



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

APPELLANT: Harlan W. & Phyllis L. Jones
DOCKET NO.: 11-01365.001-R-1
PARCEL NO.: 07-07-311-004

The parties of record before the Property Tax Appeal Board are Harlan W. & Phyllis L. Jones, the appellants, by attorney David B. Garavalia in Benton, and the Franklin County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds an increase in the assessment of the property as established by the **Franklin** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$625
IMPR.: \$37,020
TOTAL: \$37,645

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story manufactured or mobile home that was manufactured on October 2, 2009 (Exhibit 2). As manufactured, the home consists of three interconnecting sections and contains approximately 2,901 square feet of living area. Features of the dwelling include central air conditioning and a fireplace. The home also has an attached (stick built) two-car garage of 832 square feet of building area. The home was installed in May/June 2010. There is a factual dispute between the parties as to whether the home was ready for occupancy at that time. The property has a 28,000 square foot site and is located in Valier, Browning Township, Franklin County.

The appellants Harlan and Phyllis Jones appeared before the Property Tax Appeal Board with their legal counsel. The basis of this appeal is a contention of law with a brief and Exhibits 1 through 12 attached. In summary, the appellants contest the January 1, 2011 assessment of the subject manufactured home contending that this manufactured home should not be classified and assessed as real estate, but instead should be taxed pursuant to the Mobile Home Local Services Tax Act, which is also known as the Privilege Tax. The appellants further contend this mobile home was available for habitation and ready for occupancy during 2010 and thus was installed prior to the January 1, 2011 change in law. For purposes of this appeal, the appellants did not contest the land assessment of the subject parcel, but have requested an improvement assessment of \$0 contending the home is subject to the Privilege Tax, rather than being subjected to taxation as real estate under the Property Tax Code.

As additional value evidence, the appellants also completed Section VI - Recent Construction Information on Your Residence. The appellants reported that the subject manufactured home was purchased for \$105,578 which includes all costs, such as contractor's fees, architectural or engineering fees, landscaping of homesite, and/or building permits. The appellants contend the home was fit for occupancy in August 2010. Additionally, they report the owner or a family member acted as the general contractor with an estimated value of those services of \$5,000.

Appellant Harlan Jones was called for testimony. Prior to retiring to Illinois to be closer to a sibling, Jones was employed in mobile home sales in Pearl, Mississippi for 23 years.

He testified that the appellants purchased the subject vacant lot(s) from the City of Valier in July 2009 for \$2,000. The subject manufactured home was constructed in Alabama in October 2009 and was purchased from Mr. Jones' former employer (Exhibit 2; TR. 11-12¹). The Village of Valier issued a Building Permit as to the subject parcel on September 18, 2009 related to a "manufactured home" (structure) which was said to contain 3,000 square feet (Exhibit 3). As depicted in Exhibit 4, on or about April 20, 2010 the appellants filed a Vehicle Use Tax Transaction Return for the subject manufactured home with the Illinois Department of Revenue and paid the applicable sales

¹ References to the transcript of the proceedings will be indicated by "TR." followed by page number citation(s).

tax. (TR. 14) The appellants also filed an Application for Vehicle Transaction(s) with the Illinois Secretary of State (Exhibit 5) and on May 10, 2010 the Illinois Secretary of State issued a Certificate of Title of a Vehicle for the subject 2010 Energy manufactured or mobile home (Exhibits 1 & 6).

As shown in Exhibit 7, the appellants applied for an application for a post office box in Valier on or about May 29, 2010. As further evidence of the habitability of the structure prior to January 1, 2011, the appellants submitted documentation that the water service to the home began on July 22, 2010 along with copies of checks to the water department dated September 2010 through January 2011 (Exhibit 8). The witness also testified that he owns no other property that would be serviced by the Valier Water Department. (TR. 16) The appellant also submitted documentation regarding electric service with Ameren which commenced on June 22, 2010 and is depicted as being provided through March 30, 2011 (Exhibit 9).

