

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Darryl & Catherine Bertels  
DOCKET NO.: 07-00035.001-R-1  
PARCEL NO.: 12-2-04-26-19-401-025

The parties of record before the Property Tax Appeal Board are Darryl & Catherine Bertels, the appellants, and the Madison County Board of Review.

The subject property consists of a 2007 mobile home containing 1,280 square feet of living area that is located in Worden, Illinois.

The appellants submitted evidence before the Property Tax Appeal Board arguing the subject dwelling was improperly classified and assessed as real estate by Madison County Assessment Officials. In support of this argument, the appellant submitted photographs of the subject dwelling being placed on its foundation. The photographs depict the subject dwelling was placed and is resting on un-mortared concrete blocks and is anchored into the ground with tie-down straps. The appellants' brief indicated the dwelling's hitch and axels were removed. The appellants' evidence also contains a description sheet maintained by Madison County Assessment Officials describing the subject dwelling as a mobile home. The appellants argued the subject dwelling was not placed on a permanent foundation, but is resting in whole on a temporary foundation. Based on this evidence, the appellants argued the subject property should not be classified and assessed as real estate.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$25,650 was disclosed. In support of the subject's assessment, the board of review indicated it has been county policy that if an owner [of a mobile home] owns both the improvements and land, it is real estate. The board of review submitted no evidence supporting its classification and assessment of the subject dwelling or refuting the appellants' contention that the subject dwelling is a mobile home that is not resting in whole on a permanent foundation. Based on this response, the board of review requested confirmation of the subject's assessment.

(Continued on Next Page)

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

LAND: \$ 4,300  
IMPR.: \$ 0  
TOTAL: \$ 4,300

Subject only to the State multiplier as applicable.

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 improvement assessment is warranted. The Board finds the Madison County Board of Review erred, as matter of law, in classifying and assessing the subject dwelling as real estate.

The appellants argued that the subject dwelling is a mobile home and was improperly classified and assessed as real estate. 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).

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. [430 ILCS 117/10] (77 Ill.Admin.Code 870.10).

The Property Tax Appeal board finds the Property Tax Code, the Mobile Home Local Services Tax Act and Manufactured Home Installation Code require that a factory assembled structure, vehicle or similar portable structure used or so constructed as to permit its use as a dwelling place, and constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, at which it is intended to be a permanent habitation, 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). The Property Tax Code and the Mobile Home Local Services Tax Act identify 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." However, the Board may look to other statutes that relate to the same subject matter 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. The Property Tax Appeal Board's interpretation and definition of a permanent foundation was upheld by the appellant court. Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d 711 (2<sup>nd</sup> Dist. 1996). Furthermore, the Property Tax Appeal Board's definition and use of a permanent foundation was affirmed. Christian County Board of Review v. Property Tax Appeal Board, 368 Ill.App. 3d 792, 858 N.E.2d 909 (5<sup>th</sup> Dist. 2006)

The Illinois Manufactured Housing and Mobile Home Safety Act contains a definition for a "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 Installation Code (77 Ill.Admin.Code 870) also contains a definition of "permanent foundation". Section 870.10 of the Manufactured Home Installation Code defines a permanent foundation as:

"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 of 15 inches into block foundations. [430 ILCS 117/10]. (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. (77 Ill.Admin.Code 860.150(a)).
- 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 ½ 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(b)).

Each of these provisions require that a permanent foundation must be a continuous perimeter formation composed of concrete, mortared concrete block, mortared brick that extends below the frost depth that actually supports and anchors the mobile home with bolts, but does exclude the use of piers. The Property Tax Appeal Board finds the facts under this appeal show the subject dwelling at issue is a mobile home that is not resting in whole on a permanent foundation so as to be classified and assessed as real estate under the aforementioned provisions. The Board finds the evidence in this record indicates the subject dwelling is not resting on, supported by, or anchored to a continuous perimeter

foundation. The home is held in place by its own weight and is anchored to the ground with tie down straps.

The Property Tax Appeal Board finds Madison County Assessment Officials acknowledged and virtually acquiesced the subject dwelling is a mobile home as described by its physical description sheet. The board of review contends the subject's classification is consistent with county policy for assessing manufactured dwellings. The Property Tax Appeal Board finds that this policy is not in accordance with section 1-130 of the Property Tax Code (35 ILCS 200/1-130) or applicable case law, which requires that a dwelling must be resting in whole on a permanent foundation to be classified and assessed as real estate, regardless of the owner of the land.

The Property Tax Appeal Board further finds the county's practice of classifying some mobile homes under the Mobile Home Local Services Tax Act (35 ILCS 515/1) while assessing others with similar or identical temporary foundations not based on the foundation type, but based on who owns the land, appears to be inequitable and in violation of the principle of uniformity. General policies which create a substantial disparity between similar properties or classes of taxpayers violate the principles of uniformity. Moniot v. Property Tax Appeal Board, 11 Ill.App.3d 309, 314 (1973). The county policy provides that similar mobile homes would be classified and taxed differently dependent on who owns the underlying land, regardless of the nature of the foundation type. This practice results in mobile homes with temporary foundations being classified and taxed differently depending on who owns the underlying land. This disparate treatment is not allowed under the uniformity provisions provided by the Illinois Constitution of 1970. For these reasons, the Property Tax Appeal Board finds Madison County's adopted assessment practices, the assessment policy and methodology used by chief county assessment officer regarding the classification and assessment of mobile homes creates an assessment inequity under the uniformity provisions provided by Article IX, section 4(a), of the Illinois Constitution of 1970.

In conclusion the Property Tax Appeal Board finds the dwelling located on the subject parcel should not be classified and assessed as real property. Therefore, the Board finds that the assessment of the subject property is incorrect and a reduction 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.

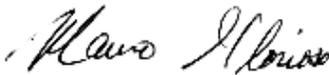


Chairman



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: August 24, 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.