FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Terry & April Bannick
DOCKET NO.: 08-05781.001-R-1
PARCEL NO.: 06-13-007-014

The parties of record before the Property Tax Appeal Board are Terry & April Bannick, the appellant; and the Effingham 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 **Effingham** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$2,140
IMPR.:	$4,000
TOTAL:	$6,140

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 2001 mobile home containing 1,755 square feet of living area. The subject parcel is also improved with a 1,200 square foot garage/pole building. The subject property is located in Lucas Township, Effingham County, Illinois.

The appellants submitted evidence before the Property Tax Appeal Board arguing the subject dwelling was improperly classified and assessed as real property by Effingham County Assessment Officials. In support of this argument, the appellants submitted photographs, a purchase contract for the subject mobile home, a letter referencing the Mobile Home Local Services Tax Act (35 ILCS 515) and two decisions issued by the Property Tax Appeal Board regarding the classification and assessment of mobile homes located in Effingham County. The letter disclosed the subject dwelling was transported on wheels to its location and the wheels, axles and tongue were removed. The appellants argued and photographs depict that the subject dwelling was placed and is resting on un-mortared concrete block piers with wood shims for leveling purposes. The dwelling is held in place with metal tie-

down straps. The appellants indicated a concrete block skirting was subsequently installed around the perimeter of the dwelling, but the dwelling is not resting or supported by the concrete block perimeter skirting. The appellants argued the concrete block skirting was installed to protect the undercarriage from the elements and for cosmetic purposes. The appellants argued the subject dwelling does not rest in whole or in part on a permanent foundation. Based on this evidence, the appellants argued the subject property should not be classified and assessed as real estate.

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its classification and assessed valuation of the subject property as required by Section 1910.40(a) of the Official Rules of the Property Tax Appeal Board. Therefore, the board of review was found to be in default.

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 assessment is warranted. The Board finds the Effingham 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 proeprty. 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 Section2.10 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 (2nd 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 (2nd 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 (5th Dist 2006)

The Illinois Manufactured Housing and Mobile Home Safety Act contain definitions for a "permanent foundation." Section 2(l) 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 into the ground with metal tie-down straps. Therefore, the Board finds the subject dwelling is not resting on a permanent foundation and is a mobile home according to applicable Illinois statutes, the Illinois Administrative Code, and case law.

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: December 23, 2010

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.