

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Robert Whitmore  
DOCKET NO.: 06-01067.001-F-1  
PARCEL NO.: 13/120-1

The parties of record before the Property Tax Appeal Board are Robert Whitmore, the appellant, by attorney Karla C. Steele of Califf & Harper P.C. in Moline, Illinois, and the Rock Island County Board of Review.

The subject property consists of a 10-acre parcel of land improved with a residential dwelling and various farm buildings. The two-story frame residential dwelling was 69 years old and consists of 2,700 square feet of living area. Features of the dwelling include a fireplace, full basement, and a one-car detached garage along with an attached "shop." The farm outbuildings consist of three larger barns, with a tack room off the big barn, a corn bin, and a large concrete slab off one of the barns which was formerly used for a cattle feeding operation. The property is located in Coal Valley, Rural Township, Rock Island County.

The appellant appeared with counsel before the Property Tax Appeal Board claiming improper classification of the subject tract as entirely residential land and the buildings as entirely non-farm. Appellant asserted that horses are both raised and boarded on the subject property which thereby qualifies the property by definition as having a principal use for agricultural purposes. In support of these contentions, appellant submitted a 2005 aerial photograph of the subject property and several ground-level photographs of the property depicting grassland, horses and farm outbuildings, along with the testimony of the appellant as to the use of the property. In further support of the classification claim, appellant noted the subject property had received a farmland classification prior to 2006.

The appellant testified that approximately 8-acres are dedicated for use as pastureland associated with the grazing and boarding of horses with some training of horses. Appellant maintained this has been the use of the property since he purchased it in

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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 Rock Island County Board of Review is warranted. The correct assessed valuation of the property is:

FARMLAND:	\$	755
HOMESITE:	\$	3,960
RESIDENCE:	\$	46,270
FARM BLDGS:	\$	670
TOTAL:	\$	51,655

Subject only to the State multiplier as applicable.

1970. Appellant further testified that for the period of 2004 to 2006 there were at least two horses on the property; he further noted that on-and-off he may have had more, possibly three horses, on the property. When asked by his attorney if there were any other uses of the property, appellant testified that he trains dogs for field trials on the property both in neighbors' croplands when permitted, in his pasture areas, and from horseback. In connection with the dog training, one of the barns has been used to house the dogs when they are present for training purposes.

While referencing the aerial photograph of the subject property, appellant asserted that the land was primarily pasture some of which included mowed areas where the horses were ridden for training purposes and an area near the homesite consisting of four smaller arenas in which the horses could be worked for training purposes along with nearby jumps for the horses. Appellant testified that he agreed with the division of his property as reflected in the aerial photograph he submitted consisting of a 1-acre homesite, farm outbuildings area, and pasture. In particular, appellant asserts as to the subject's land assessment that 8-acres of the tract should be classified and assessed as pastureland, 1-acre as a residential homesite, and 1-acre as other land. Furthermore, appellant claimed the buildings on the property should be assessed for a single-family residence with an assessment of \$25,134 and farm buildings with an assessment of \$20,000.

On cross-examination, the board of review established that the appellant knows what a horse twitch is and appellant further noted he has used all different types of twitches often. He was asked whether he advertised his boarding operation to which appellant responded that he has advertised in the past and now primarily utilizes word-of-mouth advertising. Appellant further testified to the cross-examination questions that the boarding of horses included the cleaning of stalls, the feeding of the horses, shoeing of horses and trimming of hoofs, training of the horses, movement into the barn during poor weather, and seeking out veterinary services when necessary. The greatest number of horses appellant has ever maintained on the property was 20 for a short period of time. In terms of his boarding charges, a stall-kept horse with a paddock turnout is charged \$125 to \$150 per month whereas a pasture board is charged \$80 per month. Appellant further noted that due to his own competitive training and working with dogs, other people have been bringing dogs to the appellant for about 15 years for training on his property.

The board of review submitted "Board of Review Notes on Appeal" wherein the subject's assessment of \$57,773 was disclosed consisting of a land/lot assessment of \$10,833 and a residence/non-farm building assessment of \$46,940. In support of the subject's current assessment, the board of review presented a letter from Larry Wilson, Supervisor of Assessments, and called him for testimony at the hearing.

Wilson testified with regard to an Illinois Department of Revenue Bulletin 810 and the mandates placed upon the supervisors of assessment as of January 1, 2006 to examine farmland assessments. Wilson further testified Rock Island County spent about two years preparing for the institution of Bulletin 810. In the course of preparing for implementation, Wilson and his staff considered whether particular properties were "questionable" for purposes of farmland classification. First aerial photographs were examined and then township assessors were contacted for specific information with regard to particular properties and the activities on those properties.

From his investigation, Wilson was advised that appellant had "a couple" of horses. Wilson concluded the keeping of these horses was incidental to the primary use of the property as a residence, the horses were recreational or kept as pets, and thus did not qualify as "the feeding, breeding, and management of livestock" in accordance with the Property Tax Code and based on policies and procedures reviewed at the time. Additionally, Wilson's letter submitted in this matter outlines criteria making property eligible for farmland assessment above and beyond the statutory requirements including: a parcel being five acres or more in size; the farmland portion being larger than the residential portion of the property; an annual farm gross income of \$1,000 or more; and a Schedule F submitted with the taxpayer's federal income tax return. Wilson testified significant reliance has been placed upon the filing a Schedule F by the Rock Island County Board of Review in that, if the taxpayer/owner is not claiming farm income, why should the taxpayer/owner obtain preferential tax treatment on their property?