The witness next testified regarding Exhibit 10, a printout from a Facebook page. He expressed little knowledge with regard to Facebook, but stated that his wife, Phyllis, is on Facebook (TR. 16-17). In reference to one of the names on Exhibit 10, the witness identified Susi Jones as his sister-in-law and she was the person who placed the photograph of the subject dwelling on Facebook as shown in Exhibit 10. He stated that Susi Jones also lives in Valier. The witness further identified the photograph in Exhibit 10 as a true and correct picture of the subject manufactured home as it appeared on or about May of 2010. (TR. 17) The witness testified the only changes to the manufactured home since 2010 have been the addition of some steps up to the home after the installation of sidewalks and other concrete work that was done in 2011. (TR. 17-18)

Next, the witness was shown the board of review's photographic evidence with a smaller photograph of the subject manufactured home juxtaposed with a color copy of appellants' Exhibit 10. He acknowledged that the crossbars on the gables of the home were not depicted in the Facebook photograph and testified that he does not recall precisely when those were installed on the home, although they came with the home as originally sold and designed. He further testified the contractor he had hired was unable to install the crossbars, but subsequently factory personnel installed them after Jones reported the problem to the factory. (TR. 18) Finally, Mr. Jones testified that he "guaranteed" the photograph on the Facebook page was a picture of the subject manufactured home in May of 2010. (TR. 18-19)

Exhibit 12 is a copy of the assessment notice of the subject parcel for 2010 depicting a land only assessment of \$635. (TR. 20) Exhibit 11 is a copy of the November 28, 2011 Notice of Property Assessment for the subject parcel indicating the reason for the change in assessment for 2011 was "new construction" and providing for both a land and building/structure assessment totaling \$24,425. (TR. 19)

Jones testified that he and his wife began moving into the subject dwelling in the spring of 2010 and he stayed on two or three occasions. "The longest I stayed was about two weeks, and it was around August." (TR. 21) He further acknowledged that he still has his dwelling in Mississippi which he was trying to sell and is now renting with a continuing effort to sell it. (TR. 22)

In further support of the contention that the subject dwelling is a mobile or manufactured home, Jones testified that he was present from time-to-time during the installation. He testified the home has concrete piers with blocks and about a three inch gap between the home and blocks. (TR. 22-23) In summary, he asserted that the manufactured home does not rest on a permanent foundation. He stated this concrete block formation around the outside perimeter of the home comes underneath the frame "and that's what holds it in place." Then the home is tied down with "hurricane straps" to hold it in high wind, but it is not attached to any foundation. (TR. 23-24)

Given his experience as a mobile home salesman, Jones testified that "if you start putting a solid foundation in [a manufactured home]" since they are not made for it "they won't operate correctly." He stated the manufactured home is self-sufficient on their frame. Like with the subject, you can put a foundation around it "because the City of Valier required it, but it's just what you would call underpinning." (TR. 24)

On cross-examination, the witness further expounded upon the foundation of the dwelling. The foundation consists of unmortared concrete blocks which rest on piers and the hurricane straps are embedded roughly three feet into the earth which is below the frost line. (TR. 25)

Harlan Jones also acknowledged that the dwelling features an attached double garage. He noted there is no breezeway to connect the dwelling to the garage. The only other improvements

are the sidewalks which Jones stated the city installed most of those. (TR. 26)

The appellants' next witness was Susi Jones who identified Exhibit 10 as a copy of her Facebook page. She testified she took the photograph of the subject dwelling owned by the appellants prior to the date and time shown on the posting of May 31, 2010 at 12:47 p.m. although she did not recall the exact date the photo was taken. (TR. 32) The witness testified that the commentary depicted in Exhibit 10 was "bragging" that the subject manufactured home "looked like a stick built home." (TR. 33)

