



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

July 28, 2015

To:

Hon. David Wambach
Circuit Court Judge
Jefferson County Courthouse
311 South Center Avenue
Jefferson, WI 53549

Andrew Todd Rumpf
Rumpf Law Offices
152 W. Main St.
P.O. Box 1
Cambridge, WI 53523-0001

Carla Robinson
Clerk of Circuit Court
Jefferson County Courthouse
311 South Center Avenue
Jefferson, WI 53549

James D. E. Christle
Marilyn J. Christle
431 Somonauk Street
Sycamore, IL 60178

You are hereby notified that the Court has entered the following opinion and order:

2014AP2310

Marilyn J. Christle and James D.E. Christle v. Town of Oakland
Board of Review (L.C. # 2014CV286)

Before Lundsten, Higginbotham and Sherman, JJ.

Marilyn Christle and James Christle appeal a circuit court order denying their petition for writ of certiorari. In their writ petition, the Christles alleged that the Town of Oakland Board of Review erred in its assessment of their property for real estate taxation purposes. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).¹ We summarily affirm.

On May 8, 2014, the Christles objected to the Town of Oakland tax assessment of their property. Specifically, the Christles argued that the assessment included an incorrect added

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

value of \$4,000.00 for a boat slip. The Christles argued that the boat slip was personal property, not real property. They appeared before the town's Board of Review, which denied their request to change the assessment. The Christles then filed a petition for writ of certiorari in the circuit court. The court denied the petition, and the Christles now appeal.

In general, administrative decisions are entitled to deference, and we presume the board's decision to be correct and valid. *State v. Waushara Cty. Bd. of Adjustment*, 2004 WI 56, ¶13, 271 Wis. 2d 547, 679 N.W.2d 514. We will not set aside its factual findings if they are supported by any reasonable view of the evidence, and we may not substitute our discretion for that of the board. *Id.*

The property at issue in this case is known as "Lots 15, 16, and 17, in Block 7, Third Addition to Shore Place" in the Town of Oakland, Jefferson County, Wisconsin, and was purchased by the Christles in 1990. The warranty deed conveying the property to the Christles also conveyed an interest in a "certain right of way and right to use the beach" as well as an additional "right of way and easement in common with others" as described in the specific public records referenced in the deed. The deed further states on its face, "The purchase of this property also includes a pier spot or docking a boat on the community pier closest to the Shore Place Beach. Subject to the payment of any association fees."

The board concluded that the assessor was correct in including the boat slip in the tax assessment of the Christles' real property. The board's decision is supported by the record and by relevant statutory law. The definition of real property, for purposes of property taxes, includes not only the land itself, but also buildings, improvements, and "all fixtures and rights and privileges appertaining thereto." WIS. STAT. § 70.03(1). "A benefit is appurtenant if the

right to enjoy that benefit is tied to the ownership of a particular parcel of land.” *Nature Conservancy of Wis., Inc. v. Altnau*, 2008 WI App 115, ¶7, 313 Wis. 2d 382, 756 N.W.2d 641.

The Christles’ deed conveyed, along with Lots 15, 16, and 17, the right to have “a pier spot or docking a boat on the community pier.” This right is a right appurtenant to Lots 15, 16, and 17 because the Christles’ ability to have a pier spot or to dock a boat on the community pier is tied to their ownership of Lots 15, 16, and 17. As stated above, the definition of real property in WIS. STAT. § 70.03(1) includes “rights and privileges appertaining” to the land. Therefore, we are satisfied that the Board was correct to uphold the assessor’s inclusion of what the parties refer to as the “boat slip” within the tax assessment of the Christles’ property.

IT IS ORDERED that the order is summarily affirmed under WIS. STAT. RULE 809.21(1).

Diane M. Fremgen
Clerk of Court of Appeals