

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Organic Farms of Crystal Lake Inc.
DOCKET NO.: 03-01183.001-R-2
PARCEL NO.: 14-29-201-001

The parties of record before the Property Tax Appeal Board are Organic Farms of Crystal Lake Inc., the appellant, by attorney Michael Bercos, in Mundelein, and the McHenry County Board of Review.

The subject property consists of a 38.98-acre parcel improved with a 44-year-old, one-story frame dwelling on a slab foundation that contains 656 square feet of living area. Other improvements include a pole barn that contains 4,800 square feet. The subject is located in Nunda Township, McHenry County.

Through an attorney, the appellant appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process and overvaluation as the bases of the appeal. In support of the inequity contention, the appellant submitted one unimproved land comparable. The comparable contains approximately 36 acres and has a land assessment of \$42,499 or \$1,181 per acre. The subject has a land assessment of \$176,925 or \$4,539 per acre.

In support of the overvaluation contention, the appellant submitted a copy of a Real Estate Transfer Declaration that details the subject's sale in February 2003 for \$260,000. The declaration indicated the subject was not advertised for sale or sold using a real estate agent. In further support of the overvaluation argument, the appellant submitted an "opinion of value" for the subject prepared by a real estate broker on June 1, 2001. The broker opined the subject had a market value of \$168,477. The opinion of value examined seven comparable sales that range in size from 5.24 to 237 acres. The comparables reportedly sold between April 1999 and July 2000 for prices

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the McHenry County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	107,148
IMPR.:	\$	15,000
TOTAL:	\$	122,148

Subject only to the State multiplier as applicable.

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ranging from \$3,000 to \$9,852 per acre. The broker was not present at the hearing to provide testimony or be cross examined regarding his opinion of value. Based on this evidence, the appellant requested the subject's total assessment be reduced to \$11,000.

During the hearing, the appellant claimed that access to the subject property is severely limited due to a guard rail that extends nearly the entire length of the subject along Walkup Road. The appellant contends this poor access limits the subject's potential for development. The appellant also contends that the subject is in a flood plain which also limits its potential. The appellant submitted no credible market evidence of any value loss attributable to these factors.

The appellant's attorney called Paul Iverson as a witness, who is the appellant's farm manager. Iverson testified that the cabin on the subject property is in very poor condition and has no running water. He opined that the pole barn may have cost \$12,000 to \$14,000 to construct, but he had no data to support that estimate. Iverson testified only a couple of acres of the subject site are buildable, due to poor soils that won't properly support a septic system.

The appellant's attorney then called John Waters as a witness. Waters testified he bought the subject in 2001 or 2002 for \$255,000 on speculation, but did not know it was in a flood plain with bad soil. He testified that when he sold the subject to the appellant in 2003 for \$260,000, he "was glad to get out from under it".

During cross examination, the board of review's representative questioned the appellant regarding the one comparable the appellant submitted. The appellant responded that the comparable is landlocked, but that a subdivision road ends at the property line.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$191,925 was disclosed. The subject has an estimated market value of \$576,697, as reflected by its assessment and McHenry County's 2003 three-year median level of assessments of 33.28%.

In support of the subject's assessment, the board of review submitted photographs of the subject, a list of five comparable land sales, as well as a letter prepared by the township assessor. The comparables range in size from 2.71 acres to 39.07 acres and sold for prices ranging from \$1 to \$25,860 per acre. The sale for \$1 was for a subdivision park. Based on this

evidence the board of review requested the subject's total assessment be confirmed.

