



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

APPELLANT: Diane Roseman-Tipton
DOCKET NO.: 09-00733.001-R-1
PARCEL NO.: 15-16-278-022

The parties of record before the Property Tax Appeal Board are Diane Roseman-Tipton, the appellant, and the Jackson County Board of Review represented by Jackson County Assistant State's Attorney Daniel Brenner.

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

**LAND: \$776
IMPR.: \$0
TOTAL: \$776**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 2,121 square foot parcel located in Carbondale, Carbondale Township, Jackson County. Located on the subject site is a 1,568 square foot Victorian mobile home. The mobile home was manufactured in 1998.

The appellant and her husband, Darryl Tipton, appeared before the Property Tax Appeal Board challenging the assessment of the mobile home. Mr. Tipton testified the only other improvement on the subject property was a wooden deck. Mr. Tipton testified the subject mobile home sits on a regular poured concrete footing that he assumed went 16 to 18 inches underground. He also testified there is a three block perimeter foundation wall that the trailer sits directly on. However, Mr. Tipton also stated he did not know whether the mobile home rested on the perimeter concrete block foundation but testified there are piers underneath the mobile home that carried the main weight of the mobile home. Mr. Tipton explained the mobile home has steel girders that the floor sits on and the steel girders sit on the piers, which he assumed carried most of the weight. The piers are composed of concrete blocks with a concrete footing under each pier, which extend 16 to 18 inches in the ground. Mr.

Tipton believed there were also straps that anchor the home to the ground but he was not sure.

The witness testified that he and his wife obtained title to the home in 2008.¹ He explained that someone else placed the home on the subject parcel. According to Mr. Tipton he and his wife came into possession of the underlying land that the mobile home was sitting on when they purchased the subject lot in 2003 or 2004 at a tax sale. At the time the lot was purchased the mobile home was on the parcel. Mr. Tipton testified that he and his wife went to court to try and get the mobile home removed from the site. They never had any success in getting the mobile home removed. According to the witness the judge ultimately determined that if the people had abandoned the mobile home that was sitting on their property, the court would give them ownership of the mobile home.

Mrs. Roseman-Tipton testified she recalled that the person that owned the mobile home had purchased the subject parcel, which was located next to a lot she and her husband already owned. The owner could not place the mobile home on the lot he purchased because the lot was not big enough to allow the front door to face Wall Street, as the City of Carbondale wanted. As a result the previous owner of the mobile home placed the home on his lot (the subject parcel) and the adjoining lot the appellant's owned without the appellant's permission. (The adjoining lot owned by the appellants was identified by parcel number 15-16-278-021 and is discussed below.)

Mr. Tipton contends that previous to their ownership of the mobile home, the taxes were basically a couple of hundred dollars. According to Mr. Tipton, since they came into possession of the mobile home through a court order, in which the judge called the home real estate and gave them possession of the home, the taxes increased. After that ruling, in 2009 they received a tax bill in the amount of \$2,134.22. In August 2010 they paid a tax bill in the amount of \$1,533.52. In August 2011 they paid a tax bill in the amount of \$1,699.16.

Mr. Tipton further testified there are mobile homes around the area and none of the owners pay more than \$200 to \$300 in taxes. He testified these homes have the same foundation, same block wall, are approximately the same size and approximately the same age as the subject mobile home. The only difference between these homes and the subject property is the amount of real estate taxes. Mr. Tipton requested they be allowed to pay the same amount of taxes as those that own the same type of mobile homes.

Mr. Tipton testified these other mobile homes are set up the exact same way as the subject home and were being taxed as mobile homes. The witness testified he is in construction and could

¹ The Certificate of Title of a Vehicle submitted by the appellant and the court documents submitted by the board of review actually indicate the appellant obtained the mobile home in January 2006.

look at these homes and tell they are set up the same way as the mobile home at issue. He further testified a couple of these homes belonged to a classmate of his, Calvin Chambers, and he went to look at the homes. He looked under these homes and saw the piers and foundations. He observed these mobile homes were set up similar as the subject dwelling. He further testified these homes were located about one-block away and the taxes on these homes were less than \$300.