Ms. Jones further testified that she also saw the dwelling prior to its installation as it sat across the street from the subject parcel, "over at the community building in Valier in three pieces." She further testified that she and her husband were present through the installation process, connection process, interior painting and seeing that the dirt work was completed. (TR. 33-34) She also was aware of the water service being on in the home between the time the referenced Facebook photograph was taken and July 2010 "because we were getting ready for them [Harlan and Phyllis Jones] to bring another load of stuff up." (TR. 34) The witness also recalled having turned the air conditioning on in the home prior to the arrival of the appellants on August 17, 2010 as that day she fell in the yard in the front of the house and broke her ribs. (TR. 35)

On cross-examination with regard to Exhibit 9 the electric utility billing records, Susi Jones testified that the air conditioning in the dwelling was only turned up when the appellants were bringing their possessions to the property and were going to stay. (TR. 35-36)

The appellants' next witness was Gerald Owens, the current elected Benton Township Assessor who has held that position for the past six years. Owens also has worked on contract as an assessor for Browning Township for about five years, including in 2010 and 2011. Besides being a fully trained township assessor, Owens is also a licensed attorney. (TR. 37-38)

In June 2011, Owens assessed a structure at 308 East Rea Street in Valier, Browning Township, Franklin County, Illinois which is the subject property in this appeal. The witness maintains lists of the parcels that he submits monthly to the township for payment of contractual services and the subject property was on his list in June of 2011. (TR. 39)

The witness also testified that from time to time he will go to the Valier City Hall to get directions for area properties and the subject parcel is right across the street from city hall. "I've never thought of it as being a mobile home, no, manufactured home." He last saw the subject property probably in July or August of 2013. Owens does not dispute the assertion that the subject is a manufactured home, "I'm just telling you what it visually appeared to me." In 2011 as the contracted township assessor, Owens assessed the subject property as new construction, took measurements "and all the necessary stuff." As a consequence, the subject structure was assessed as real estate as of January 1, 2011. (See Exhibit 11) (TR. 39-40)

Owens testified the property was discovered through what is called the 9-1-1 list of new addresses that is received in January each year; between the date of receipt and July, the assessing officials try to go out and look at each of those new addresses to determine if there are any new structures. He stated as to the subject dwelling, "it did not show any evidence of being a mobile home just by looking at it visually. It didn't have any wheels and that." When asked if he crawled under the subject property, Owens responded with his payment schedule of \$50 for mobile home assessments or manufactured home assessments and \$100 for residences; since he billed the assessment for \$100 "it means I took it to be a residence, not a manufactured home." (TR. 41-42)

Owens first became aware that the subject dwelling was a mobile home when appellants' attorney, David B. Garavalia, called Owens to inquire why the subject was not assessed as a mobile home. Owens told counsel:

It didn't look like a mobile home. And if I do go out to something and it looks like it's a mobile home, there's a list of mobile homes that are assessed that are on the tax list, the privilege tax list. If it's something that's in question as to whether it's been there for a while and on the list, I look at the list. And I don't recall looking at the list for this, because it didn't give any indication that it would require that.

(TR. 42) Owens did not recall when the assessment cycle was complete for assessment year 2010; however, he turns in his assessments yearly in early July and after that date the cycle

starts such that it is too late to get additional properties in the process. (TR. 43-44)

The witness testified that in 2010 similar manufactured homes in Franklin County would have been taxed under the privilege tax. (TR. 44-45)

Under cross-examination, Owens acknowledged that he alone determines whether to bill the assessment work as \$50 or \$100 for either a mobile home assessment or a residential assessment, respectively. Additionally, Owens testified that no registration for the subject dwelling was ever sent to him as the township assessor within 30 days that the mobile or manufactured home was set in place. Owens also did not place the subject dwelling on privilege tax for the 2010 assessment year. (TR. 45-47) "If it [the subject dwelling] was there in 2010, since mobile home tax runs current year instead of a year behind like real estate tax, then you didn't place that on the 2010 privilege tax?" Answer: no. Owens further clarified that he does not do many of the mobile home assessments other than the ones that turn out to be new structures or something like that; he does not do many of them. (TR. 47)

Upon further questioning by the Hearing Officer, Owens testified that in January, "we get a list of all of the ones that are on the privilege tax list, so I did have that list. And if it was done and placed on privilege tax, it would have been on that list." The Supervisor of Assessments' Office creates that list. (TR. 48)

He further testified that if in late June 2010 he was informed that the subject property was a mobile home, he stated he:

would have had to have gone out and looked at it again and looked at whatever documentation that they had that it was a manufactured home, because this doesn't - - you've seen the pictures, and it doesn't - - it's not like a trailer house. I mean, it looks like a real house that's been - - although it is modular I guess is what they call those things. But anyway, I would have had to go out and relook at the thing and verify it.

