



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

APPELLANT: Richard & Brenda Humphrey, Jr.  
DOCKET NO.: 16-02051.001-F-1  
PARCEL NO.: 18-08-14-200-010

The parties of record before the Property Tax Appeal Board are Richard & Brenda Humphrey, Jr., the appellants, and the Lee 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 Lee County Board of Review is warranted. The correct assessed valuation of the property is:

<b>F/Land:</b>	\$209
<b>Homesite:</b>	\$4,406
<b>Residence:</b>	\$56,645
<b>Outbuildings:</b>	\$4,122
<b>TOTAL:</b>	\$65,382

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellants timely filed the appeal from a decision of the Lee County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2016 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 parcel of 2.6-acres has been improved with a two-story single-family dwelling of frame construction. The dwelling was constructed in 1926. Features of the home include a partial unfinished basement, central air conditioning and an attached two-car garage. The property has a 1.2-acre homesite and 1.39-acres of permanent pasture. As part of the farming aspect of the property, there are purportedly eight structures itemized by the assessing officials: pump houses, a 1,440 square foot shed, a 216 square foot shed, a 540 square foot shed, an 896 bushel "unsound" wood crib, a 1,088 square foot pole building, and a 456 square foot open sided-pole building. The property is located in Dixon, South Dixon Township, Lee County.

Dwelling size dispute

As an initial matter, the appellants asserted the subject dwelling contains 3,020 square feet of living area. At hearing the appellants testified that interior measurements were taken and rounded up to arrive at the stated dwelling size. The board of review submitted a copy of the subject's property record card along with a detailed schematic drawing supporting the contention that the home contains 3,328 square feet of living area consisting of a total of 4,000 square feet less the integral garage of 672 square feet. The board of review further reported that the home has not been remeasured since 1997.

At hearing, the Administrative Law Judge (ALJ) proposed that the dwelling and the disputed outbuilding be re-measured by the assessing officials to ensure accuracy. Subsequently, the board of review reported that three different attempts to arrange a visit for measurements were unsuccessful.

On this record, the Property Tax Appeal Board finds subject dwelling contains 3,328 square feet of living area based upon the board of review's schematic drawing which is the best evidence of dwelling size in the record. The Board further finds, on this record, the dwelling size dispute does not prevent a determination of the correct assessment.

The appellants' appeal

The appellants appeared before the Property Tax Appeal Board contending assessment inequity and contention of law as bases of this appeal.<sup>1</sup> The appellants are challenging the assessment of the homesite, the residence and the farm outbuildings. While neither of the parties requested a hearing, the Property Tax Appeal Board set this matter for hearing to get clarification of the issues and arguments. (86 Ill.Admin.Code §1910.67(b))

In support of the inequity contention for the homesite and residence, the appellants submitted information on three comparables located within three miles of the subject property. The comparables consist of a non-farmland property and two farmland properties. The homesites range from .68 of an acre to 3.64-acres. Each of the three comparables is improved with a two-story dwelling of frame or brick construction built between 1896 and 1931. The homes range in size from 2,086 to 2,820 square feet of living area and feature unfinished basements and detached garages. Two of the comparables have central air conditioning and two of the comparables each have a fireplace. These properties were analyzed by the appellants for the claims regarding both the homesite and the residential dwelling assessments.

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<sup>1</sup> The appellants also marked "comparable sales" as a basis for appeal but provided data on only one recent sale which is insufficient market value evidence to make an overvaluation argument. (86 Ill.Admin.Code §1910.65(c)(4)) Furthermore, as set forth in the appeal petition attachment, the appellants' concern with the one recent sale was the purported under-assessment of the property in comparison to its recent purchase price and, as argued, the lack of farm use, but the property is afforded a farmland assessment. The Lee County Board of Review addressed this issue in its response noting that 7.5-acres of this comparable property (#1) has been granted a preferential farmland assessment and as such the total assessment of a farmland property will not reflect 33 1/3% of market value due to the statutory mandate concerning farmland assessments. The board of review addressed that as of January 1, 2016, the property was properly classified as farmland; after the sale in April 2016, the property may eventually be reclassified based upon farm use.

1. Homesite

The subject property has a homesite (non-farmland assessed land area) of 1.23-acres. The appellants' comparable parcels each have homesite acreages ranging from .68 of an acre to 3.64-acres (see Lee County Board of Review Exhibit J). The comparables have homesite assessments ranging from \$3,091 to \$11,442 or from \$3,143 to \$4,346 per acre of homesite land area. The subject property has 1.23-acres of homesite with an assessment of \$4,406 or \$3,582 per acre of homesite land area. Based on the foregoing evidence, the appellants requested a reduce homesite assessment of \$3,500 or \$2,800 per acre of homesite land area.