By way of written evidence the appellant provided a copy of the Certificate of Title of a Vehicle for the mobile home, a copy of the Record Sheet which contained a court's order, a copy of a Jackson County Mobile Home Tax Bill for the subject mobile home for January 1, 2008 to December 31, 2008 in the amount of \$176.40 payable in July 2008, and a copy of real estate tax bill for the 2008 assessment payable in 2009 in the amount of \$2,134.22. Mr. Tipton testified the amount paid for the mobile home tax bill in 2008 was subsequently returned.

In closing Mr. Tipton reiterated that prior to obtaining ownership of the home the dwelling was considered a mobile home and nothing had changed since their obtaining ownership of the dwelling.

Under cross-examination Mr. Tipton testified that they are the owners of the adjacent parcel identified by property index number (PIN) 15-16-278-021. He explained that the person who set up the mobile home placed it on PINs 15-16-278-021, which was the adjacent parcel owned by the he and his wife, and 15-16-278-022 (the subject property under appeal), without their permission. It was for this reason they went to court to have him move the home. However, the previous owner of the mobile home left town, abandoned the dwelling and could not be found. The appellant testified that they talked to the previous owner of the mobile home to have him buy the adjacent PIN they owned.

Mr. Tipton identified the aerial photo of the subject property as part of Appellant's Exhibit #1, which depicted the location of the mobile home on the two aforementioned PINs. Mr. Tipton testified the above ground pool depicted in the aerial photograph had been removed.

Under cross-examination Mr. Tipton agreed that a lawsuit was filed in 2004 or 2005 to obtain title to the mobile home. He further agreed that he submitted an affidavit with the complaint in which he asserted the structure sits on a permanent concrete block foundation. He also agreed that on January 6, 2006 that court ruled in their favor stating in part, "the mobile home is a fixture of the property being permanently affixed to the property having lost its mobile characteristics no wheels, no tongue, no axle."

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$19,163 was disclosed.

James Tribble, Chairman of the Jackson County Board of Review, was called as a witness. Tribble testified he was familiar with the subject PIN. He testified the assessment was calculated using replacement cost new. He was of the opinion the subject mobile home is real estate and should be assessed as real estate.

The witness further testified he was familiar with the Jackson County lawsuit brought by the appellant against Vanderbilt Mortgage and Finance, Inc. He testified this suit involved the 1998 or 1999 Victorian Mobile home in which the Tipton's petitioned the court in Jackson County and were awarded the mobile home under the classification as real estate and not as a mobile home, based on what they were asking. In support of that assertion the board of review tendered a certified copy of the Complaint and Record Sheet in case number 05-CH-41, which was marked as Board of Review Exhibit A. The record sheet contained the court's written order. Mr. Tribble testified the first year the home was assessed as real estate was in 2008.

Under cross-examination Mr. Tribble testified the mobile home was built in 1998 or 1999. Based on the information they had the mobile home was placed on the subject lot when it was new in about 1998 or 1999. The witness further testified that the subject was taxed from 1998 to 2007 as the mobile home privilege tax. (See 35 ILCS 515/1 et seq.) The witness indicated the reason the home was changed from the privilege tax to the classification as real estate was the circuit court's order. He explained that the board of review at that time did not think it had the authority to supersede a court order. Mr. Tribble also indicated the other reason that it could not supersede the ruling was because the court petition was for the mobile home at that time to be classified as real estate, which was granted by court order.

The witness further testified he had seen the subject mobile home but had seen the mobile home's foundation only from the road. He did not know how it was anchored to the ground. However, based on his work experience in construction and his drive-by inspection he thought the mobile home was on a permanent foundation. Mr. Tribble stated he was 50 to 60 feet from the mobile home and walked the length of the front of the home.

Mr. Tribble did not know whether or not the testimony provided by Mr. Tipton was true with respect to other mobile homes in the subject's immediate vicinity being set up the same as the subject mobile home.

Mr. Tribble also testified that only the mobile home and the land were being assessed, there were no other improvements being valued on the subject property.

In response, Mr. Tipton asserted that all he and his wife were trying to do when they went to court was to get the mobile home

off their property. They did not ask the court to find the mobile home as being real estate.

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 the evidence in the record supports a reduction in the subject's assessment.

