FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Clyde Raible
DOCKET NO.: 18-04801.001-F-1
PARCEL NO.: 10-25-200-001

The parties of record before the Property Tax Appeal Board are Clyde Raible, the appellant, and the Knox 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 **Knox** County Board of Review is warranted. The correct assessed valuation of the property is:

F/Land:	$5,240
Land:	$27,390
Residence:	$0
Outbuildings:	$0
TOTAL:	$32,630

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Knox County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessments for the 2018 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Preliminary Matter & Issues Raised

The parcel in this appeal was also the subject matter of appeals before the Property Tax Appeal Board for the prior tax years 2012, 2013, 2014, 2015, 2016 and 2017. In those appeals, the Property Tax Appeal Board reached decisions based upon equity and the weight of the evidence in the record as presented by the parties to the appeal. Decisions for tax years 2012, 2013 and 2014 were issued on August 19, 2016 by the Property Tax Appeal Board after a hearing and consideration of the record evidence that resulted in no change to the assessments issued by the Knox County Board of Review. Neither party pursued administrative remedies to challenge the decisions of the Property Tax Appeal Board for tax years 2012, 2013 or 2014.

Decisions for tax years 2015, 2016 and 2017 were issued on August 13, 2019 by the Property Tax Appeal Board based on the evidence of record and resulted in no change to the assessments

issued by the Knox County Board of Review. The appellant pursued administrative review initially to the circuit court in Case No. 19-MR-142 which affirmed the decision of the Property Tax Appeal Board. Subsequently, the appellant pursued an appeal to the Fourth District Appellate Court in Case No. 4-22-0638 which on December 22, 2022 was dismissed on the appellant's Motion to Dismiss.

The Property Tax Appeal Board finds from its analysis of the data and arguments made that this 2018 appeal on the parcel is substantially no different from that of the prior years of 2012, 2013, 2014, 2015, 2016 and 2017. Since no new substantive evidence was presented to warrant a change from the previous years' decisions and since the Property Tax Appeal Board finds that the legal and factual bases upon which those decisions were issued has not changed, like decisions will be reiterated in this matter. (See also 86 Ill.Admin.Code §1910.90(i) authorizing the Property Tax Appeal Board to take judicial notice of decisions it has rendered).

Findings of Fact

As background, the appellant owns multiple parcels identified by three separate parcel identification numbers (PINs) comprising a total of approximately 313.99-acres. The subject parcel -001 consists of 173.5-acres of land. Portions of the subject parcel qualifies as farmland but also consists of areas that are operated as Laurel Greens, a rural golf course which is located in Knoxville, Knox Township, Knox County.[1]

As set forth in the appellant's brief, the appellant built the first nine holes in 1969/1970 and opened the course to the public in 1971. On November 26, 1984 the appellant applied for an open space valuation in accordance with the Property Tax Code.[2] An additional nine-holes were opened by the appellant in 1990 and a third nine-holes were built in 1996 with a fourth set of nine-holes added in 2000. The parcel in dispute is assessed in part under the preferential farmland classification (12.4-acres) and in part as open space (161.1-acres) due to use of a portion of the parcel as a golf course.

The appellant Clyde A. Raible has appeared before the Property Tax Appeal Board on behalf of himself and his wife in prior year appeals and based his appeal on a claim of improper classification. The sole issue in the 2018 appeal is the proper assessment of land as delineated farmland and open space for this parcel in an identical manner to the prior tax year appeals before the Property Tax Appeal Board. As to the disputed land assessment, the appellant contends the subject parcel is entitled to additional acreage with a farmland classification (total claim of 85.27-acres) with accompanying reductions in acreage classified and assessed as open space (for a total claim of 88.23-acres). As part of the appeal and in support of the appellant's classification argument, the appellant included a detailed aerial photograph (Exhibit #6 in the brief and described as aerial photo Exhibit #1) dated February 17, 2011 and produced by the

[1] As depicted in the respective annual farmland assessments of the subject parcel, while the land area or acreage that has been classified by the assessing officials as farmland has not changed for tax year 2018, the actual farmland assessment changes annually based upon State soil productivity index figures.

[2] As a consequence of the open space application and subsequent appeals, the subject golf course was the subject matter of an appellate court opinion in Knox County Board of Review v. Property Tax Appeal Board, 185 Ill.App.3d 530 (3rd Dist. 1989). (See also evidence consisting of a 1995 tax year decision issued by the Property Tax Appeal Board on December 24, 1996 concerning three parcels, including the two subject parcels in this appeal (Exhibit 2).

U.S.D.A. Farm Service Agency of the disputed parcel(s) upon which the appellant sketched out in red pen the various classifications and/or desired classifications of "golf course" (G.C.), "water" and "F" farmland areas for the parcel(s). The appellant seeks to have the farmland and open space areas computed by the assessing officials as delineated on Exhibit #1 with applicable delineations of cropland, other farmland and wasteland, as applicable.