(TR. 49) In June of 2010, with this information he would probably have conferred with the Chief County Assessment Officer of Franklin County "to determine how to get this turned in in the appropriate way." (TR. 50) Owens also testified that he

did not view the subject property as part of turning in his books in July of 2010, but he did view the property in 2011 because of the address information he received. (TR. 51)

On redirect examination, Owens asserted that he has never been elected nor appointed to the position of Browning Township Assessor. (TR. 51)

On re-cross examination, the witness testified that there is no full-time Browning Township Assessor other than himself as a contractual person. (TR. 51-52)

Based on this evidence, the appellants contend the subject manufactured home was installed prior to January 1, 2011, the home is not resting in whole on a permanent foundation and therefore should not be classified and assessed as real estate for *ad valorem* taxation purposes, but rather should have been taxed in accordance with the Privilege Tax. Furthermore, counsel acknowledged in closing that the subject property was not registered with the assessing officials, but argued that the facts of the structure should override the registration requirement.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment of the subject of \$24,425. The subject's assessment reflects a market value of \$72,954 or \$25.15 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for Franklin County of 33.48% as determined by the Illinois Department of Revenue.

In support of the subject's 2011 assessment and classification, the board of review submitted a two-page letter from Cynthia Humm, the Franklin County Supervisor of Assessments, along with three documents: (1) a copy of a four-page Illinois Department of Revenue (IDOR) memorandum/guideline regarding Public Act 96-1477; (2) an unsigned document that purports to have been sent via facsimile transmission from Valier Water to Humm on January 18, 2012 asserting that a water meter was installed for the subject on July 22, 2010 and the water service was "turned on" as of April 28, 2011; and (3) a photograph of the subject dwelling juxtaposed on Exhibit 10 presented by the appellants.

In the letter, Humm asserted the IDOR guidelines were followed in the implementation of Public Act 96-1477 in assessing the subject improvement as real estate. She further reported that she published a news release in December 2010 "informing

property owners of the new law and the requirements to register your manufactured home by the end of January, 2011." At hearing Humm testified that she does not have a copy of the news release available for submission in this matter. (TR. 55) Additionally in the letter, Humm reported that letters were mailed to each manufactured home owner that was being assessed under the Mobile Home Local Services Tax Act.

It is the contention of the board of review and assessing officials that the subject dwelling would have been assessed in 2010 under the privilege tax if the assessing officials (either the township assessor or the Supervisor of Assessments' Office) would have received the registration from the property owner. (TR. 56) "The appellants did not file a registration with any assessing official as required by law." With citation to the IDOR guidelines, Humm noted "failure to record or surrender the title or certificate of origin does not prevent the mobile or manufactured home from being assessed as real estate." At the hearing, Humm asserted the primary issue is that the appellants did not follow the requirements of the statute by failing to register the manufactured home within 30 days of placement either with the township assessor or with the county. (TR. 54; 35 ILCS 200/15-4). She asserted the first responsibility is upon the homeowner to contact an assessment official, either the township assessor or the county assessment office, so that the appropriate data on the dwelling could be gathered and given to the Treasurer who then would calculate a privilege tax bill. (TR. 56-57) Had that occurred in 2010, then the subject property would have been grandfathered in for the 2011 assessment year. Moreover, she argued on behalf of the board of review that the subject was not entitled to be grandfathered into the privilege tax as of January 1, 2011 because the subject property never paid a privilege tax in order to have that precedent set that it was a mobile home. (TR. 53)

