



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

APPELLANT: Thomas & Lea Sommers
DOCKET NO.: 15-00402.001-F-1
PARCEL NO.: 16-09-18-400-003

The parties of record before the Property Tax Appeal Board are Thomas & Lea Sommers, the appellants; and the Fayette County Board of Review.

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

| | |
|----------------------|----------|
| F/Land: | \$1,291 |
| Homesite: | \$842 |
| Residence: | \$11,380 |
| Outbuildings: | \$9,213 |
| TOTAL: | \$22,726 |

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Fayette County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2015 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property is a 40-acre site composed of a .41 of an acre homesite; 28.85 acres of cropland; .14 of an acre of permanent pasture; 9.84 acres of timber/woodland; and .48 of an acre of roadway. The property is also improved with a one-story single family dwelling with 896 square feet of ground floor area that was built in 1893; a 455 square foot pole shed built in 2011; a 1,296 square foot barn constructed in 2012; a 432 square foot lean-to built in 2012; a 576 square foot detached garage built in 1975; a 192 square foot pole shed built; and a hoop barn with approximately 9,000 square feet of building area that was constructed in 2014. The property is located in Shafter Township, Fayette County.

A consolidated hearing was held with Docket No. 15-00401.001-F-1 as the appellants were contesting the assessments of the hoop barns located on each property. Separate decisions will be issued for each appeal.

The appellants appeared before the Property Tax Appeal Board contesting the assessment of the hoop barn. The appellants marked recent construction as the basis of the appeal, however, the appellants also submitted assessment information on three comparables to demonstrate assessment inequity. In their written submission and at the hearing the appellants contend the hoop barn is not permanently fastened to the ground and should not be assessed. The appellants testified this structure was built similarly to the hoop barn in Docket No. 15-00401.001-F-1. The subject hoop building is attached to large concrete blocks that measure two feet by two feet by six feet that weigh approximately one ton. The concrete blocks were set in place by a crane after the concrete blocks were delivered on site by a truck. The contractor was present at the site when they were delivered and set them in place when the blocks were taken off the truck. The blocks are sitting on the ground resting in place by their own weight. Approximately two years after the building was put in place the appellants attached the concrete blocks together using steel plates that measure approximately 8 inches by 12 inches. Mr. Sommers helped prepare the site by leveling off the perimeter.

The appellants explained there was no ground preparation other than making sure no block was higher than another. The exterior fabric is a vinyl type of covering that has a 25-year warranty, which is pro-rated. The appellants explained that they have already replaced a portion of the fabric on this structure. The structure has framing of steel piping or bars and cables that the fabric is attached to. The cables are to be tightened periodically to keep the pipes in place. The appellants explained that they have to check to make sure the cables that help support the structure remain tight to maintain the warranty. The steel framing is bolted to the blocks. The fabric has a loop at the end where steel piping is inserted which is attached to the blocks with webbed straps that can be ratcheted down to keep the cover tight and connected to the frame. The ratchets are bolted to the concrete blocks. Mr. Sommers indicated the framing on this structure is heavier than the smaller hoop barn. This structure also has a roll-up door at each end and the north end of the building has a “walk-through” door.

At the hearing Ms. Sommers explained this hoop barn is used to store equipment and is used as an arena where she rides her horses when the weather is bad during summer months. They asserted in the statement submitted with the appeal that when they are no longer capable of bailing hay, they plan to sell the building and equipment.

Ms. Sommers explained that when they looked to construct these hoop buildings they were told by someone in the supervisor of assessments office that if the structures were not fastened to the ground by concrete, asphalt, poles, piers, tethers, rods or anchors they would be tax exempt. The appellant testified that they looked for other buildings that were built the same way and found that they were not being assessed. To support this statement, the appellants identified three comparables located within six miles of each of their buildings.