Appellant's evidence described as Exhibit #3 as to parcel 10-25-200-001 consists of the tax year 2012 Knox County Assessment Notice depicting a decrease from the prior 2011 year farmland assessment, but a substantial increase in the 2012 non-farm land (open space) assessment.

The appellant's evidentiary submissions also include documentation described as Exhibit #4 in the 2018 appeal for the subject parcel consisting of a copy of the Knox County Farmland Valuation Cards for this parcel for tax years 2011, 2012, 2013, 2014, 2015, 2016, 2017 and 2018. As set forth in the appellant's brief and on the card, the 2011 assessment of parcel -001 provided for four different land classifications:

11.58-acres of **cropland** with an assessment of $3,020
88.23-acres of **non-ag land open space** with a -0- assessment
66.67-acres of **permanent pasture** with an assessment of $1,030
7.02-acres of **water** with a -0- assessment

In contrast, for tax years 2012, 2013, 2014, 2015, 2016, 2017 and 2018 parcel -001 had two classifications. For 2012, the classifications applied were 11.59-acres of **cropland** and 161.91-acres of **non-ag land** assessed as **open space**. For tax years 2013, 2014, 2015, 2016, 2017 and 2018, parcel -001 had two classifications applied as follows: 12.40-acres of **cropland** and 161.10-acres of **non-ag land** assessed as **open space**.

For the appeal, the appellant seeks to return to the tax year 2011 classifications of the subject parcel for assessment purposes. As to the water area of 7.02-acres, the appellant in previous appeals has made an argument that the water is an "improvement" to the property that supports the golf course and the water or man-made pond should have a zero assessment. The appellant in the brief in the 2018 appeal contends the pond was built in approximately 1990 at which time it was assessed as farm ground and a farm pond. “It has not been changed from farm classification to open space classification for no legal reason.” The appellant summarily asserts “[t]his is still a farm pond.”

Also as to the pond on the parcel, the appellant wrote the pond "was built to stop agriculture overflow that caused flooding and erosion." Further arguments were made contending that the pond assists drainage for farm acreage not only of the subject but for surrounding farm acres and should be treated as farmland.[3]

[3] The Board recognizes, however, that the pond acreage has been included in the appellant's claim for Open Space land area of 88.23-acres for the subject parcel.

Based upon the foregoing evidence and arguments for tax year 2018, the appellant contends the parcel should be assessed as 88.23-acres qualified as non-ag land to be assessed as open space, which includes the 7.02-acre pond, and 85.27-acres that qualify as farmland.

Furthermore, the appellant in offered his rationale for "not allowing" any additional land to be placed in open space because of the anticipated closure of some of the nine holes in 2018. (See 35 ILCS 200/10-155) The appellant recognizes that when land is no longer used for open space, the difference between the taxes paid in the three preceding years and what the taxes would have been when based on valuation as otherwise permitted by law together with 5% interest must be paid the following September 1.[4] The appellant has argued that this statutory provision is "another" reason why each acre should be properly classified.

For this appeal, the appellant has submitted a similar legal argument and the same aerial map marked with his contentions of additional farmland and reduced golf course areas. At prior hearings, the Administrative Law Judge (ALJ) has asked appellant Clyde Raible what farming activity he engages in on the additional land which he contends should be assessed as farmland? The appellant characterized the disputed land depicted in the aerial photography as "wasteland." The appellant further cited to Publication 122 produced by the Illinois Department of Revenue [Exhibit 7 in the 2017 appeal]. In the 2017 appeal, the appellant contended that the subject disputed land consists of three of the four farmland classifications: cropland, other farmland and wasteland. In the 2015/2016 appeal hearing, the appellant acknowledged that none of the land qualifies for pasture because there has never been land used for pasture on the parcels. The appellant has testified previously that he personally does not farm the land; the appellant also did not present any affidavit or letter from the actual farmer(s) who crop the subject parcel and provided no other substantive evidence of the purported farming activity.

Therefore, based on the foregoing evidence and argument, the appellant requested additional areas as outlined in a 2011 aerial photograph of the subject parcel be classified as farmland and be removed from open space valuation since these areas "have remained untouched" since prior to the installation of the golf course.

The board of review submitted its "Board of Review Notes on Appeal" wherein the assessment and classifications of the subject parcel was disclosed with separate responsive evidence attached. In response, the board of review submitted a four-page letter prepared by Chris Gray, Clerk of the Knox County Board of Review outlining the evidence and argument of the board of review.

The subject parcel has a farmland assessment of $5,240 for 12.40-acres and a land assessment of $27,390 (open space valuation) for approximately 161.11-acres.