At hearing, Humm testified it was "our" understanding through meetings with the Illinois Department of Revenue that if a mobile home had never been registered and it was found after the change in law on January 1, 2011, then it was to be placed on real estate, because there was no history of it being on privilege tax. (TR. 55) Furthermore as to IDOR guidelines, Humm testified that she has no written verification, "but this was discussed many times at different meetings when this . . . transition . . . to the new statute. And it was more or less a guideline to us to make sure that you treat them -- you can put them on real estate but make sure you're treating them all equally." (TR. 60)

Next, Humm addressed the question of when the subject was fit for occupancy and cited the attached unsigned faxed document that purports to report installation of a water meter in 2010, but water not having been turned on until April 2011. Humm stated at hearing that she contract employees of the water department to obtain the document she submitted which was prepared by the head of the water department in Valier. (TR. 62-63) She stated this was part of her investigation in January 2012 as to whether the property should be assessed as real estate given the question raised by the homeowner. (TR. 63)

Additionally at hearing, Humm again reiterated her dispute with the contention that the dwelling did not have water service until 2011. (TR. 60-61) In addition, she testified that her guidance from the Illinois Department of Revenue was that the mobile or manufactured home had to be ready to occupancy prior to January 1, 2011. (TR. 61) She also wrote, "It was reported to me that the manufactured home actually sat 'in pieces' for several months before it was finished and ready to be occupied." In this regard, Humm contends that Exhibit 10 from Facebook "is not an actual picture of the property. We believe it was copied from the manufacturer's information." In this regard, she cites her photograph juxtaposed on appellants' Exhibit 10 stating, "you can clearly see that they are not the same home."

On cross-examination, Humm testified that her press release was published in December 2010 in several Franklin County newspapers including the Benton Evening News, Christopher Progress and Daily American in West Frankfort.

Humm also testified that her office does not regularly receive copies of building permits that are issued in Valier. She stated that the township assessor is to "go by and pick those up." (TR. 66) Thus, to Humm's knowledge the building permit for the subject parcel would have been available for the township assessor to pick up.

Based on the appellant's appeal petition having reported the actual value of the manufactured home of \$105,578 plus \$5,000 in general contracting value, the board of review requested an increase in the assessment of the subject property. In addition, at the hearing, Humm noted the garage had never been assessed "so we would ask that that be done." (TR. 52) In conclusion in the letter, the Franklin County Board of Review requested an increase in the subject's assessment to reflect an improvement value of \$110,575. The board of review, however,

provided no evidence as to the proper assessment of the two-car garage for this proceeding.

In written rebuttal, the appellants provided additional photographs of the subject dwelling to dispute the board of review's assertion that the Facebook page photo in Exhibit 10 was not the subject dwelling. Harlan Jones testified the pictures submitted in rebuttal were meant to show the trees in the background of the home with one exception, as there was one tree on the left side of the Facebook page photograph which blew down in April 2011. (TR. 29-31)

Also in rebuttal, appellants provided a letter from the Village of Valier President, Martin Buchanan, who reported that the water department records reveal water usage at the subject property during the months of August and September 2010 with no further usage until April 2011. Also attached to the letter is a document entitled Usage History depicting 1,400 gallons of water used in August 2010 and 300 gallons of water used in September 2010 followed by several months of no water usage until April 2011.

After hearing the testimony and considering 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 for 2011. The appellants contend the subject property should be taxed in accordance with the Mobile Home Local Services Tax Act as the dwelling was installed on private property prior to January 1, 2011. The board of review provided a two-pronged response contending (1) the subject dwelling was not "fit for occupancy" in 2010 and (2) the appellants failed to register the subject manufactured home within 30 days of its installation. Therefore, in accordance with a change in law effective January 1, 2011 the subject property was properly classified and assessed as real property. The Property Tax Appeal Board finds the record does not support the appellants' claim in this matter.