The appellants identified Exhibit A as an exterior photograph of the hoop building with the exception that the areas that were green were replaced and the entire building is now white. The fabric in the green areas began to tear and had to be replaced. The appellants identified group

Exhibit B as four photographs depicting the exterior of the building with the exception that the areas with the green fabric have been replaced with white fabric. This building does have guttering at one end to catch the water to help prevent the interior from flooding. Ms. Sommers also explained that they had to add fill to the interior to reducing the flooding. Group Exhibit C, which includes C-1 though C-3, were identified as photographs of the interior of the building. These photographs depict the steel plates that are attached to the blocks to help keep the blocks together, the steel framing that is attached to the top of the concrete blocks and the steel cable used to maintain the rigidity. The photographs also depict the straps and ratchets that are attached to the top of the blocks. Mr. Sommers explained the ratchets are similar to tie-down straps used to strap down loads. The appellant explained the fabric extends beyond the exterior of the blocks and is held in place by a plastic channel lock.

The appellants testified that the cost of the building was between \$40,000 and \$45,000, the cost of the blocks was approximately \$50 each; and the cost of the installation was approximately \$20,000 to \$25,000.

The appellants identified three comparables, which were used in each appeal. The photographs of the comparables were depicted on group Exhibit D. Ms. Sommers testified that comparables depicted on Exhibit D-1 (comparable #2) and D-2 (comparable #1) were hoop buildings with the fabric attached to concrete blocks, similar to the subject property, while the comparable depicted on Exhibit D-3 (comparable #3) has the fabric fastened to the ground. The appellants provided copies of the property record cards and aerial photographs of each comparable depicting the hoop buildings located on the respective properties. Exhibit E was identified as an aerial photograph depicting comparable #3; Exhibit F was identified as an aerial photograph depicting comparable #2; Exhibit G was an aerial photograph also depicting comparable #2; and Exhibit J is an aerial photograph depicting comparable #1. Ms. Sommers asserted that the property record cards did not depict that the hoop structures located on the respective comparables were being assessed.

The appellants explained that they selected to use the hoop structures rather than a pole building due to costs and real estate taxes. The appellants stated that they own the underlying land.

In summary the appellants contend the subject hoop structure should not be assessed because it is not permanently fastened to the ground, and/or alternatively, similar hoop structures were not being assessed.

Appearing on behalf of the board of review were board members Vernon Barzle, Keith Schaal and Harold Baumann as well as the Fayette County Chief County Assessment Officer (CCAO) Cindi Lotts. Ms. Lotts testified that the evidence and argument for each appeal was the same. The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$22,726.

The CCAO testified this parcel had a farm building assessment of \$9,213 of which \$5,400 is the assessment associated with the hoop building. She explained that the property record card depicts a value of \$18,000 for the hoop barn, but the level of assessments for the farm building was 30% resulting in an assessment of \$5,400.

The CCAO testified that the argument appears to be that of classification of the subject buildings as real property or personal property. Ms. Lotts explained that these types of buildings started to appear in Fayette County in approximately 2004. She explained that the Illinois Real Property Appraisal Manual from the Illinois Department of Revenue, which they use, did not have a cost schedule for hoop buildings; therefore, as a result the assessment officials use cost data from Diamond Shelters to compute the value. She further testified that all assessors have been advised to assess these types of buildings throughout the county, although she was not arguing that there were some buildings in various townships that were not being assessed. She also explained that one of her employees may have told the appellants that a structure would not be assessed if it was not attached to the ground. The CCAO did indicate that this was the standard they used until the Property Tax Appeal Board issued a decision in Docket No. 12-00058.001-F-1, finding that a portable building was a to be assessed.

The CCAO acknowledged that the three comparables identified by the appellants had hoop buildings that were not assessed in 2015, however, these buildings are now assessed. The board of review submitted the property record cards on sixteen properties located throughout the county to demonstrate these types of structures are being assessed. Each property record card identified a hoop building or a Coverall as being assessed. Ms. Lotts explained that a Coverall was a name brand of a hoop building. Based on this evidence the board of review requested confirmation of the assessment.

Conclusion of Law

Initially the appellants raise a contention of law with respect to the assessment of the hoop building as real estate. The appellants argued that the subject building is not permanently fastened to the ground and should not be assessed as real estate but should be exempt from taxation. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under the Illinois Administrative Procedure Act by an agency shall be the preponderance of the evidence. (5 ILCS 100/10-15). The rules of the Property Tax Appeal Board do not provide for the standard of proof where a contention of law is raised; therefore, the standard of proof with respect to this argument is a preponderance of the evidence.