In the narrative and on behalf of the board of review, Chris Gray outlined that the appellant has been filing for Open Space Assessment on his golf course since approximately 1985. There are four other golf courses in Knox County, one of which is owned by the City of Galesburg and is tax exempt under the Property Tax Code. While the Knox County Board of Review denied the

[4] At the 2015/2016 hearing, Raible stated that nine holes had been closed across the road that is being farmed 'now,' but the parcel(s) where the closure of golf holes occurred was not part of the parcel on appeal.

appellant's 1985 open space assessment application, the appellant was successful in the Appellate Court (see Footnote 2).

The assessing officials in Knox County gathered in 2012 to establish a fair and realistic market value for open space land in Knox County. The conclusion after research and discussion was $750 per acre as a fair market value for open space land or an assessment of $250 per acre.

For tax year 2012, the appellant appealed the assessments of his parcels contending the land should be assessed as farmland, except for just the areas of the fairways and golf course holes resulting in just small areas of open space for the golf course. As a consequence of the appellant's 2012 tax year appeal, the Knox County Board of Review determined that the appellant's golf course was dissimilar to the other golf courses in the county which are country clubs with additional amenities of swimming pools, tennis courts and such with membership fees. As a result of this lack of similarity in terms of amenities, the Knox County Board of Review determined the correct assessment for the subject's open space acreage was $170 per acre as requested by the appellant. Since that determination, the open space acreage of the appellant's parcels has consistently been assessed at $170 per acre.

As to this parcel on appeal, the board of review submitted Exhibit 1 consisting of a property record card, Farmland Valuation Card and an aerial photograph of the 173.5-acre parcel, one of which depicts "the land use layer" applied showing a roughly triangular area identified on the parcel as cropland (denoted CR). The remainder of this parcel has been assessed as open space as it's use was for golf course, including the 7.02-acre pond. The property record card for the parcel depicts the 12.4-acres assessed as farmland and 161.1-acres assessed as open space; the Farmland Valuation Card similarly depicts the breakdown of the classifications of the parcel. As to the appellant's contention that wooded areas of this parcel should be assessed as "other farmland" or "woodland," the board of review contends the wooded areas are "roughage" of the golf course which exists on every golf course.

In further support of the classification of the subject acreage, the board of review submitted Exhibits 4 through 6 consisting of property record cards and aerial photographs of the three other assessed golf courses in Knox County which depict both water areas, either pond or lake, and tree covered areas of those parcels as being included in the applicable open space assessment rate of $250 per acre resulting in an estimated market value of $750 per acre.

Additionally, the narrative discussed Exhibit 7, a copy of Section 10-147 of the Property Tax Code (35 ILCS 200/10-147) concerning former farmland:

> Former farm; open space. Beginning with the 1992 assessment year, the equalized assessed value of any tract of real property that has not been used as a farm for 20 or more consecutive years shall not be determined under Sections 10-110 through 10-140. If no other use is established, the tract shall be considered to be used for open space purposes and its valuation shall be determined under Sections 10-155 through 10-165.

Given the appellant's contention in previous appeals before the Property Tax Appeal Board concerning the subject parcels that he has not "touched" these land areas since the golf course

was built in approximately 1971, the board of review contends that more than 20 years have passed since the disputed land areas have been farmed by the appellant. As a consequence of the lack of farming activity on the disputed portions of the parcels and in accordance with Section 10-147 of the Property Tax Code, the board of review contends the correct classification and assessment of these areas is as open space.

Lastly, the board of review submitted Exhibit 8, a copy of the first page of the decisions issued by the Property Tax Appeal Board addressing the subject parcel for tax years 2012, 2013, 2014, 2015 and 2016 along with the entire copy of the 2017 concerning, in part, the subject parcel.

Based on the foregoing evidence and argument as to the subject, the board of review requested confirmation of the classification and assessment of the parcel based upon the equitable and uniform treatment of the golf courses in Knox County including the treatment of water on golf courses as open space.

In written rebuttal, the appellant has primarily re-stated his arguments against the current classifications of the parcel as established by the assessing officials, the history of the development of the golf course and the previous litigation including a successful appeal to the Appellate Court. The appellant argued that the change in the classification of the land by the assessing officials in tax year 2012 was inappropriate and unwarranted since there was no change in the property. Also as part of the rebuttal, the appellant acknowledged the isolated nature of the cropland from the other farmland and/or wasteland and the open space areas; as depicted on the appellant's marked aerial photograph the appellant proposes to bisect the land into 'islands' or 'finger protusions' of golf course and farmland classification areas. The appellant argued that given the land and topography, the golf course had to be built in the manner in which it was built. According to the appellant, ultimately, what was not converted into golf course should remain assessed as farmland.