2. Dwelling

Appellant Richard Humphrey, Jr. testified that while the subject dwelling was improved with new siding and windows, the addition that was built was in 1995 or 1996. The appellants contended, in part, that mere repairs and maintenance of the dwelling should not change its value. The appellants' comparable dwellings have improvement assessments ranging from \$25,756 to \$45,058 or from \$10.32 to \$19.42 per square foot of living area. The subject dwelling has an improvement assessment of \$56,645 or \$17.02 per square foot of living area based upon a dwelling size of 3,328 square feet of living area. Based on the foregoing evidence, the appellants requested a reduced improvement assessment of \$33,000 or \$9.92 per square foot of living area.

3. Farm building/portable building contention

The appellants contend that for farm purposes "the only building used is a portable livestock shelter" that sits on skids. In the appeal petition, the foregoing quotation was the only description of this disputed farm building; the appellants failed to provide any photographs of the building and/or its foundation to support the argument(s) as to foundation and/or use.

The appellants contend, alternatively, that (1) the farm building has been overvalued under Section 10-140 of the Property Tax Code (35 ILCS 200/10-140) which provides that farm buildings should be assessed at "33 1/3% of their value, based upon the current use of those buildings and their current contribution to the productivity of the farm" and/or (2) that the building is not assessable as real property since it is "a portable livestock shelter and is property tax exempt."

Appellant Richard Humphrey, Jr. testified that he purchased the subject steel building in 2007 or 2008 for approximately \$7,000. The building was "delivered on the back of a pick-up truck" and it is designed to be placed in a pasture. He estimated the building was 8 feet wide by 30+ feet long. He based the width estimate, in part, on the fact that the building was transported on public roadways. The structure does not have electric or water service. There are two eyelets on the front of the building which allow transportation by dragging the building. Upon delivery, the appellants' building was set down on the concrete where it is currently sitting; Humphrey also testified the building "sits on two rails" that are twelve inches around.

Richard Humphrey, Jr. testified that the building is used as a portable shelter "for the animals that I keep there." Additional testimony revealed that the property is used by the appellants to keep their son's 'show cattle.' Brenda Humphrey testified that "at most there are probably seven or eight calves" in the building.

The appellants did not itemize the farm building assessments and did not describe the presence of any other farm outbuildings on the subject parcel. Based on the foregoing evidence and argument, the appellants contend the subject's farm building assessment should be reduced to \$1,000.

Board of Review's response to the appeal

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$65,382. The assessment of the farmland is \$209, the homesite has a \$4,406 assessment, the residence is assessed at \$56,645 and the outbuildings have a total assessment of \$4,122.

As part of its evidentiary submission, the Lee County Board of Review requested an increase in the total assessment of the subject property to \$66,872. The assessing officials discovered errors in the farm building listing due to a review of the records as part of responding to this appeal. Exhibit H submitted is a corrected property record card. One shed was removed from the listing<sup>2</sup> and Building #11, which was previously omitted was added. This newly added structure is the outbuilding the appellants have disputed in this proceeding; Building #11 was recorded as having been constructed in 2008, a 456-square foot open sided-pole building of metal construction with a dirt floor. As part of its response to the appeal, after removal and addition, the board of review proposes that the outbuildings on the subject parcel should be assessed at \$5,612 to account for all of the farm outbuildings, rather than the original outbuildings assessment of \$4,122.

1. Homesite

The board of review presented four comparable properties with homesite areas ranging in size from .72 of an acre to 2.13-acres of land area. The comparables have homesite or non-farm land assessments ranging from \$3,091 to \$6,384 or from \$2,933 to \$4,293 per acre of homesite land area. Based on this evidence, the board of review requested confirmation of the subject's 1.21-acre homesite assessment of \$4,406 or \$3,582 per acre of homesite land area.