The crux of this appeal involves the change in Illinois law regarding the manner of taxing of mobile or manufactured homes located outside of mobile home parks as real estate that became effective January 1, 2011. The question posed here by the appellants is whether the subject dwelling, having been installed in 2010, although not taxed in 2010 under the Mobile

Home Local Services Tax Act (Privilege Tax), is now in 2011 entitled to be grandfathered in under the Privilege Tax, rather than being taxed as real estate in accordance with the change in law that became effective January 1, 2011.

By its own terms, Public Act 96-1477 took effect January 1, 2011 and provided, in pertinent part, that mobile homes located outside of mobile home parks that were taxed under the Mobile Home Local Services Tax Act shall continue to be so taxed until such manufactured or mobile home is sold, transferred or relocated, at which time it shall be classified, assessed and taxed as real property. (35 ILCS 200/1-130(b))

There is no substantive dispute on the record that the subject dwelling is a mobile or manufactured home as defined by Illinois law. As applicable in 2010, the Mobile Home Local Services Tax Act (35 ILCS 515/1) defined 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.

Effective January 1, 2011, Section 5 of the Manufactured Home Installation Act (35 ILCS 517/5) defined a mobile home as follows:

"Manufactured home" means a factory-assembled, completely integrated structure designed for permanent habitation, with a permanent chassis, and so constructed as to permit its transport, on wheels temporarily or permanently attached to its frame, and is a movable or portable unit that is (i) 8 body feet or more in width, (ii) 40 body feet or more in length, and (iii) 320 or more square feet, constructed to be towed on its own chassis (comprised of frame and

wheels) from the place of its construction to the location, or subsequent locations, at which it is installed and set up according to the manufacturer's instructions and connected to utilities for year-round occupancy for use as a permanent habitation, and designed and situated so as to permit its occupancy as a dwelling place for one or more persons. The term shall include units containing parts that may be folded, collapsed, or telescoped when being towed and that may be expected to provide additional cubic capacity, and that are designed to be joined into one integral unit capable of being separated again into the components for repeated towing. The term excludes campers and recreational vehicles. Mobile homes and manufactured homes in mobile home parks must be assessed and taxed as chattel. Mobile homes and manufactured homes outside of mobile home parks must be assessed and taxed as real property. The words "mobile home" and "manufactured home" are synonymous for the purposes of this Act.

There is also no factual dispute that the subject property for 2010 was assessed only as a vacant lot (Exhibit 12). The subject property was picked up by the assessing officials as an improved parcel for the first time in 2011 as shown through the record and the testimony of Owens, the contracted Browning Township Assessor who at least initially believed the subject dwelling was a "stick built" home rather than a manufactured home. Having reported the "new construction," the assessing officials applied an assessment to the property to include the new improvement. Thereafter, the appellants appealed to the Franklin County Board of Review which issued its Notice of Final Decision confirming the previous total assessment of \$24,425.

The appellants timely filed the instant appeal with the Property Tax Appeal Board and the board of review filed its response as outlined above seeking an increase in the assessment of the subject property.

The appellants' appeal and the board of review's response in this proceeding initially hinges upon a determination of when the subject dwelling was installed. The appellants provided competent testimony and documentary evidence including a photograph from May 2010 that the manufactured home was assembled and presumably "installed" in May/June 2010.

The board of review did not substantively dispute the notion that the home was "installed" as of in mid-2010, but did not believe that the home was "fit for occupancy." To support this not "fit for occupancy" contention, the board of review supplied an unsigned document which was purportedly faxed from the "Water Department" with a typed statement that a water meter was installed on the premises in July 2010, but the water to the dwelling was not "turned on" until April 2011. The Property Tax Appeal Board finds that the appellants' rebuttal evidence displaying the actual water usage at the dwelling establishes that at least in July and August 2010 there was water used at the dwelling. The Property Tax Appeal Board has given little weight to the unsigned faxed document that the board of review purportedly obtained from personnel at the Valier Water Department. This document lacks the specificity that is displayed by the actual water usage document which the appellants supplied in rebuttal and which the Board has afforded greater weight.

