Assessment of manufactured home that has become affixed to, and is
taxed as, real estate is subject to review by local board of equalization.
Assessment of manufactured home that has not become affixed to real
estate and is classified as tangible personal property is not subject to
review by local board.

The Honorable Mary Lou Ebinger
Commissioner of the Revenue for Middlesex County
December 28, 2001

You ask whether the local board of equalization may review assessments
of manufactured homes.

You relate that Middlesex County has been reassessing the real estate in
the county. You also relate that the county has an appointed board of
equalization involved in this process.

The 1994 Session of the General Assembly amended the statutory
procedure for taxing manufactured homes. The legislation changed all
references to "mobile home(s)" in §§ 58.1-3520 and 58.1-3521 of the
Code of Virginia to "manufactured home(s)," and added § 58.1-3522 as
follows:

Manufactured homes installed according to the Uniform
Statewide Building Code shall be assessed at the same time
as the assessment of the real property on which the
manufactured home is installed. Such homes shall be
assessed in the same manner and using the same methods
applied to improvements and buildings which are assessed
in accordance with Article 7 (§ 58.1-3280 et seq.) of
Chapter 32 of [Title 58.1].

Prior opinions of the Attorney General conclude that these homes should
be classified and taxed as real or personal property, depending on how the
common law doctrine of fixtures applies to the facts and circumstances of
each case. The three tests applied by the Supreme Court of Virginia in
determining whether an item of personal property placed upon realty
becomes a fixture are: "(1) annexation of the property to the realty,
(2) adaptation to the use or purpose to which that part of the realty with
which the property is connected is appropriated, and (3) the intention of
the parties." Thus, a manufactured home that has become affixed to real
estate is classified and taxed as real estate and must be treated as such for all purposes, including administrative and judicial review. Section 58.1-3379 requires boards of equalization to hear and consider complaints related to equalization of real estate assessments. Accordingly, an assessment of such real estate is subject to review by a board of equalization.

With respect to manufactured homes that have not become affixed to real estate and are taxed as a separate class of tangible personal property, § 58.1-3522 does not purport to change the classification of the property to real estate. Rather, this section merely requires that manufactured homes classified as tangible property be taxed in the same manner, using the same methods as real estate. Such homes, therefore, although assessed in the same manner, using the same methods, and taxed at the same rate as real estate, are still treated as tangible personal property for all other purposes, such as applications for the correction of tangible personal property assessments under § 58.1-3980. Because a board of equalization reviews real estate assessments, and not tangible personal property assessments, the local board of equalization would not review a tangible personal property assessment of a manufactured home.


2Id. at 251-52.

3Id. at 252.

