

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Organic Farms of Crystal Lake Inc.
DOCKET NO.: 04-01317.001-R-1
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 46-year-old, one-story frame dwelling that contains 656 square feet of living area. Other improvements include two pole barns, each of which contains 4,800 square feet of building area. 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 land inequity argument, the appellant submitted information on one unimproved comparable property that contains 36 acres. The comparable has a land assessment of \$66,592 or \$1,850 per acre. The subject has a land assessment of \$113,738 or \$2,918 per acre.

The appellant submitted no evidence in support of the improvement inequity contention.

In support of the overvaluation argument, 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

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change 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:	\$	113,738
IMPR.:	\$	26,821
TOTAL:	\$	140,559

Subject only to the State multiplier as applicable.

PTAB/MRT/10/9/07

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 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 \$69,470.

During the hearing, the appellant testified the subject is encumbered by a guard rail that runs nearly the entire length of the property along Walkup Road and that the only access is about 25 feet at the end of the property. The appellant contends this lack of proper access limits the subject's development opportunities. The appellant failed to submit any credible market evidence as to what effect on the subject's value can be attributed to the limited access. The appellant also testified the 2003 sale of the subject was an arms-length transaction and that the transfer declaration was wrong, even though the appellants' attorney prepared the document.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$140,559 was disclosed. The subject has an estimated market value of \$422,099, as reflected by its assessment and McHenry County's 2004 three-year median level of assessments of 33.30%.

In support of the subject's assessment, the board of review submitted a letter prepared by the township assessor, various maps and photographs, the subject's property record card and a grid analysis of four comparable properties located in Nunda Township close to the subject. The comparables range in size from 1.5 to 36 acres. The board of review's comparable 1 is the same property as the appellant's only comparable. Board of review comparables 2, 3 and 4 have land assessments ranging from \$30,301 to \$44,283 or from \$8,515 to \$20,201 per acre. The first comparable that contains 36 acres has a tiered assessment. The assessor determined that this property has 3 acres of buildable land assessed at \$8,421 per acre and 33 acres of un-buildable land that are assessed at \$1,252 per acre. The board of review's grid indicated the subject property also has a tiered assessment, with 9.75 acres of buildable land assessed at \$7,911 per acre and 29.23 acres of un-buildable land that are assessed at \$1,252 per acre. The township assessor's letter indicates that at \$7,911 per acre, the buildable portion of the subject is assessed below all four of the comparables described above. The letter also noted the comparable sales used in the real estate broker's 2001 opinion of value for the subject were outside of Nunda Township, when many Nunda Township land comparables were available but not used. Finally, the letter stated that the broker's opinion of value did not include the two pole barns built in 2002 and 2004.

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 witness testified the 2003 sale of the subject for \$260,000 was not an arms-length transaction because it was not advertised on the open market and it involved a trustee deed. The assessor testified that the subject's sale did not fit the pattern of other land sales in the area.

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's assessment is not warranted. The appellant's argument was unequal treatment in the assessment process. 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 not overcome this burden.

Regarding the land inequity contention, the Board finds the appellant submitted one vacant land comparable located near the subject. The Board finds one comparable is insufficient to prove inequity by clear and convincing evidence and the appellant has not met its burden. Nevertheless, the Board finds this comparable contains buildable and un-buildable land like the subject. The un-buildable portions of the comparable and the subject were assessed similarly at \$1,252 per acre. The buildable portion of the comparable was assessed at \$8,421 per acre, while the buildable portion of the subject was assessed at \$7,911 per acre. The board of review also utilized this same comparable in its evidentiary submission and further demonstrated that land assessments of three other comparables ranged from \$8,516 to \$20,201 per acre. The Board thus finds the subject's land assessment is supported by the evidence in the record.

Regarding the improvement inequity contention, the Board finds the appellant submitted no evidence. The board of review submitted the subject's property record card which used the cost approach to assess the subject improvements at \$26,821. The Board finds the property record card provides the best evidence in the record of the subject's improvement assessment and thus 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 a Real Estate Transfer Declaration detailing the subject's February 2003 sale for \$260,000. The declaration indicated the subject was not advertised for sale on the open market. The township assessor testified this sale was therefore not an arm's-length transaction and did not fit the pattern of other sales in Nunda Township. Notwithstanding the appellant's testimony that the transfer declaration was wrong, the Board finds the 2003 sale of the subject was not an arm's length transaction and cannot be relied upon as a valid indicator of the subject's market value. The Board finds the appellant also submitted an opinion of value for the subject prepared in June 2001 by a real estate broker in which the subject's market value was estimated at \$168,477. The broker, who was not present at the hearing to provide testimony or be cross-examined, utilized sales outside of Nunda Township to develop his market value estimate for the subject. The Board finds the sales all occurred in 2000 or earlier and cannot be relied upon as valid indicators of the subject's market value as of the subject's January 1, 2004 assessment date. The Board also finds this opinion of value failed to include the two pole barns built in 2002 and 2004. For these reasons, the Board gave no weight to the real estate broker's opinion of value. The Board finds the appellant has failed to meet its burden of proving the subject's market value was not reflected in its assessment.

In conclusion, the Board finds the appellant has failed to prove inequity by clear and convincing evidence or overvaluation by a preponderance of the evidence and the subject's assessment is correct and no reduction is warranted.

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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.