Based on the foregoing and in light of the Property Tax Code provisions regarding farmland assessments, the board of review was of the opinion that the subject's primary use was for residential purposes (35 ILCS 200/1-60) and that it was assessed accordingly. Thus, the board of review requested confirmation of the subject's assessment.

In a written rebuttal previously filed in this matter, appellant noted that a Schedule F was filed with his federal income tax returns for years 1970 to 2000. Due to appellant's age and abilities over time, the number of horses bred and trained on the subject property has dwindled, but the primary purpose of the land remains the boarding, training and breeding of horses.

In rebuttal testimony, the appellant noted a recent sale of a property two miles from the subject property with its accompanying property tax as compared to the subject's 2006 assessment and accompanying property tax. Appellant also testified to another aerial photograph of a property in Rural Township located two miles from the subject which was classified as pasture, but has no fencing, no grazing of livestock occurring, and yet received a preferential farmland assessment.

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 Board finds that 9-acres the subject property is entitled to a farmland classification and assessment. The Board further finds the appellant failed to submit evidence establishing an incorrect assessment on either the dwelling or the farm buildings as required by the Official Rules of the Property Tax Appeal Board (86 Ill. Admin. Code, Sec. 1910.63(b) & 1910.65).

Initially, as to appellant's purported rebuttal testimony at hearing, the Property Tax Appeal Board finds pursuant to the Official Rules rebuttal is to be limited to evidence submitted to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill. Admin. Code, Sec. 1910.66(a)). Rebuttal evidence shall not consist of new evidence such as "newly discovered comparable properties." (86 Ill. Admin. Code, Sec. 1910.66(c)). Appellant's testimony at hearing about some properties in close proximity to the subject is new evidence and not in response to any evidence presented by the board of review on this record. As such, the Property Tax Appeal Board finds the appellant's rebuttal testimony to be inappropriate rebuttal and has accorded it no weight in this record.

Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" in part as:

[a]ny 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.  
[Emphasis added].

The Property Tax Appeal Board finds a parcel may be classified as partially farmland for tax purposes, provided those portions of property so classified are used solely for the growing and harvesting of crops, or the feeding, breeding and management of livestock. In addition, property that is used solely for the feeding, breeding and management of livestock is properly classified as farmland for tax purposes, even if that farmland is part of a parcel that has other uses. Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill. App. 3d 799 (3<sup>rd</sup> Dist. 1999).

A review of the controlling statutes shows the definition of a "farm" does not require the property classification be based on the primary use as a whole. Rather, property that is used solely

for the growing and harvesting of crops or the feeding, breeding and management of livestock is properly classified as farmland, even if the farmland is part of a parcel that has other uses. Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill. App. 3d at 872 (3<sup>rd</sup> Dist. 1983).

In order to qualify for an agriculture assessment, the land must be farmed at least two years preceding the date of assessment (35 ILCS 200/10-110). Testimony and evidence revealed that of the ten acres contained in the subject parcel, purchased in 1970, one acre is used for a homesite, one acre contains farm buildings, and eight acres are used as pasture to board, breed and raise livestock (horses). The appellant testified horses have been grazed on the 8-acre pasture area since 1970 and continue to be so grazed for the period of 2004 through 2006 at issue in this matter.

The Property Tax Appeal Board further notes Section 10-110 of the Property Tax Code, provides as follows:

Farmland. The equalized assessed value of a farm, as defined in Section 1-60 and if used as a farm for the preceding two years, except tracts subject to assessment under Section 10-45, shall be determined as described in Sections 10-115 through 10-140... (35 ILCS 200/10-110)

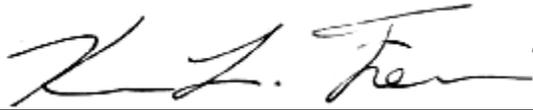
As a final point, the Board finds there is no statutory requirement that farming must comprise a primary source of a person's income, that particular federal tax forms are necessary, or that a particular level of income must be achieved for that land to qualify as a farm as insinuated by the board of review. Moreover, there is no requirement as to the number of acres necessary to comprise a "farm" according to the statute nor that farm acreage must be larger than homesite acreage. Any such additional requirements by Rock Island County as set forth in the letter from the supervisor of assessments are not in compliance with the provisions of the Property Tax Code nor with any case precedent interpreting farmland provisions of the Property Tax Code.

Based on the foregoing analysis, the Board finds the 8-acre pasture and the 1-acre tract with farm buildings qualify for farmland classification and assessment. The Board finds the one-acre homesite is properly classified as residential land. The board of review has considered the entire ten-acre parcel as residential land.

In conclusion, the Property Tax Appeal Board finds the board of review's assessment of the subject property is incorrect and a reduction is warranted.

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.

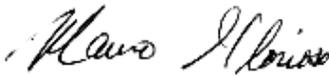
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Chairman



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Member



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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: April 24, 2009



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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.