



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

APPELLANT: Ricky & Donna Jankowski
DOCKET NO.: 08-05260.001-R-1 through 08-05260.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Ricky and Donna Jankowski, the appellants, and the Clinton County Board of Review.

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

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
08-05260.001-R-1	11-10-26-103-008	5,847	3,190	\$9,037
08-05260.002-R-1	11-10-26-102-009	5,069	2,960	\$8,029

Subject only to the State multiplier as applicable.

ANALYSIS

The subject matter of this appeal consists of two separate properties. The property identified by parcel number (PIN) 11-10-26-103-008 (hereinafter "PIN 008") has an address of 119 Circle Drive, Damiansville. PIN 008 has a ½ acre site improved with a 1,440 square foot dwelling and a two-car detached garage with 572 square feet of building area. PIN 11-10-26-102-009 (hereinafter "PIN 009") has an address of 130 Circle Drive, Damiansville. PIN 009 also has a ½ acre site and is improved with a 1,344 square foot dwelling and a two-car detached garage with 576 square feet of building area.

The appellants appeared before the Property Tax Appeal Board contesting the improvement assessment on each PIN contending both dwellings are manufactured homes not resting in whole on permanent foundations; therefore, neither dwelling should be classified and assessed as real estate.

The appellants testified that they purchased PIN 008 approximately 6 years ago for approximately \$20,000 and then took out a loan to remodel the home in the amount of \$20,000. Mr. Jankowski thought the home was manufactured by Fleetwood in 1974.

Mr. Jankowski testified the home does not have a Vehicle Identification Number (VIN). Mr. Jankowski testified the home measures 24 feet by 60 feet and the property has a detached garage. He explained the dwelling is sitting on blocks under the frame and there is a concrete wall on the base perimeter but the home does not sit on the perimeter wall; rather than skirting the home has the concrete wall. He indicated the perimeter wall goes to the frost line but the home is not attached to this foundation. He explained the home has four I-beams that have concrete blocks under them. The witness testified there are poured concrete piers footings that are approximately 24 inches deep that concrete blocks are stacked upon. Between the top of the blocks and the steel frame of the home are wooden shims. The stacked concrete blocks are not mortared and the home is not attached to the blocks. The appellant testified the home has three sets of tie-downs that are attached to the ground. The witness explained the siding of the home goes below the top of the concrete perimeter wall and there is approximate ½ inch between the top of the concrete perimeter wall and the bottom of the mobile home. Mr. Jankowski also testified the tongues are under the home because the home is a double wide but the axles were gone. Mr. Jankowski testified he purchased the home as it was set up and he did not participate in setting up the home.

With respect to the dwelling located at PIN 009 Mr. Jankowski testified the home was set up the same way as the home located on PIN 008. He testified the same company put the two homes in place at approximately the same year.

The appellants also submitted one comparable located at 110 Circle Drive. Mr. Jankowski stated this home was set up the same way as the subject dwellings with the exception it has vinyl underpinning (skirting) around the bottom. Mr. Jankowski testified he was under this home and it has the same set-up as the subject dwellings but is receiving the privilege tax. The appellants also submitted photographs of the subject properties with one depicting the stacked concrete blocks under the home.

Mr. Jankowski testified approximately four year ago he was not able to obtain a privilege tax on the homes because he never had the titles to the homes.

The board of review submitted its "Board of Review Notes on Appeal" for each of the properties and their respective property record cards. PIN 008 had a total assessment of \$14,382 and an improvement assessment of \$8,537.¹ PIN 009 had a total assessment of \$13,168 and an improvement assessment of \$8,099.² Linda Messing, Clinton County Chief County Assessment Officer (CCAO), testified on behalf of the board of review.

¹ The property record card for PIN 008 disclosed the garage was valued at \$9,570.

² The property record card for PIN 009 disclosed the garage was valued at \$8,880.

With respect to PIN 008, the CCAO testified the home was incorrectly assessed as having 1,244 square feet of living area; however, upon inspection the home was found to have 1,440 square feet of living area and the detached garage had 572 square feet of building area. The witness indicated the age is reported as 1979, which is when the assessor picked up the home. Ms. Messing testified they had no proof of the age because there is no title to the property. She further testified there was a transfer declaration (Exhibit E) disclosing the property was purchased by the appellants in December 2003 for a price of \$19,900. The transfer declaration indicated the current and intended use was as a residence. Ms. Messing testified the transfer declaration did not indicate the property was a mobile home residence.³ The CCAO also noted that a mortgage was taken out on the property (Exhibit G), which was in the amount of \$44,900, indicating the property is considered real property. She further testified that according to the Secretary of State's office when a mobile home is assessed as real estate a person gets a deed and not a title. (Exhibit H) Ms. Messing also noted that the appellants' comparable (Gallagher property) has a Certificate of Title of a Vehicle and the home has under skirting around the bottom. (Exhibit I). The board of review also submitted nine comparables improved with manufactured and modular homes. (Exhibit J) These comparables had improvement assessments ranging from \$9.06 to \$18.43 per square foot of living area. PIN 008 had an improvement assessment of \$8,537 or \$5.93 per square foot of living area. Due to a correction in the subject's size, the board of review requested the improvement assessment be increased to \$10,616 for a revised total assessment of \$16,346.

