



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

APPELLANT: Lee R. & Marilyn F. Rich
DOCKET NO.: 10-00205.001-R-1
PARCEL NO.: 03-03-03-452-007

The parties of record before the Property Tax Appeal Board are Lee R. & Marilyn F. Rich, 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:

LAND: \$5,450
IMPR: \$2,266
TOTAL: \$7,716

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a double-wide mobile home measuring twenty-six by forty-eight feet containing approximately 1,248 square feet square feet of living area. The home was manufactured in 2000 and is located on a 35,000 square foot parcel of land in Carlyle, Irishtown Township, Clinton County. Additional structures on the property consist of a front porch, covered deck and detached two-car garage that contains 672 square feet of building area.

The appellants contest the assessment on the mobile home on the basis of a contention of law. In this regard, 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 and should instead be charged the Privilege Tax. (35 ILCS 200/1-130). The appellants further cited to a Clinton County Ordinance.

The appellants submitted a written statement and schematic drawing explaining the subject mobile home consists of four "I" beam frames, ground anchors or tie-down straps with twenty

unmortared concrete block piers which are sitting on concrete piers that are two foot wide and thirty inches deep. The appellants further report that there is no continuous permanent foundation, no mortared brick and no foundation bolts. The skirting around the mobile home is a fake brick design as depicted an attached photograph that is "held together with plastic strips." Included with the appeal is a composite document consisting of eight varying sized color photographs depicting the fake brick-look skirting, the unmortared nature of that skirting, an unmortared concrete block pier and a tie-down strap.

In Section IV - Recent Sale Data of the appeal petition, the appellants reported the property was purchased in July 2009 for \$32,000 from the Secretary of Housing and Urban Development after the property had been advertised in the Multiple Listing Service for a period of 20 days and listed with agent Charlotte Hamm of Chuck Baer Realty. The sale was in settlement of a foreclosure action, the parties to the transaction were not related and the appellants expended \$4,500 in renovations to repair plumbing, heating and replacement of carpet before occupying the property.

Based on this evidence the appellants contend the home is not resting in whole on a permanent foundation and should not be classified and assessed as real estate for *ad valorem* taxation purposes.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment of the subject property to be \$14,570 or a market value of approximately \$43,710.

The board of review presented a two-page letter prepared by Chairman Susan Hollenkamp along with a copy of the property record card for the subject property, a copy of the PTAX-203 Illinois Real Estate Transfer Declaration related to the July 2009 sale of the subject property (Exhibit B), a transfer declaration reflecting the court-ordered sale in June 2008 for \$77,130 (Exhibit C) and a copy of a recorded mortgage dated March 25, 2003 for \$68,938 signed by the previous owner John L. Maurice (Exhibit D). In the letter, the board of review chairman contends the subject property is improved with a "manufactured residence" with an attached wood deck and a detached garage that was built in 1972.

The board of review agrees with the appellants' contentions regarding the purchase of the subject property. Based upon Exhibit B, the board of review contends the property was "sold as a residence and not as a mobile home residence in the amount of \$32,000." Furthermore, the board of review contends the subject property is located in an R-3 Zoning District (Exhibit F) and pursuant to the Clinton County Zoning Ordinance (Exhibit G), the subject property "meets the requirement of a manufactured residence." Citing to Exhibit G which defines manufactured residence as follows:

. . . a factory fabricated single family home built in one or more sections. . . .

The chairman further cited that as a manufactured residence, the subject must comply with the applicable "installation guidelines" as outlined in Exhibit G requiring ". . . manufactured residences must rest wholly on a permanent foundation, which is a continuous perimeter foundation of materials such as mortared concrete block, mortared brick, or concrete which extends into the ground below the established frost depth and to which the manufactured residence is secured with foundation bolts at least one-half inch in diameter"

Furthermore, the chairman wrote, ". . . the appellant [sic] meets the definition of a manufactured residence and not a mobile home." In this regard, the board of review offered no further evidence to support this contention although Exhibit G includes the following definition of a mobile home:

. . . a factory-fabricated single family home built on a permanent chassis that consists of wheel assembly, undercarriage and towing assembly. . . . Mobile homes are not required to be attached to a permanent foundation. . . . Mobile homes . . . shall be permitted only in mobile home parks and R3 areas. . .

As shown in Exhibit G, mobile homes also have an "installation guideline" to be installed in accordance with the Illinois Manufactured Home Tie-down Code (77 Ill.Admin.Code 870).

In the comments section of page one of the subject's property record card (Exhibit A), it states "MHRE: Mobile Home on Real Estate." On page two of this document, the physical characteristics include "91 Manuf Homes DBL." The property record card also depicts the garage after depreciation as having a value of \$4,300 and the "OFP" (open frame porch) after depreciation as having a value of \$2,500.

Based on the foregoing evidence, the board of review requested confirmation of the subject's assessment as real estate.

In written rebuttal, the appellants contend that the installation of the dwelling is what determines its classification as either a manufactured residence or a mobile home. The appellants contend again that the subject is not resting on a permanent foundation and as such, the appellants were unable to obtain a regular 20 or 30 year mortgage and instead obtained an installment loan from a bank. Similarly, for insurance purposes, the appellants were required to purchase more expensive mobile home insurance.

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 Board further finds a reduction in the subject's assessment is warranted.

The appellants argued that the mobile home on the subject property was improperly classified and assessed as real estate. The appellants contend the mobile home should not be taxed as real estate, but be subject to the Mobile Home Local Services Tax Act (the Privilege Tax).

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 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 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).

The Illinois Manufactured Housing and Mobile Home Safety Act contains a definition of "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 Manufactured Home Quality Assurance Act provides a definition of permanent 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.Admin.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.Admin.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 has a fake block outside perimeter formation that does not support or anchor the home. Photographic evidence disclosed that the home is not attached to this perimeter formation. The evidence established that stacked, non-mortared concrete blocks placed upon concrete footings under the home actually support the mobile home. There is no evidence that the mobile home was attached to the concrete blocks, but instead is held in place by its own weight and with straps that anchor the home to the ground.

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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

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: June 21, 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.