2. Dwelling

The board of review presented four comparable properties improved with two-story frame or vinyl siding dwellings that were built between 1901 and 1938; each of the homes has been renovated/remodeled at least once between 2001 and 2013. The homes range in size from 2,752 to 3,064 square feet of living area. Each home has a basement and three of the comparables have

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<sup>2</sup> In the hearing, Brenda Humphrey asserted the "newly removed" building had been destroyed/demolished 18 years ago. Richard Humphrey, Jr. did not believe that it had been 18 years ago. On behalf of the board of review, Ryerson relied upon aerial photography for the inclusion/exclusion of outbuildings (Exhibits D & E with corrections to the 1993 Survey marked as Exhibit C).

central air conditioning. One home has a fireplace and each comparable has a garage ranging in size from 702 to 896 square feet of building area. The comparables have improvement assessments ranging from \$46,323 to \$65,043 or from \$16.15 to \$21.97 per square foot of living area. The subject has an improvement assessment for the residence of \$56,645 or \$17.02 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's improvement assessment for the residence.

### 3. *Farm building(s)*

As part of its written response to the appeal, the board of review contends that it is Lee County's "practice to assess buildings similar to the subject property's livestock shelter regardless of its foundation." Ryerson testified that her instructions to the township assessors has been that no matter how the structure is "affixed to the earth," if it is 10 feet by 10 feet or greater, the structure is to be assessed. She further testified that since working in the assessor's office in 1986, these types of "portable" buildings have been taxed as real property.

The board of review further contended that the disputed structure, Building #11, was added by the assessing officials as a consequence of this appeal as an omitted building. Ryerson testified that the replacement cost new of \$5,919 was obtained from the Marshall & Swift Cost Manual. None of the documentation of the calculation of that value was included in the submission, although Ryerson did note the assigned depreciated market value of \$4,972 was less than the purchase price to which the appellants testified. As set forth on Exhibit H, the assessing officials depreciated the structure by 16%. In testimony, Ryerson also asserted the building was 12 feet by 38 feet or 456 square feet.<sup>3</sup> Based upon the policy and practice to assess such buildings as real property, the board of review requested not only confirmation of the assessment, but an increase in the outbuildings assessment in order to reflect the previously omitted disputed structure.

### *Appellants' written rebuttal*

In response to the board of review's submission, the appellants cite to Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d 711 (2<sup>nd</sup> Dist. 1996) concerning a challenge to the assessment of mobile home trailers as real property. The appellants argued further that the subject "portable livestock shelter rests on two steel rails and can be moved from farm to farm where needed as temporary housing for livestock." The appellants also contended the building is included as a "personal asset on farm security forms" with lending institutions. Based on these facts, the appellants contend the disputed building is personal property and not real property subject to taxation.

As to the subject dwelling's improvement assessment, the appellants contend that since the completion of the addition in 1996, the home has steadily been increased by 33% "with nothing being done to the property." Furthermore, as to siding, windows and/or roofing of the home, the appellants contend that in accordance with Section 10-20 of the Property Tax Code (35 ILCS 200/10-20) maintenance and repairs to a structure shall not increase the assessed valuation unless

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<sup>3</sup> This outbuilding was also to be measured by the assessing officials after hearing. Subsequently, the board of review reported that three different attempts to arrange a visit for measurements were unsuccessful.

the change increases the square footage, materially alters the character and condition of the structure, goes beyond merely prolonging the life of the existing structure or used materials that were greater in value than the replacement value of the materials being replaced. The appellants argued, in accordance with the statutory provision, merely restoring the structure from a state of disrepair does not materially alter the property; the subject dwelling still has the original wiring and lacks insulation in the plaster walls, although its condition may be deemed 'excellent' as compared to other homes built in 1926.

### **Post-Hearing Submissions**

Due to the legal argument raised by the appellants alleging inconsistent assessment practices regarding "portable" buildings, both the appellants and the board of review were each provided with an opportunity to supplement the record with up to ten examples supportive of their respective positions concerning the assessment of these structures. The written order provided, in part, that the parties each could submit "evidence of comparable structures that lack foundation" with no more than ten examples.

For the supplemental filing, the appellants presented a letter with ten street addresses and associated parcel numbers. The appellants asserted this is a "list of portable buildings" that are not currently being assessed in Lee County. No property record cards and/or photographs were included to support the assertion that the parcels have portable buildings which are not being assessed. The appellants also asserted they have "two similar buildings" on another parcel (18-08-13-100-006) which are not assessed.<sup>4</sup>

The board of review through Chief County Assessment Officer Wendy Ryerson presented photographs and assessment printouts for ten sheds of varying sizes to demonstrate that these types of buildings are assessed even without a permanent foundation.

### **Conclusion of Law**

The taxpayers contend in part assessment inequity as a 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 homesite and/or improvement assessments are not warranted.

