



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

APPELLANT: Melissa Daab
DOCKET NO.: 10-04171.001-R-1
PARCEL NO.: 04-16-486-008-000

The parties of record before the Property Tax Appeal Board are Melissa Daab, the appellant, and the Monroe County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Monroe County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$8,550
IMPR: \$910
TOTAL: \$9,460

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel consists of a fourteen foot by twenty foot wooden shed that was constructed off-site and delivered to the subject property on a flatbed truck. The subject property is located in Columbia, Monroe County, Illinois.

The appellant contests the assessment placed on the shed and contends the shed should not be classified and assessed as real estate because the structure is not resting in whole on a permanent foundation. In support of this argument, the appellant provided a brief with her contention and two color photographs depicting the shed and one of the piers. In the brief, the appellant reported that the shed is portable as it is resting on concrete piers and there is no utility service to the shed.

Based on this evidence and the argument that the shed is personal property and not subject to real estate assessment and taxation, the appellant requested that the Property Tax Appeal Board reduce the subject's improvement assessment to \$0 and make no change to the land assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$9,460 was disclosed. The subject has an improvement assessment of \$910.

In response to the appellant's legal argument that a portable building should not be taxable as real estate, the board of review submitted a letter prepared by Marge Francois which stated in pertinent part:

. . . it has been the policy in Monroe County to tax portable buildings.

Based on this policy, the board of review requested confirmation of the subject's improvement assessment.

In written rebuttal, the appellant contended "the State of Illinois does not tax personal property and it is unjust of Monroe County to arbitrarily assess personal property."

After reviewing the evidence and considering the record, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds based on the statutory definition of real property the subject shed is real property which is subject to ad valorem taxation.

The appellant argued that the shed on the subject property was improperly classified and assessed as real estate. The appellant argued the shed, which is not permanently affixed to the land, should be considered personal property which is exempt from assessment and not taxed as real estate. The appellant further contended that the shed is portable, thereby inferring that it could be removed at any time. The Board finds that these facts do not alter the fact that the subject shed is real property.

The board of review contends the subject shed has been treated under "the policy in Monroe County to tax portable buildings." Therefore, the board of review contends the shed should be classified and assessed as real property.

Illinois' system of taxing real property is founded on the Property Tax Code. (35 ILCS 200/1-1 et seq.) 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, . . . (35 ILCS 200/1-130).¹

¹ The Property Tax Appeal Board recognizes that this provision was modified as of January 1, 2011. As this is a 2010 assessment appeal, however, the previous provision prior to P.A. 96-1477 is applicable.

In light of the foregoing definition, the Property Tax Appeal Board finds the subject shed was correctly classified and assessed as real property.

The Property Tax Appeal Board finds the parties are in agreement that the land is to be classified and assessed as real property and there is no dispute raised with regard to the land assessment. The parties disagree with respect to the classification and assessment of the shed, which measures 280 square feet, as real property. Thus, the sole issue before this Board is whether the shed is to be classified and assessed as real property.

In Ayrshire Coal Company v. Property Tax Appeal Board, 19 Ill.App.3d 41 (3rd Dist. 1974), the court addressed the issue of distinguishing between real and personal property. In determining the property classification of heavy machinery and equipment and whether they were annexed to real estate, the court held:

. . . [p]ersons dealing with land and improvements thereon may consider a building thereon as personalty for their purposes, but such treatment as between individuals, does not change essential characteristics of building as realty. Id. at 44-45.

The court emphasized that an examination of the item, not the contractual language or booking practices, should establish the classification of an item. The court in Ayrshire further wrote, "[a] structure has been defined in the broad sense as any construction or piece of work composed of parts joined together in some definite manner." Id. at 45. In addition, the court noted:

A building has been defined as a fabric, Structure, or edifice, such as a house, church, shop, or the like, designed for the habitation of men or animals or For the shelter of property. [Capitalization as shown; citation omitted.] Id. at 45.

In the case of In re Hutchens, 34 Ill.App.3d 1039 (4th Dist. 1976), the court noted that the trial court held that:

. . . the manner of the placement of the cabin on blocks and a provision of the lease for plumbing connections between the cabin and a septic tank and a well sufficiently attached the cabin to the land to 'become a part of it.' Id. at 1040-1041.

On appeal, the Fourth District Appellate Court held that as far as property taxes are concerned, the finding of the trial court that the cabin was part of the real estate was not contrary to the manifest weight of the evidence.

After considering the evidence and record including the photographs of the subject shed, the Board finds the shed is a "building" or a "structure" as defined in Section 1-130 of the Property Tax Code (35 ILCS 200/1-130). Thus, based on this record, the Board finds the shed is real property and may be assessed as such regardless of its foundation.²

In conclusion, the Property Tax Appeal Board finds the subject shed is properly classified as assessable real property and the appellant made no other challenge to the assessment of the shed.

² The instant case is distinguishable from those cases where the structure is identified as a vehicle or similar portable structure such that it can be classified based on its physical foundation pursuant to the Property Tax Code. See Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d 711 (2nd Dist. 1996).

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

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: July 19, 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.