With respect to PIN 009, the evidence provided by the board of review was substantially the same. The board of review noted that this home had been incorrectly assessed with 1,244 square feet of living area and a 94 square foot open masonry porch while the home actually has 1,344 square feet of living area and a 119 square foot open masonry porch. The board of review noted that in correcting the size the PIN should have a total assessment of \$14,770.

She further testified there was a transfer declaration (Exhibit E) disclosing PIN 009 was purchased by the appellants in June 2006 for a price of \$42,000. The transfer declaration indicated the current and intended use was as a residence and the transfer declaration did not indicate the property was a mobile home residence.⁴ Ms. Messing testified this PIN also had a mortgage taken out in the amount of \$45,571 (Exhibit F) indicating the property was considered real property. The board also submitted

³ Item "c" on the transfer declaration, which describes the current and intended use as mobile home residence, was not marked. Furthermore, question 12b on the transfer declaration, which asks, "Was the value of a mobile home included on Lines 11 and 12a?" was answered "No."

⁴ Item "c" on the transfer declaration, which describes the current and intended use as mobile home residence, was not marked. Furthermore, question 12b on the transfer declaration, which asks, "Was the value of a mobile home included on Lines 11 and 12a?" was answered "No."

a letter from the Secretary of State's office stating that when a mobile home is assessed as real estate a deed should be obtained and no Illinois title will be issued. (Exhibit G) The board of review also submitted information on the appellants' comparable (Gallagher property) disclosing it has a Certificate of Title of a Vehicle and the home has under skirting around the bottom. (Exhibit H). The board of review also submitted nine comparables improved with manufactured and modular homes. (Exhibit I) These comparables had improvement assessments ranging from \$9.06 to \$18.43 per square foot of living area. PIN 009 had an improvement assessment of \$8,099 or \$6.03 per square foot of living area. Due to a correction in the subject's size, the board of review requested the improvement assessment be increased to \$9,077 for a revised total assessment of \$14,770.

Ms. Messing testified that with respect to the county practice of assessing mobile homes. She indicated that if the owner can produce a title the property will receive the privilege tax, if the title cannot be produced the mobile home is assessed as real estate. With respect to the foundation, she further testified that if the owner can bring in photographs depicting how the home is installed they may make a change in the assessment. With respect to Mr. Jankowski's testimony concerning how the homes were set up, Ms. Messing testified that in 2008 it is possible the homes might have received the privilege tax, however, there was no proof of title, no VIN, year and make of the homes.

In rebuttal the appellant indicated he does not have titles for the homes but asserted the homes are mobile homes.

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 this appeal. The Board further finds the evidence in the record supports a reduction in the assessment of each property under appeal.

The appellants contend that the dwellings on each of the parcels under appeal are mobile homes that are improperly classified and assessed as real estate because of the nature of the homes' foundation. The appellants argued the mobile homes should not be classified and taxed as real estate but subject to the privilege tax provided by the Mobile Home Local Services Tax Act (35 ILCS 515/1).

As of January 1, 2008, section 1-130 of the Property Tax Code defined real property in part as:

The land itself, with all things contained therein, and also all buildings, structures and improvements, and other permanent fixtures thereon. . . 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**, (emphasis added) 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).⁵

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 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).⁶

⁵ Public Act 96-1477 amended the definition of real property contained in section 1-130 of the Property Tax Code (35 ILCS 200/1-130) and also amended the Mobile Home Local Services Tax Act (35 ILCS 515/1 et seq.) effective January 1, 2011. The Board finds these amendments are not applicable to the January 1, 2008 assessment date at issue.

⁶ As an example, the Manufactured Home Installation Code (77 Ill.Admin.Code 870) contains a definition of "permanent foundation" which states:

The Board finds 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 neither of the homes 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 Board finds the subject mobile homes are not resting on, supported by and anchored to a perimeter foundation that extends below the frost depth. The evidence disclosed both homes have a concrete perimeter base that serves as "skirting" that does not support or anchor either of the homes. Stacked, non-mortared concrete blocks resting on poured concrete footings placed under the steel I-beams actually support the mobile homes. The mobile homes are not attached to the concrete blocks but are held in place by their own weight and tie-down straps.

The board of review did not provide any testimony that disputed the description of the foundation of either of the homes as provided by the appellant. Although the board of review provided evidence that the transfer declarations completed when each property sold does not indicate the properties are mobile home residences, this is not controlling in determining whether or not the dwellings can be classified and assessed as real estate. Furthermore, the fact each property was subject to a mortgage does not control the classification of the mobile homes for assessment purposes.

In conclusion the Property Tax Appeal Board finds the mobile homes located on the subject properties should not be classified and assessed as real property for tax year 2008. However, each of the garages located on the subject sites are subject to real estate assessment and taxation. Therefore, the Property Tax Appeal Board finds that a reduction in the improvement assessment on each PIN is warranted in accordance with these findings.

"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.Admin.Code 870.10).

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.

Donald R. Cuit

Chairman

Frank J. Huff

Member

Mark Morris

Member

JR

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 22, 2013

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.