Next, turning again to the definition section of the "Manufactured Home Installation Act" (35 ILCS 517/5) effective January 1, 2011 for guidance as to what requirements exist for a mobile or manufactured home to be deemed "installed":

The construction of mobile type dwellings known as "manufactured homes" is regulated by the U.S. Department of Housing and Urban Development. All mobile type homes constructed after June 15, 1976, are manufactured homes and must comply with the National Manufactured Home and Construction Safety Standards; State and units of local government are preempted from imposing any additional construction requirements. The installation of these homes must comply with the Manufactured Home Quality Assurance Act and the Manufactured Home Installation Code (77 Ill. Adm. Code 870). The location of these homes is subject to local zoning and covenant codes.

Section 25 of the Manufactured Home Quality Assurance Act requires licensed manufactured home installers to obtain from the Department of Health a Manufactured Home Installation Seal. The seal is to be placed on the exterior of the manufactured home above the HUD label after the installation is completed by the licensed manufactured home installer, in accordance with the Manufactured Home Installation Code (77 Ill. Adm. Code 870).

Neither party presented evidence as to whether the aforesaid requirements were met and/or whether the installer of the subject dwelling placed a seal on the exterior of the manufactured home above the HUD label after completion of installation.

Also raised in this appeal was whether the subject dwelling was "fit for occupancy" as phrased by the Franklin County Board of Review in its submission. To respond to this contention, the appellants submitted data and testimony regarding both the existence of water and electricity at the subject home prior to January 1, 2011. The Property Tax Appeal Board finds that the Mobile Home Local Services Tax Act provides for the privilege tax to be applied to a structure "designed for permanent habitation" and further sets forth in Section 2.1 of that Act (35 ILCS 515/2.1):

. . . "permanent habitation" means available for habitation for a period of 2 or more months.

Setting aside these questions raised about whether the subject dwelling was suitable for occupancy in 2010, the Property Tax Appeal Board further finds the most crucial issue to determining this appeal is the fact that the subject manufactured home was never registered with the appropriate officials as required by law. Prior to January 1, 2011 and even effective as early as December 2, 1994, the law provided as follows in 35 ILCS 515/4:

The owner of each inhabited mobile home located in this State on the effective date of this Act shall, within 30 days after such date, file with the township assessor, if any, or with the Supervisor of Assessments or county assessor if there is no township assessor, or with the county assessor in those counties in which a county assessor is elected pursuant to Section 3-45 of the Property Tax Code, a mobile home registration form containing the information hereinafter specified. . . . The owner of a mobile home not located in a mobile home park shall, within 30 days after initial placement of such mobile home in any county and within 30 days after movement of such mobile home to a new location, file with the county assessor, Supervisor of Assessments or township assessor, as the case may be, a mobile home registration showing the name and address of the owner and every occupant of the mobile home, the location of

the mobile home, the year of manufacture, and the square feet of floor space contained in such mobile home together with the date that the mobile home became inhabited, was initially placed in the county, or was moved to a new location. Such registration shall also include the license number of such mobile home and of the towing vehicle, if there be any, and the State issuing such licenses. The registration shall be signed by the owner or occupant of the mobile home. It is the duty of each township assessor, if any, and each Supervisor of Assessments or county assessor if there is no township assessor, or the county assessor in those counties in which a county assessor is elected pursuant to Section 3-45 of the Property Tax Code, to require timely filing of a properly completed registration for each mobile home located in his township or county, as the case may be. Any person furnishing misinformation for purposes of registration or failing to file a required registration is guilty of a Class A misdemeanor. This Section applies only when the tax permitted by Section 3 has been imposed.

Thus, as set forth above even prior to January 1, 2011, a prerequisite to the Mobile Home Local Services Tax Act involves "registration" which counsel for the appellants admitted in closing argument did not occur in this case at any time in either 2010 or 2011.² The Board further takes notice that the registration provision effective January 1, 2011, pursuant to Section 515/4 of the Mobile Home Local Services Tax Act (35 ILCS 515/4; P.A. 96-1477, eff. 1-1-11), is not substantively different than the version set forth above.