The issue before this Board is whether or not the mobile home should be classified and assessed as real estate. As of January 1, 2009, the assessment date at issue, real property was defined in section 1-130 of the Property Tax Code 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. . . .

35 ILCS 200/1-130.² The testimony provided by Mr. Tipton was that the steel girders under the subject dwelling, which support the subject's floor, rested on concrete block piers that were stacked on concrete footings that extended 16 to 18 inches into the ground. The board of review presented no credible testimony disputing that provided by Mr. Tipton with respect to the home resting on piers. The Board finds Mr. Tipton's testimony demonstrated the subject dwelling is not supported by and anchored to the ground by a closed or continuous perimeter foundation of material such as mortared concrete block or poured concrete that extends below the established frost depth or intended to support and anchor the dwelling to withstand the specified design loads. As such, the Property Tax Appeal Board finds the subject dwelling is not resting in whole on a permanent foundation and should not be classified and assessed as real estate. (See Christian County Board of Review v. Property Tax Appeal Board, 368 Ill.App.3d 792, 306 Ill.Dec. 851, 858 N.E.2d 909 (5th Dist. 2006)).

The Board finds the testimony further disclosed the mobile home was receiving a mobile home tax bill under the Mobile Home Local Services Tax Act from approximately 1998 or 1999 through 2007. This would seem to be recognition on the part of the Jackson County assessment officials that the subject dwelling was not resting in whole on a permanent foundation during this period. Furthermore, Mr. Tipton testified that nothing physically changed which would cause the subject dwelling to lose its status as a mobile home under the Mobile Home Local Services Tax Act. (35 ILCS 515/1 et seq.)

² Public Act 96-1477 changed the definition of real property effective January 1, 2011.

Additionally, the appellant, through Mr. Tipton, provided testimony that mobile homes in the immediate vicinity that were similar to the subject in foundation, with the same block wall, approximately the same size and approximately the same age were being taxed at \$200 to \$300 while the subject property had real estate taxes in 2009 of \$2,134.22 and in 2010 of \$1,533.52.³ This difference in tax bills was undoubtedly caused by these similar mobile homes being taxed under the Mobile Home Local Services Tax Act (35 ILCS 515/1 et seq.), while the subject was being classified, assessed and taxed as real estate. The Board finds this disparate treatment violates the uniformity clause of the Illinois Constitution. The Illinois Constitution's uniformity clause requirement as it relates to the assessment and taxation of real estate is founded on article IX, section 4, of the Illinois Constitution of 1970. This provision provides in pertinent part that real estate taxes "shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill.Const.1970, art. IX, §4(a). Taxation must be uniform in the basis of assessment as well as the rate of taxation. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 401, 169 N.E.2d 769 (1960). Uniformity requires equality in the burden of taxation. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 20, 136 Ill.Dec. 76, 544 N.E.2d 762 (1989). This, in turn, requires equality of taxation in proportion to the value of property being taxed. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 401, 169 N.E.2d 769 (1960). Taxing officials may not value the same kinds of properties within the same taxing boundary at different proportions of their true value. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d at 20, 136 Ill.Dec. 76, 544 N.E.2d 762 (1989). The uniform assessment requirement mandates that property not be assessed at a substantially greater proportion of its value when compared to similar properties located within the taxing district. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d at 21, 136 Ill.Dec. 76, 544 N.E.2d 762 (1989). This record indicates the subject mobile home was being classified differently and taxed significantly above the rate of other similarly situated mobile homes located in the subject's immediate area.

The Board further finds that the court order submitted by the board of review as justification for changing the mobile home's classification to real estate did not address the issue of the proper classification of the subject dwelling for assessment purposes under the Property Tax Code nor did it address the uniformity clause as found in article IX, section 4, of the Illinois Constitution of 1970. Ill.Const.1970, art. IX, §4(a).

For these reasons the Property Tax Appeal Board finds the subject mobile home should not be classified and assessed as real estate

³ The Board recognizes it has no jurisdiction to determine the tax rate, the amount of a tax bill or the exemption of real property from taxation. (86 Ill.Admin.Code 1910.10(f)).

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under the Property Tax Code and a reduction in the subject's assessment is justified.

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

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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: September 21, 2012

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.