The appellant also disputed the applicability of Section 10-147 of the Property Tax Code contending that the subject parcel is not a 'former' farm, but instead is “an operating farm tract.” As such, the appellant argues this statutory provision is not applicable. The rebuttal further addressed the matters raised by the board of review along with reliance upon Publication 122 issued by the Illinois Department of Revenue. As to the subject, the appellant argued that 85.27-acres qualify as farmland, either as cropland, other farmland and/or wasteland which should be soil mapped and assessed according to type.

To the extent that the appellant’s six-page rebuttal includes new information or arguments related to his classification claim in this appeal, the Board has not further considered any new information to further substantiate the appellant’s classification claim which is not permissible in a rebuttal filing under the Board’s procedural rules. Rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill.Admin.Code §1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill.Admin.Code §1910.66(c)).

Conclusion of Law

The sole basis of this appeal by the appellant is a contention of law concerning the classification for assessment purposes of certain portions of the subject parcel. The Property Tax Appeal Board finds the issue in this appeal, like it was in prior years before the Board, is the proper classification of the parcel with regard to the categories of open space and farm. The appellant seeks to reduce the land area classified and assessed as open space and correspondingly increase the area classified and assessed as farmland (cropland, other farmland and/or wasteland). In addition, the appellant seeks to have a pond area on the parcel assessed as farmland contending it is related to the farm.[5]

Section 10-15 of the Illinois Administrative Procedure Act (5-ILCS 100/10-15) provides:

> Standard of proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence.

The rules of the Property Tax Appeal Board are silent with respect to the burden of proof associated with an argument founded on a contention of law. See 86 Ill.Admin.Code §1910.63. Therefore, the Board will determine the appeals based upon a preponderance of the evidence of record. The Board finds that the appellant failed to sustain his claims and no change in the assessment classifications of the subject parcel is warranted. Furthermore, the Property Tax Appeal Board finds from its analysis of the record that the evidence in this appeal is substantively no different from that of the prior year(s). Since no new evidence was presented to warrant a change from the previous year's classification decision, the Board finds that the assessment classifications as established in the prior year(s)' appeal(s) is appropriate and in accordance with the decision(s) rendered in the prior administrative review.

1. Assessment of Pond – open space versus farmland assessment

As noted previously, the appellant has changed or altered the original argument made concerning the proper treatment of the pond on the subject parcel for assessment purposes. Originally in the 2015 appeal, the appellant argued for a zero assessment of the pond as an "improvement" to the golf course. In the 2016 appeal, the appellant argued that this same pond on the parcel assists in the drainage of not only the immediate area, but many acres surrounding the subject parcel and was thus part of the farm and farming operation. For this 2018 appeal, the appellant has maintained the contention that the pond assists in the drainage of not only the immediate area, but many acres surrounding the subject parcel. Furthermore, the appellant contends that prior to the construction of the golf course, the pond was part of the farm assessment and thus, should remain as part of the farm assessment at this time.

The Property Tax Appeal Board takes judicial notice that in prior hearings before the Board, the appellant contended the subject pond was built in 1990 in order to maintain the golf course for the purposes of watering the grass. In the prior hearings, Raible argued that the pond was an "improvement" to the golf course and should have a zero (-0-) improvement assessment. When

[5] As depicted in prior decisions of the Property Tax Appeal Board, the appellant's contentions about the treatment of the pond on the subject parcel have been altered from prior tax year appeals when, in part, the contention was the pond was related to the golf course as an improvement.

argued in this manner, the board of review responded that areas of water on golf courses located within Knox County are uniformly treated as open space and this is the same treatment afforded to the subject golf course.

Section 10-155 of the Property Tax Code (Code) provides in part:

> §10-155. Open space land; valuation. In all counties, in addition to valuation as otherwise permitted by law, land which is used for open space purposes and has been so used for the 3 years immediately preceding the year in which the assessment is made, upon application under Section 10-160, shall be valued on the basis of its fair cash value, estimated at the price it would bring at a fair, voluntary sale for use by the buyer for open space purposes.
>
> Land is considered used for open space purposes if it is more than 10 acres in area and:
>
> (a) is actually and exclusively used for maintaining or enhancing natural or scenic resources,
>
> (b) protects air or streams or water supplies,
>
> (c) promotes conservation of soil, wetlands, beaches, or marshes, including ground cover or planted perennial grasses, trees and shrubs and other natural perennial growth, and **including any body of water, whether man-made or natural**,
>
> (d) conserves landscaped areas, such as public or private golf courses,
>
> (e) enhances the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces, or
>
> (f) preserves historic sites.
>
> Land is not considered used for open space purposes if it is used primarily for residential purposes.
>
> If the land is improved with a water-retention dam that is operated primarily for commercial purposes, the water-retention dam is not considered to be used for open space purposes despite the fact that any resulting man-made lake may be considered to be used for open space purposes under this Section. (35 ILCS 200/10-155). [Emphasis added.][6]

In Onwentsia Club v. Illinois Property Tax Appeal Board, 2011 IL App (2d) 100388, 953 N.E.2d 1010, 352 Ill.Dec. 329, (hereinafter "Onwentsia I") the court broadly construed the word "conserve" in Section 10-155(d) to mean "to keep in a safe or sound state . . ." or "to preserve." 2011 IL App (2d) 100388 at ¶10, 953 N.E.2d at 1013. The court in construing Section 10-155 of the Code stated:

[6] P.A. 95-70 §5, effective January 1, 2008, added the final paragraph.