During the hearing, the board of review's representative called the township assessor as a witness. The assessor testified that no farming activity was observed on the subject parcel in 2002, so it was classified and assessed as residential land for 2003. The assessor testified he assessed the pole barn at \$8,000 using the Illinois Real Property Appraisal Manual. The assessor testified he would stipulate to a land assessment for the subject of \$107,148, based on 29.23 acres as un-buildable land and 9.75 acres as residential land. This represents 75% un-buildable and 25% buildable and takes into account that much of the subject is in a flood plain. The assessor based this offer on the comparable land sales submitted by the board of review. Based on the land sales the board of review submitted, the assessor used a market value of \$22,380 per acre for the 25% portion of the subject that is buildable and a market value of \$3,542 per acre for the 75% un-buildable portion. He used these figures in preparing his offer to reduce the subject's land assessment to \$107,148. The assessor further testified that of the comparable sales used in the real estate broker's opinion of value for the subject submitted by the appellant, none was in Nunda Township. Finally, the assessor testified the appellant submitted no evidence the subject dwelling was uninhabitable or that the subject was marketed in any way when it sold in 2003.

During cross examination, the appellant's attorney questioned the township assessor regarding the land assessment of the appellant's one land comparable.

In rebuttal, the appellant claimed the only appropriate land comparable is the one submitted by the appellant which has a lower land assessment than the subject. The appellant claimed this comparable has similar soil types when compared to the subject, that it also has un-buildable acreage and a "blended" land assessment of \$1,180.53 per acre should be used to assess the subject land at \$46,017.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds that a reduction in the subject property's assessment is warranted. The appellant argued unequal treatment in the assessment process as the basis of the appeal. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must

demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has overcome this burden.

The Board finds the appellant submitted one land comparable in support of his inequity contention. The Board finds one comparable is insufficient evidence to prove unequal treatment in the assessment process by clear and convincing evidence. However, the Board finds the board of review, relying on the assessor's testimony, offered to reduce the subject's land assessment to \$107,148. This assessment offer was based on the board of review's comparable land sales and the acknowledgement that the subject had 29.23 acres of un-buildable land that should be valued at \$3,542 per acre and 9.75 acres of buildable land that should be valued at \$22,380 per acre. The Board finds this assessment reduction offer is based on actual land sales in Nunda Township and represents a reasonable accommodation of floodplain factor and poor soil condition of the subject land. Regarding the subject's improvement assessment, the Board finds the appellant submitted no evidence that the assessments of the subject dwelling and pole barn were incorrect. The assessor testified he used the Illinois Real Property Appraisal Manual to value the pole barn. The appellant's witness offered no corroboration for his statement that the pole barn was worth \$12,000 to \$14,000. The Board thus finds the subject's improvement assessment of \$15,000 is correct and no reduction is warranted.

The appellant also argued overvaluation as a basis of the appeal. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2nd 1256 (2nd Dist. 2000). After analyzing the market evidence submitted, the Board finds the appellant has failed to overcome this burden.

The Board finds the appellant submitted evidence documenting the subject's sale in February 2003 for \$260,000. However, the evidence disclosed the property was not advertised for sale, nor was it listed using a real estate agent. The Board finds this sale does not appear to be an arm's-length transaction and it cannot be considered a reliable indication of the subject's market value. The appellant also submitted an opinion of value for the subject prepared in 2001 by a real estate broker. This opinion of value of \$168,477 used sales outside of Nunda Township and did not include the pole barn constructed in 2002. The Board finds the broker was not present at the hearing to provide testimony or be cross examined regarding his opinion of value. For these reasons, the Board accords no weight to the broker's opinion of value for the subject. Based on this analysis, the

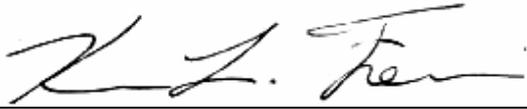
Board finds the appellant has failed to adequately support the overvaluation contention and no further reduction beyond that granted pursuant to the inequity contention above is warranted.

In summary, the Board finds the subject's land assessment is excessive and a reduction is warranted. The Board further finds no reduction in the subject's improvement assessment is warranted. Finally, the Board finds the appellant has failed to prove overvaluation by a preponderance of the evidence and no further reduction in the subject's assessment is warranted on that basis.

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.



Chairman



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: October 26, 2007



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 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 the subsequent year 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.

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.