FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Stuart & Carolyn Winn
DOCKET NO.: 09-05239.001-R-1
PARCEL NO.: 16-09-22-402-008-01

The parties of record before the Property Tax Appeal Board are Stuart & Carolyn Winn, the appellants; and the Christian 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 **Christian** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$2,666
IMPR.:	$7,446
TOTAL:	$10,112

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 15,000 square foot lot improved with a double wide mobile home containing 1,568 square feet of living area. Other improvements include a front porch, a sun room, a shed and a 2.5-car garage with a concrete floor and entrance area. The subject property is located in Stonington, Christian County.

Carolyn Winn appeared on behalf of the appellants before the Property Tax Appeal Board contesting the assessment on the land, the mobile home and various other improvements. The appellants argued the mobile home should not be classified and assessed as real estate because the dwelling is not resting in whole on a permanent foundation as required by Section 1-130 of the Property Tax Code. (35 ILCS 200/1-130).

Carolyn Winn testified the subject mobile home was not attached to a permanent foundation. Winn further testified that to the best of her knowledge the mobile home rests on unmortared concrete block piers situated on concrete footings. Winn testified the concrete piers do not extend into the ground. The

"I-beam" frame is anchored into the ground with metal tie down straps to prevent the dwelling from shifting. Other improvements on the subject property include a 2.5-car garage containing a concrete floor and entryway, a front porch, a patio and a sun room. The appellants submitted a copy of the "Notice to Taxpayer" issued by the Christian County Supervisor of Assessments which indicated the subject's land assessment of $3,587 and a building assessment of $20,433 for a total assessment of $24,020. In support of the subject's assessment, the appellants submitted an appraisal with an estimate of value for the subject of $85,000 as of February 7, 2011. The appraiser utilized two of the three traditional approaches, the cost approach and sales comparable approach to estimate the subject's market value. Under the sales comparison approach, the appraiser examined three double wide homes that sold from October 2009 to August 2010 for prices ranging from $74,000 to $93,000. The comparables had varying degrees of similarity to the subject.

Under the cost approach, the appraiser estimated the subject's site value of $8,000 based upon "sales of similar type lots in similar locations." The mobile home was depicted as having a value of $81,390, the garage was $14,130, the sun room and front porch were valued at $6,000 and the shed was estimated to have value of $3,000 using the 2009 Marshall and Swift Handbook. Depreciation of $17,768 was subtracted and the site value was added which indicated a value for the subject of $94,800 using the cost approach to value. Based on this evidence, the appellants requested the mobile home be classified as personal property and the assessed value for the land and other improvements be reduced.

The board of review failed to submit its "Board of Review Notes on Appeal" as required by Property Tax Appeal Board rule 1910.40 (86 Ill.Admin.Code 1910.40) and refused to appear in person at the hearing herein or otherwise offer testimony in support of the subject's assessment.[1] The board of review was ordered to submit a copy of the subject's property record card. The property record card depicts the following assessments were attributed to the subject: land $3,587, mobile home $12,343, detached frame garage $2,543, open frame porch $643, concrete drive $503, Sun room $2,870, shed $887 and central air conditioning $644. Through counsel, the board of review did not dispute the testimony or evidence as offered by the appellants as being true and correct.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The appellants argued the subject property was incorrectly classified and assessed as real property and other various improvements were

[1] Christopher E. Sherer and Mollie M. Townsend of Giffin, Winning, Cohen & Bodewes, P.C. entered their appearance on behalf of the Christian County Board of Review.

improperly assessed. The Board finds the record supports these claims.

The board of review failed to submit its "Notes on Appeal" and evidence as required by Property Tax Appeal Board rule 1910.40 and is hereby found to be in default pursuant to Section 1910.69 of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code 1910.69).

The Board further finds the appellants failed to support their claim with substantive documentary evidence that the subject's assessment regarding the open frame porch, detached garage and concrete drive were incorrect. The Board gave little weight to the appraisal evidence submitted regarding the subject improvements because the Board finds the estimates of value were not supported in the record and the appraiser was not present at the hearing to provide direct testimony in support of the appraisal or subject to cross-examination. However, the Board finds the best evidence in this record regarding the subject land value is found in the appraisal submitted by the appellants. The appraiser found the subject site was estimated to have a value of $8,000 based on sales of similar lots in similar locations. The Board finds this is the only market derived data regarding the subject's land in the record. The Board finds the remaining improvements as depicted on the property record card appear supported by the evidence in this record, with the exception of the central air conditioning, which the Board finds is personal property and should not be assessed as real estate.

In regard to the mobile home, the Board finds 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).

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 for in 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 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 (5th Dist. 2006).

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 Quality Assurance Act provides a definition of permanent foundation 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.Adm.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.Adm.Code 870.10).

The Board finds that each of these statutory 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 mobile home 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 mobile home is not resting on, supported by and anchored to a perimeter foundation that extends below the frost depth. The evidence disclosed the subject mobile home was not attached to a permanent foundation because the mobile home rests on unmortared concrete block piers situated on concrete footings anchored into the ground with metal tie down straps to prevent the dwelling from shifting during inclement weather, with a plastic skirting around its perimeter that does not support the dwelling. Wood shims are placed between the non-mortared blocks and the under-side frame of the mobile home to support and level the dwelling. The mobile home is not attached to the concrete blocks but is held in place by its own weight and with straps that go through the frame of the home to anchors that are screwed into the ground to anchor the home.

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.

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 19, 2013

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.