> [T]he plain language of the statute indicates that the legislature intended to grant open-space status not only to land that actually constitutes a landscaped area, but also to land that facilitates the existence of (*i.e.*, conserves) a landscaped area. Id.

The court concluded that the fact that a particular piece of land has some improvement upon it - including in some cases a building - does not preclude the land from being deemed open space. 2011 IL App (2d) 100388 at ¶11, 953 N.E.2d at 1014. In broadly construing the statute, the court determined that an improvement does not defeat the open space status unless the improvement is a commercial water-retention dam or a residential use. 2011 IL App (2d) 100388 at ¶14, 953 N.E.2d at 1014-1015. The court stated that, "the requirement that land *conserve* a landscaped area is broader and more inclusive than actually *being* a landscaped area." 2011 IL App (2d) 100388 at ¶14, 953 N.E.2d at 1015.

The court in Onwentsia I ultimately held "that land, even if it contains an improvement, may be granted open-space status if it conserves landscaped areas." 2011 IL App (2d) 100388 at ¶16, 953 N.E.2d at 1015. The court explained that "[a] golf course typically requires certain appurtenances in order to function, such as parking areas, a building in which to conduct the course business (*i.e.*, a clubhouse), and perhaps a building to support the physical maintenance of the course." Id. The court reasoned that "[s]ince they facilitate the existence of the golf course, and the course conserves landscaped areas, such improvements also can be said to conserve landscaped areas." Id.

The court explained that if an improvement contributes to the nature of the land as a landscaped area, it fits within the statutory definition of open space. The court stated that to the extent improved land facilitates a golf course being a golf course, it conserves a landscaped area. The court ultimately stated the Property Tax Appeal Board applied an incorrect standard and should have considered whether the land, improved or not (so long as not improved with a residence or commercial water-retention dam), conserves a landscaped area (that is, facilitates the existence of such an area). 2011 IL App (2d) 100388 at ¶18, 953 N.E.2d at 1016.

In Lake County Board of Review v. Property Tax Appeal Board, 2013 IL App (2d) 120429, 989 N.E.2d 745, 371 Ill.Dec. 155, (hereinafter "Onwentsia II") the court again vacated the decision of the Board and remanded the matter with directions. In Onwentsia II the court held the Board's application of the relevant portion of Section 10-155 of the Code was overbroad. The court explained that:

> Nothing in the statute indicates that the legislature intended to create an enormous tax shelter whereby any parcel of property associated in some way with a golf course would escape taxation. Moreover, it is axiomatic that we are to construe tax exemptions "narrowly and strictly in favor of taxation" (citation omitted) and the burden to prove a tax exemption lies with the taxpayer (citation omitted). **Accordingly, we hold that "conserve" as it is used in section 10-155 of the Code (citation omitted) must be construed narrowly, and in turn, there must be some substantial nexus between the land for which the exemption is claimed and the landscaped area it is claimed to conserve. That is to say, the improvement in question must directly relate to and thus facilitate the**

> **existence of the golf course.** Onwentsia II, 2013 IL App 2d 120429 ¶10 (Emphasis added).

The court could perceive no nexus between the swimming pool, tennis facilities, and riding arena and stables and the golf course such that they could be said to facilitate the golf course's existence in any way. The court further stated that the halfway house and the caddy shack relate directly to and thus facilitate the existence of the golf course. Onwentsia II, 2013 IL App 2d 120429 ¶11.

The court in Onwentsia II asserted that the determination of whether or not a property is to receive the preferential open space assessment should be viewed similarly as property claiming to be exempt. As stated by the Supreme Court of Illinois in Follett's Illinois Book and Supply Store, Inc. v. Isaacs, 27 Ill.2d 600, 190 N.E.2d 324 (1963):

> Statutes exempting property from taxation must be strictly construed and cannot be extended by judicial interpretation. In determining whether or not property is included within the scope of a tax exemption all facts are to be construed and all debatable questions resolved in favor of taxation. Every presumption is against the intention of the State to exempt property from taxation. (Citation omitted). 27 Ill.2d at 606.