Therefore, in light of the lack of registration of the subject dwelling with the appropriate assessing officials in Franklin County, the subject dwelling was assessed in accordance with Section 1-130(b) of the Property Tax Code (35 ILCS 200/1-130(b)):

(b) Notwithstanding any other provision of law, mobile homes and manufactured homes that (i) are located

² "[T]he simple fact is this is a manufactured home, and it should be taxed under the mobile home privilege tax since it was installed prior to the year 2011. And the fact that you're supposed to race right out 60 percent of the time if you receive a notice to record something, which Mr. Jones did not, and because he was not registered, apparently, I mean this is a manufactured home. It's not the failure to record this certificate of origin or this title. It's what it is on that date." (TR. 68)

outside of mobile home parks and (ii) are taxed under the Mobile Home Local Services Tax Act on the effective date of this amendatory Act of the 96th General Assembly shall continue to be taxed under the Mobile Home Local Services Tax Act and shall not be classified, assessed, and taxed as real property until the home is sold or transferred or until the home is relocated to a different parcel of land outside of a mobile home park. If a mobile home described in this subsection (b) is sold, transferred, or relocated to a different parcel of land outside of a mobile home park, then the home shall be classified, assessed, and taxed as real property. Mobile homes and manufactured homes that are classified, assessed, and taxed as real property on the effective date of this amendatory Act [January 1, 2011] of the 96th General Assembly shall continue to be classified, assessed, and taxed as real property. If a mobile or manufactured home that is located outside of a mobile home park is relocated to a mobile home park, it must be considered chattel and must be taxed according to the Mobile Home Local Services Tax Act. The owner of a mobile home or manufactured home that is located outside of a mobile home park may file a request with the county that the home be classified, assessed, and taxed as real property. (Emphasis added.)

As the subject manufactured home as of January 1, 2011 was assessed and taxed as real property and in light of the foregoing statutory provisions effective January 1, 2011, the Property Tax Appeal Board finds that the subject manufactured home shall continue to be classified, assessed and taxed as real property in accordance with Section 1-130(b) of the Property Tax Code (35 ILCS 200/1-130(b)). This is not to say that the appellants did not present a sympathetic argument as they moved to Illinois in 2010 and established their manufactured home in Valier without knowledge of the legal requirements to register their manufactured home with the officials. Moreover, because the subject home was newly installed in 2010 the record makes clear that the appellants were not mailed a notification from Humm's assessment office, who mailed notice to existing Privilege Tax properties to notify them of the registration requirement.

The next question in this appeal is the correct assessment of the subject property in light of the evidence in the record. Having determined that the subject is to be taxed as real

property as outlined above, the remaining question is the valuation of the property.

Except in counties with more than 200,000 inhabitants which classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). The appellants in this appeal clearly reported a total fair cash value of the subject manufactured home of \$110,575 (rounded). As part of this appeal, the Franklin County Board of Review requested an increase in the assessment of the subject property to reflect the actual market value of the manufactured home including the value of the appellant's/family member's work as general contractor as was reported by the appellants. Furthermore, the board of review also requested the application of an assessment upon the two-car garage which is located on the subject premises.

As to the garage, the Property Tax Appeal Board finds there is no value evidence in the record sufficient to make a determination of the correct assessment of the two-car garage feature of the property.

In accordance with the appellants' data provided in Section VI of the Residential Appeal petition, the Property Tax Appeal Board finds the subject manufactured home has a total fair cash value of \$110,578.³ As the subject's 2011 improvement assessment of \$23,800 reflects a market value of approximately \$71,087 at the three year median level of assessments for Franklin County of 33.48%, the subject manufactured home is under-assessed based on its value. As the evidence reveals a substantially higher fair cash value for the manufactured home, the Property Tax Appeal Board finds that the board of review's request for an increase in the subject's improvement assessment is warranted.

³ Note, this value arguably applies only to the improvement assessment of the subject property and does not include a land value.

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.



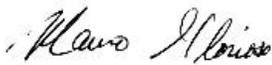
Chairman



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: March 21, 2014



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.