



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

APPELLANT: Daniel Waligurski
DOCKET NO.: 09-05881.001-R-1
PARCEL NO.: 13-22-06-403-010-00

The parties of record before the Property Tax Appeal Board are Daniel Waligurski, the appellant, 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: \$3,577
IMPR: \$223
TOTAL: \$3,800

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a manufactured home measuring twenty-eight by seventy-two feet containing approximately 2,016 square feet square feet of living area. The home was manufactured in 1998. Features include central air conditioning and a fireplace. The parcel is also improved with a deck, a shed and a "lean-to." The property is located in Morrisonville, Ricks Township, Christian County.

The appellant in this appeal submitted documentation contending that the classification of the subject property was erroneous and has been erroneous for a number of years. It is noted, however, that the Property Tax Appeal Board's jurisdiction is limited to determining the assessment year on appeal only¹; if the appellant believed the assessment was erroneous in prior years, the appellant should have pursued appeal rights in each of those years in accordance with the Property Tax Code. (35 ILCS 200/16-

¹ A dissatisfied taxpayer invokes the jurisdiction of the Property Tax Appeal Board by filing a petition for real property appeal with the Board. (86 Ill.Admin.Code, §1910.30). The petition must be filed within 30 days of the postmark date or personal service date of written notice of the decision of the board of review (35 ILCS 200/16-160).

160) The Board has no retroactive and/or multiple-year jurisdiction.

In this matter, appellant completed the appeal form noting the basis as a contention of law. In the attached arguments, appellant contends the manufactured home has been improperly treated as real estate for assessment purposes.

As to the classification issue, the appellant submitted a copy of the State of Illinois, Certificate of Title of a Vehicle regarding a 1998 Four Seasons mobile home with a purchase date of August 28, 1997. The appellant also included a copy of the decision of the Fifth District Appellate Court in Christian County Board of Review v. Property Tax Appeal Board, 368 Ill. App. 3d 792, 858 N.E.2d 909 (5th Dist 2006) along with the underlying docket entry in Case No. 2007-MR-36 in Christian County Board of Review v. Pope.

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its classification of the subject property. Thus, the Christian County Board of Review was found to be in default on May 22, 2012, pursuant to Section 1910.69(a) of the Rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.69(a)).

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 this appeal. The Property Tax Appeal Board further finds a reduction in the subject's assessment is warranted. The Board finds the Christian County Board of Review erred in classifying and assessing the subject dwelling home as real estate.²

The appellant argued that the subject dwelling is a manufactured 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** (emphasis added). . . . (35 ILCS 200/1-130).

Additionally, section 1 of the Mobile Home Local Services Tax Act defines a mobile home as:

² In the absence of substantive data as to the correct assessment of the deck, shed and/or lean-to, the Board has determined the improvement assessment shall be as requested by the appellant.

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).

The Property Tax Appeal Board finds both the Property Tax Code and the Mobile Home Local Services Tax Act 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); Berry v. Costello, 62 Ill. 2d 342, 347 (1976). 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 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 Illinois Manufactured Home Tiedown Code (77 Ill.Admin.Code §870) also contains a definition of "permanent foundation". Section 870.20 of the Illinois Manufactured Home Tiedown Code states in part that:

In addition to the definitions contained in the Illinois Mobile Home Tiedown Act [210 ILCS 120] the following definitions apply:

Permanent Foundation. A continuous perimeter formation intended to support and anchor the unit to withstand the specified design loads. It shall consist of materials such as concrete, mortared concrete blocks or mortared brick, steel, or treated lumber extending into the ground below the frost depth which shall include basements or crawl spaces. (77 Ill.Admin.Code §870.20).

The Manufactured Home Community Code 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 a home is connected to public utilities (77 Ill.Admin.Code §860.150(a)) and:

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 blocks 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 and the like that extends below the frost line that actually supports and anchors the mobile home.

The Board finds there is no evidence indicating that the subject mobile home 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. Therefore the Property Tax Appeal Board finds the dwelling located on the subject property is not

resting in whole on a permanent foundation and should not be classified and assessed as real property. In conclusion, the Board finds that the assessment of the subject property is incorrect and a reduction in the assessment is appropriate.

As noted above, the deck, shed and lean-to would be assessable improvements on the subject property, but the record provides no clear evidence as to what portion of the improvement assessment related to these structures. Therefore, in the absence of substantive evidence as to the correct assessment of these structures, the Property Tax Appeal Board finds that the subject's improvement assessment shall be modified in accordance with the appellant's request.

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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Marko M. Louie

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: November 30, 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.