Illinois' system of assessing and taxing real property is founded on the Property Tax Code. (35 ILCS 200/1-1 et seq.). Section 1-130 of the Property Code defines real property in part as:

The land itself, with all things contained therein, and also all buildings, structures and improvements, and other permanent fixtures thereon (35 ILCS200/1-130.

The court in Ayrshire Coal Co. v. Property Tax Appeal Board, 19 Ill.App.3d 41, 45, 310 N.E. 2d 667, 671 (3rd Dist. 1974) noted that:

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. (Citation omitted.)

The court also stated:

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. Any form or arrangement of building or construction materials involving the necessity or precaution of providing proper support, bracing, tying, anchoring, or other protection against the pressure of the elements. Id. At 45.

Structure is also defined as something made up of a number of parts that are held or put together in a particular way. The American Heritage Dictionary, Second College Edition (1985).

Furthermore, annexations, when made by the owner, must be presumed to be made with the design of their permanent enjoyment with the realty and as an accessory to it. Ayrshire Coal Co. at 45.

In the case of In re Hutchens, 34 Ill.App.3d 1039, 341 N.E.2d 169 (4th Dist. 1976), a cabin was purchased by a lessee and transported to a leased site where it was set up on pillars of concrete blocks and shimmed up with shingles with the provision of the lease for plumbing connections between the cabin, septic tank and a well. The trial court determined the cabin was sufficiently attached to the land to 'have become part of it.' The Appellate Court of Illinois, Fourth District, found that the trial court's finding that the cabin was part of the real estate was not contrary to the manifest weight of the evidence even though the cabin could be removed without substantial damage to the land and even though the lessee had the right to do that.

In accordance with these precepts, the Property Tax Appeal Board finds the hoop barn is real property as defined in the Property Tax Code subject to real estate assessment and taxation. The hoop barn is a structure composed of concrete blocks, steel framing, steel cable and a fabric covering. Each concrete block weighs approximately one ton and the framing of the structure is attached to the blocks through steel framing and cables. The exterior fabric is attached to the concrete blocks through a ratcheting system with the ratchets being attached to the blocks. Even though the concrete blocks are not attached to any base but rest on the ground through their own weight, the Board finds the hoop barn is a building or structure subject to assessment and taxation. The hoop barn is used by the appellants, who own the underlying land, to shelter hay and equipment from the elements as well as for horse riding. Based on this record the Board finds the Fayette County assessment properly classified and assessed the hoop building as real estate.

Alternatively, the taxpayers contend assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellants did not meet this burden of proof and a reduction in the subject's assessment is not warranted on this basis.

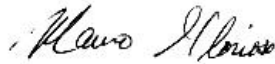
The appellants submitted information disclosing that three similar hoop buildings were not being assessed for the 2015 tax year. The board of review countered this argument through the testimony of the CCAO who explained that the township assessors have been instructed to assess these types of structures, although the three identified by the appellants were apparently not assessed but that

mistake has now been corrected. Additionally, the board of review provided the property record cards on sixteen properties located throughout the county disclosing that similar hoop structures are being assessed. Although the appellants identified three hoop barns that were not being assessed, the board of review submission and testimony disclosed that the policy is to assess such structures as real property. The Board finds the evidence did not demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction with respect to the assessment of the hoop buildings. Based on this record the Board finds the appellants did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified on this basis.

As a final point, the appellants provided testimony that the hoop building cost approximately \$60,000 to \$70,000, excluding the cost of the concrete blocks which were \$50 each. The assessment of the hoop building is \$5,400, which reflects a contributory value of the farm building of approximately \$16,200 when applying the statutory level of assessment, which is significantly below the construction cost. The Board finds the assessment of the hoop building is not excessive in relation to its contributory value to the farming operation.

In conclusion, the Property Tax Appeal Board finds the assessment of the subject property as determined by the board of review is correct and a reduction is not warranted.

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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Member



Member

DISSENTING: _____

CERTIFICATION

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: January 15, 2019



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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