The burden in this appeal was on the appellant to prove by a preponderance of the evidence that the improvements in question, namely, the man-made pond located on the parcel, directly related to and facilitated the existence of the golf course. The appellant contends in this appeal that the pond is associated with the farm activity on the parcel. The arguments made by the appellant infers that there is drainage far and wide from the surrounding area that flow to this pond. However, subsection (c) of Section 10-155 of the Code specifically includes for open space purposes more than 10 acres in area **and** "any body of water, whether man-made or natural." (35 ILCS 200/10-155(c)) As such, the subject pond on this parcel qualifies for an open space assessment along with the remainder of the parcel that qualifies for open space.

Furthermore, the Board finds the most directly relevant case to the appellant's argument concerning the pond is Consumers IL Water Company v. Vermilion County Board of Review, 363 Ill.App.3d 646, 844 N.E.2d 71, 300 Ill.Dec. 399 (4th Dist. 2006). In Consumers IL, where the court dealt with the issue of determining whether section 10-155 was applicable to improvements, namely a dam, located on underlying land that was determined to be open space. Factually, in Consumers IL, the 117.23–acre property contains a lake created by a large, man-made dam. A fence surrounds the dam, and buoys are in the water with warnings to stay away from the dam. The lake property has been leased to the Vermilion County Conservation District for public purposes. The public uses the lake for recreational purposes such as boating and fishing. The court ultimately held that when sections 10-155 through 10-165 of the Property Tax Code state "land," they refer to the land itself and improvements. Consumers IL, 363 Ill.App.3d at 651-652. The court went on to find that section 10-155 of the Code provides for a single assessment value, and thus the improvements do not have their own assessment. Consumers IL, 363 Ill.App.3d at 652. Significantly, the court in Consumers IL found that the improvements were contributing to the open space nature of the land and the man-made lake would not have existed but for the presence of the dam. Consumers IL, 363 Ill.App.3d at 652.

The Property Tax Appeal Board has given little weight to the appellant's contention that the pond on the subject parcel qualifies for a farmland assessment due to the lack of evidence on this issue for the appeal and furthermore, due to the lack of credibility given Raible's sworn testimony in previous matters before the Board.

On this record and from previous sworn testimony concerning the pond on this parcel, the Property Tax Appeal Board finds that the man-made pond is an improvement contributing to the open space nature of the land. In conclusion, the Board finds a reduction in the assessment 7.02-acre assessment of this parcel concerning the pond is not justified and the pond is properly assessed with an open space valuation under the Code (35 ILCS 200/10-155(c)) and consistent with assessment practices in Knox County to assess water features on golf courses as part of the open space acreage.

2. Farmland Classification request versus current Open Space assessment

According to the appellant certain acreage currently assessed as open space should be reduced in acreage and instead be assessed as farmland. Exempting the treatment of 7.02-acres identified as pond/water which was discussed above, the issue is whether or not only 12.4-acres are correctly classified and assessed as farmland (cropland) or whether, as contended by the appellant, an additional 72.87-acres should also be properly classified as farmland, either as additional cropland, other farmland and/or wasteland.[7]

The Property Tax Appeal Board finds that the Illinois Department of Revenue Guidelines identified as *Publication 122, Instructions for Farmland Assessments* (Publication 122) and cited repeatedly by the appellant, are a guideline and advisory only, giving criteria to a board of review and other assessing officials that may be considered in classifying property used for farming for assessment purposes. Section 10-115 of the Code provides in part that:

> The Department [of Revenue] shall issue **guidelines and recommendations** for the valuation of farmland to achieve equitable assessment within and between counties. (35 ILCS 200/10-115) [Emphasis added.]

Publication 122 with reference to Section 10-125 of the Code (35 ILCS 200/10-125), identifies four types of farmland: (a) cropland, (b) permanent pasture, (c) other farmland and (d) wasteland. Publication 122 further prescribes the method for assessing these components. Section 10-125 of the Code provides that U.S. Census Bureau definitions are to be used to define cropland, permanent pasture, other farmland and wasteland. (See also 35 ILCS 200/10-125). According to Publication 122 as to two of those types of farmland, these classifications are defined as follows:

> Other farmland includes woodland pasture, woodland, including woodlots, timber tracts, cutover, and deforested land; and farm building lots other than homesites.

[7] While there are other preferential assessments available for wooded acreage, the appellant provided no evidence or argument that the disputed acreage qualifies under, for instance, Forestry Management (35 ILCS 200/10-150), Conservation Stewardship (35 ILCS 200/10-400 et seq.) and/or Conservation Reserve Programs.

> Wasteland is that portion of a qualified farm tract that is not put into cropland, permanent pasture, or other farmland as the result of soil limitations and not as the result of a management decision. (*Publication 122, Instructions for Farmland Assessments*, Illinois Department of Revenue, p.1.)