As to the homesite assessment, the parties presented a total of seven comparables to support their respective positions before the Property Tax Appeal Board. All seven comparables have varying degrees of similarity to the subject homesite. Due to location, the Board has given reduced weight to the appellants' homesite comparable #2 in Amboy. The remaining six homesites vary

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<sup>4</sup> In the board of review supplemental filing, this referenced property is comparable #11 and is assessed as real property.

in size but are each located in Dixon. The homesites have assessments ranging from \$2,933 to \$4,293 per acre of land area. The subject has a homesite assessment of \$3,582 per acre of land area which falls within the range established by the best comparables in this record. Based on this record the Board finds the appellants did not demonstrate with clear and convincing evidence that the subject's homesite was inequitably assessed and a reduction in the subject's homesite is not justified.

As to the residential or dwelling improvement assessment, the parties presented a total of seven comparables to support their respective positions before the Property Tax Appeal Board. All seven comparables have varying degrees of similarity to the subject dwelling. The comparables had improvement assessments that ranged from \$10.32 to \$21.97 per square foot of living area. The subject's improvement assessment of \$17.02 per square foot of living area falls within the range established by the comparables in this record. 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.

As to the legal contention concerning the disputed farm building, The Property Tax Appeal Board finds the first issue before this Board is whether the subject building is to be classified and assessed as real property. Ironically the appellants argued that the disputed farm building on the subject parcel should not be assessed as real estate in 2016, yet the hearing revealed that the fact of this appeal brought to the attention of the assessing officials that the disputed building had erroneously been omitted from the assessment rolls.

The appellants argued the structure, which is not permanently affixed to the land, should be considered exempt from assessment and not taxed as real estate. The appellants further contended that the building is portable. The Board finds that these facts do not alter the fact that the subject building is real property and should be assessed based on a uniform policy to assess such buildings that are at least 10 feet by 10 feet in size. The subject building substantially exceeds the county's size guideline and therefore, should legally be assessed.

In support of the principle that the outbuilding should be assessed, 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). [Emphasis added.]<sup>5</sup>

In light of the foregoing definition, the Property Tax Appeal Board finds the subject building, a "structure," should be classified and assessed as real property.

In Ayrshire Coal Company v. Property Tax Appeal Board, 19 Ill.App.3d 41 (3<sup>rd</sup> Dist. 1974), the court wrote, "[a] structure has been defined in the broad sense as any construction or piece of

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<sup>5</sup> The Property Tax Appeal Board recognizes that this provision was modified as of January 1, 2011 in a manner that does not impact the arguments in this proceeding.

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.

After considering the evidence and record, the Board finds the disputed farm outbuilding 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 building is real property and may be assessed as such regardless of its foundation.<sup>6</sup>

The second issue before the Property Tax Appeal Board concerning this farm outbuilding is whether through the process of an assessment appeal, the appellants should be penalized with the assessment of this building that was erroneously omitted by the assessing officials.

The record is clear that the appellants filed a 2016 tax year assessment appeal with the Lee County Board of Review. The board of review considered that appeal and rendered a final decision on February 3, 2017 setting forth the Final Decision of the Board of Review for the 2016 Assessment Year. The final decision included a farm outbuildings assessment of \$4,122. Now, before the Property Tax Appeal Board, the Lee County Board of Review seeks to increase the farm outbuilding assessment on the grounds that it has now discovered an error in the listing of the farm outbuildings where the disputed outbuilding was erroneously omitted from the subject's assessment.

While the board of review has argued under the policy in Lee County a portable building that is more than 10 feet by 10 feet is to be assessed as real property, the Property Tax Appeal Board finds that it is inappropriate on this record to increase the assessment to correct the purported omission. The omitted property statute of the Property Tax Code (35 ILCS 200/9-270) includes a provision that 'no charge for tax of previous years' should issue when, in part:

. . . (7) the property was the subject of an assessment appeal before the assessor or the board of review that had included the intended omitted property as part of the assessment appeal and provided evidence of its market value.

Therefore, on this record where the appellants pursued an appeal of the subject parcel before the local board of review prior to this appeal before the Property Tax Appeal Board, the Property Tax Appeal Board finds that the Lee County Board of Review should have corrected the omission as part of its final decision for tax year 2016. The Board finds it is inappropriate to seek to do so before the Property Tax Appeal Board at this time on grounds of discovering an omission. Therefore, no change in the assessment of the farm outbuildings is warranted.

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<sup>6</sup> 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 (2<sup>nd</sup> 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. 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.

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Chairman



\_\_\_\_\_  
Member

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Member



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Member

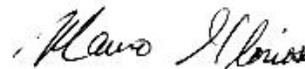
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Member

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: June 18, 2019



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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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