied for a lost title to the home; appellant testified he does not have one nor has he applied for a lost title.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment of the subject of \$24,865.

Given the assertion that the subject dwelling is a mobile home, the board of review questioned whether a title has and/or must be provided to establish that the dwelling is a mobile home. The board of review further questioned whether the property was a modular home rather than a mobile home. The board of review also questioned whether the exterior perimeter consists of a permanent foundation; photographs submitted were of the interior perimeter and central beams with concrete blocks and wood shims. The board of review asserted that it is not unusual to have even a residential frame dwelling supported with concrete blocks. The board of review representative also contended foundations must have tuck point repairs from time to time, therefore, the board

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<sup>1</sup> In this regard, it is noted that the board of review proposed to stipulate to the appellant's requested assessment reduction should the property be found to be assessable real property.

argued that the photographs do not establish whether the perimeter was ever mortared. The representative asserted that the photographs appear to establish that the dwelling is resting on the outside perimeter.

The board of review further noted in its presentation that there are some dwellings in the jurisdiction which are afforded privilege tax as a mobile home or a modular home. However, the board representative noted in those instances, there is a gap between the top of the perimeter formation and the bottom of the home even though the home's siding extends below the top of the concrete perimeter formation; in those instances, the perimeter formation does not support or anchor the home nor is the home attached to the perimeter concrete block structure.

Lastly, if the subject dwelling is determined to not be real property for assessment purposes, the board of review presented at hearing a copy of the subject's property record card and argued that 5% of the "stipulated" value of the total land and improvement assessments of \$17,742 should remain to account for the concrete patios. In this regard, the appellant's Residential Appeal form requested no change in the 2006 land assessment, but in the alternative to finding the mobile home was not assessable, the appellant requested an improvement assessment of \$13,732 to reflect what his equity evidence established. Thus, the board of review requested an improvement assessment of \$887 for the subject property to account for the concrete patios at 5% of value of the total assessment should a determination be made that the dwelling should not be assessed.

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 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.

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(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).

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 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 dwelling is not anchored to a perimeter foundation that extends below the frost depth. The evidence disclosed the subject has a concrete block outside perimeter formation that is not anchored to the home. Testimony provided at the hearing disclosed that the home is not attached to the perimeter formation. Stacked, non-mortared concrete blocks under the home actually support the center of the mobile home. Wood shims are placed between these non-mortared blocks and the under-side frame of the mobile home to support and level the dwelling. The mobile home was not

attached to the concrete blocks but was held in place by its own weight. There are no anchors between the mobile home and the perimeter. While the board of review questioned the validity of the appellant's unchallenged testimony, the board of review provided no contradictory evidence to refute the appellant's assertions regarding the nature of the foundation and/or lack of bolts or anchoring of the subject dwelling. Moreover, the board of review representative testified that some mobile homes and modular homes are not assessed as real estate in the county, depending on the nature of the foundation.

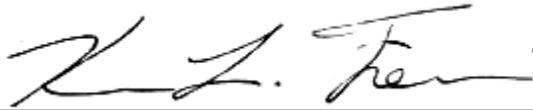
In conclusion the Property Tax Appeal Board finds the mobile home located on the subject property should not be classified and assessed as real property. Therefore, the Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted in accordance with its findings and the alternative argument made by appellant regarding lack of uniformity in assessments will not be further considered.

As a final matter, the board of review requested an improvement assessment of \$887 to account for the concrete patios associated with the subject property. A close examination of the record reveals that besides two concrete patios, the subject property also in 2006 had a 285 square foot carport. Without challenge from the appellant, the Property Tax Appeal Board will accept the request of the board of review for an improvement assessment of \$887 to account for the assessed value of two concrete patios and the carport.

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.



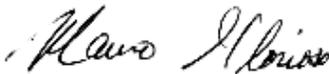
Chairman



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: July 28, 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.