The Property Tax Appeal Board also finds that in order to receive a preferential farmland assessment, the property at issue must meet the statutory definition of a "farm" as defined in the Code at Section 1-60 and must meet the requirements of Section 10-110 of the Code (35 ILCS 200/10-110) which provides that:

> Farmland. The equalized assessed value of a farm, as defined in Section 1-60 and **if used as a farm** for the 2 preceding years, except tracts subject to assessment under Section 10-145 [farm dwellings], shall be determined as described in Sections 10-115 through 10-140. [Emphasis added.]

In order for a property to receive a preferential farmland assessment, the Board finds the property also must meet the statutory definition of a "farm" as in Section 1-60 set forth in part as follows:

> Farm. When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. . . .

35 ILCS 200/1-60.

The Code and cases interpreting the Code have acknowledged that a tract or parcel of land may have dual uses. Likewise, the Property Tax Appeal Board has found portions of a parcel may be classified as farmland for tax purposes, provided those portions of property so classified are used solely for the growing and harvesting of crops and/or the raising of livestock, or some similar enumerated farming activity specified within Section 1-60 of the Code. The parties agree that there are portions of the subject parcel that qualify for the preferential farmland assessment due to the farming activities, namely, the growing of corn or soybeans, on those certain identified portions of the parcels. To these areas there is no dispute as the assessing officials have recognized a portion of the subject tract has a current farmland use as cropland.

Based on the evidence in this record, there appears to be no dispute between the parties that the acreage that has been assessed as farmland meets the two-year statutory requirement to qualify as cropland for the parcel on appeal. Specifically, there is an agricultural use as cropland of 12.4-acres on the parcel. The appellant also agrees that certain small portions of both parcels should be assessed as open space (golf course). However, due to these agreed upon farmland areas, the appellant contends other 'untouched' land areas of the subject parcel which, historically prior to

the construction of the golf course, had been classified as farmland, should remain classified as farmland for tax year 2018. These were also virtually the identical arguments made by the appellant for tax years 2012, 2013 and 2014 which were addressed by the Board in decisions issued on August 19, 2016; similar decisions are being issued simultaneously as to tax years 2015, 2016 and 2017. Based on the evidentiary submissions and testimony of Raible along with taking judicial notice of the prior year appeals on the subject parcel, the Property Tax Appeal Board finds this 'untouched' land has no actual farming activity or "farm use" on the disputed acreage because, as noted previously, the disputed acreage does not abut, is not contiguous to and is not immediately adjacent to the cropland areas or agricultural use areas.

In order to have the appellant's disputed timber acreage with related small land areas classified as other farmland, those specific areas must meet the definition as woodland pasture, woodland, including woodlots, timber tracts, cutover and/or deforested land. In reviewing the 2011 aerial photograph marked by the appellant, he is seeking to have numerous timber tracts along with additional narrow areas of land located on the parcel classified as farmland either as additional cropland, other farmland and/or wasteland. The dispute arises where the assessing officials have classified other portions as open space/golf course areas which the appellant seeks to narrow significantly in a patchwork manner across the subject parcel.

In this matter, the Board finds no evidence was offered to support the conclusion that the disputed acreage of the subject parcel was "farmed" by the appellant. The only evidence of farming a small portion of this parcel was the testimony of Raible along with the mention of the names of three men who farm the land. There were no ground-level photographs depicting farming activity for the tax year at issue, depicting for instance a crop on the land and/or no evidence of a lease or crop share agreement with the farmers to establish evidence of farming of the disputed portion(s) of the parcel. There was also no evidence from any of these farmers to identify the portions of the appellant's land which they crop. As to the other timber areas that have been disputed, the appellant did not make any assertions of actual ongoing farming activity at any time since 1971. Compare to DuPage Bank & Trust Co. v. Property Tax Appeal Board, 151 Ill. App. 3d 624 (2nd Dist. 1986).

Like in Oakridge Development Co. v. Property Tax Appeal Board, 405 Ill.App.3d 1011 (2nd Dist. 2010), the Board finds the appellant in this matter is urging inconsistent positions concerning the classification(s) of the subject parcel. As to the additional acreage or areas for which the appellant seeks to obtain a farmland assessment, the appellant has been very clear that much of the disputed land has not been farmed, cannot be farmed and has not been "touched" since the golf course was first constructed in approximately 1971 or for about 46 years. The court in Oakridge made the following observation that the Property Tax Appeal Board finds is equally applicable to the instant claims of the appellant:

> . . . the alternative interpretation petitioners espouse – that under the Code land may be considered farmland, even if it is not actually farmland, because it has been farmland in the past – seems to us more absurd than the scheme we describe above.

Id. at 1018. As reinforced in Oakridge Development Co., the courts have repeatedly held that "present use" controls the classification of farmland under the Code. Oakridge Development

Co., 405 Ill.App.3d at 1020. The court further favorably cited to the case of Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill. App. 3d 872 (3rd Dist. 1983) for the proposition that it is the present use of the land that determines whether the land receives an agricultural assessment or a non-agricultural valuation. See Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill. App. 3d 799 (3rd Dist. 1999) and Santa Fe Land Improvement Co. v. Property Tax Appeal Board, 113 Ill. App. 3d 872 (3rd Dist. 1983).

In Santa Fe, the court found that for at least 20 years, the approximately 1,000 acres of the tract had been farmed with corn, soybeans and/or wheat as grown by three tenants under crop share leases that were also part of the evidentiary record. Santa Fe, at 873. The question presented on appeal was whether the land in question was used for farming. The court in Santa Fe concluded "the present use of the land determines whether it receives an agriculture or nonagricultural valuation." The opinion in Santa Fe further recognized that lands that were farmed in the relevant year, used solely for the growing and harvesting of crops, would differ from the lands that were not farmed and improved "primarily to serve industrial landowners" could be valued on a nonagricultural basis. Id. at 875.

In Senachwine Club v. Putnam County Board of Review, 362 Ill. App. 3d 566 (3rd Dist. 2005), the court stated that a parcel of land may be classified as farmland provided that those portions of the property so classified are used solely for agricultural purposes, even if the farm is part of a parcel that has other uses. In Senachwine, the Property Tax Appeal Board determined based upon the evidence of record that the primary purpose of the parcels at issue in that appeal was not "the growing and harvesting of crops" but rather was the hunting of ducks. In the instant appeal, the Board finds that the primary purpose of the parcel at issue on appeal is not the growing and harvesting of crops that is performed on a small segment of the parcel, but rather is the operation of a golf course.

The Board finds it is clear from the record and aerial photographs that these various disputed timber tracts are not at all contiguous to the cropland of the subject parcel. Based in part on this lack of proximity to the cropland, the Board finds the appellant's claim is not supported for an agricultural assessment as provided by the Code in Section 10-125 and in Publication 122 for the disputed timber acres/areas. Specifically, as to the subject parcel, the timber areas (specifically delineated in appellant's aerial photograph, Exhibit #1), but for one small area, do not abut nor are they contiguous to the triangular shaped area of cropland. As depicted on the appellant's aerial photograph, areas of forest or random trees are randomly marked between areas the appellant agrees are golf course/open space. The Property Tax Appeal Board finds the distinctions drawn by the Knox County assessing officials to be correct as to the assessment of this parcel; the disputed timber areas and/or random areas with trees are not entitled to a farmland assessment under the Code or guidelines.

Additionally, to address a contention raised by the board of review and disputed by the appellant, the Code at Section 10-147 provides as follows:

> Former farm; open space. Beginning with the 1992 assessment year, the equalized assessed value of any tract of real property that has not been used as a farm for 20 or more consecutive years shall not be determined under Sections 10-110 through 10-140. If no other use is established, the tract shall be considered to

> be used for open space purposes and its valuation shall be determined under Sections 10-155 through 10-165. (35 ILCS 200/10-147)

The subject property that is in dispute according to the appellant has not been "touched" since the construction of the original golf course holes which was 1969/1970. Therefore, based on the appellant's own previous testimony more than 20 years have passed and this disputed "untouched" land, pursuant to Section 10-147 of the Code shall be not assessed as farmland; if no other use is established, the land is then properly assessed for open space purposes as set forth in the statute. On this record, the assessing officials assessed the disputed land for open space purposes on the grounds that it is part of the golf course which the Board finds to be appropriate factually on this record and is further supported by the terms of the Code.

Based upon these foregoing facts, the Board finds that the disputed 'untouched' acreage is not entitled to a farmland assessment merely because prior to the installation of the golf course, the land had been classified as farmland. The "use" of the disputed portions of the property was never sufficiently presented by the appellant so as to establish the assertion that the land at issue qualifies under the definition of "farm" as provided in the Code. The disputed land in this appeal has not had any farming activity occurring on the land during the assessment year on appeal or in the two years prior within the meaning of Section 1-60 of the Code. As such the Board finds this record devoid of any evidence that supports a farmland classification and assessment for the subject parcel as requested by the appellant. In conclusion, the Board finds that in the absence of evidence to establish use, the appellant has failed to establish that the disputed acreage was not properly classified. Based on the evidence presented, the Property Tax Appeal Board finds no change in the classification of the parcel is warranted on this record from open space to farmland. On this record, the Property Tax Appeal Board finds the board of review's classification of the land is correct.

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

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: September 19, 2023

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

AGENCY

State of Illinois
Property Tax Appeal Board
William G. Stratton Building, Room 402
401 South Spring Street
Springfield, IL 62706-4001

APPELLANT

Clyde Raible
1133 US Highway 150 E
Knoxville, IL 61448

COUNTY

Knox County Board of Review
Knox County Annex
121 South Prairie Street, Suite 1
Galesburg, IL 61401