

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Bruce M. Peleschak  
DOCKET NO.: 06-01243.001-R-1  
PARCEL NO.: 16-11-100-029

The parties of record before the Property Tax Appeal Board are Bruce M. Peleschak, the appellant, and the McHenry County Board of Review.

The subject property consists of a 5.0-acre parcel improved with a 17 year-old, one-story frame dwelling that contains 2,351 square feet of living area. Features of the home include a full unfinished basement, central air-conditioning and a 552 square foot garage and a deck. The subject also includes a stable and an 8,640 square foot indoor horse arena.

The appellant appeared before the Property Tax Appeal Board claiming that about 0.5 acre of the subject parcel is a homesite and that approximately 4.5 acres of the subject are used as a horse boarding and training facility and pasture, and should be classified and assessed as farmland. The appellant also claimed unequal treatment in the assessment process regarding the subject's land and improvement assessments as a basis of the appeal.

In support of the land inequity argument, the appellant submitted information on three comparable properties. Two of these properties are located 0.4 mile to 2.6 miles from the subject. Proximity of the third comparable to the subject was not reported. The comparables range in size from 9.62 to 11.11 acres and have land assessments ranging from \$13,223 to \$23,579 or from \$1,190 to \$2,451 per acre. The subject has a land assessment of \$28,295 or \$5,659 per acre.

In support of the improvement inequity argument, the appellant submitted a grid analysis and property record cards for the same three comparables used to support the land inequity contention. The appellant claimed these properties are used as horse boarding

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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:

PARCEL NO.	FARMLAND	HOMESITE	RESIDENCE	OUTBUILDINGS	TOTAL
16-11-100-029	\$56	\$21,891	\$79,946	\$24,393	\$126,286

Subject only to the State multiplier as applicable.

facilities like the subject. The comparables are improved with one-story or one and one-half-story dwellings, two of which are frame or brick and frame structures. No exterior construction was submitted for comparable 3. The appellant did not report the age of comparable 2, nor could it be discerned from the property record card. Comparables 1 and 3 were reported to be 25 and 50 years old, respectively. The comparables were reported to range in size from 791 to 1,876 square feet of living area and all have barns. One comparable was reported to have a partial basement, central air-conditioning and a 576 square foot garage. The comparables have improvement assessments ranging from \$57,937 to \$110,001 or from \$39.35 to \$139.07 per square foot of living area. The subject has an improvement assessment of \$110,947 or \$47.19 per square foot of living area. Based on this evidence, the appellant requested the subject's land assessment be reduced to \$9,423, its improvement assessment be reduced to \$106,669 and its total assessment be reduced to \$116,092.

The appellant's evidence also claimed the subject's deck is 24 feet by 20 feet, or 480 square feet, not 800 square feet as indicated on the subject's property record card. The appellant also claimed the assessor had miscalculated the size of the subject's barn, which is used as a horse training arena. The subject's property record card indicates the barn is 150 feet by 80 feet, or 12,000 square feet. The appellant submitted a copy of a sales receipt from FBI Buildings, Inc., which sold the barn. The receipt disclosed the building is 72 feet by 120 feet, or 8,640 square feet and that it was shipped in November 2002.

During the hearing, the board of review stipulated to a revised improvement assessment for the subject of \$104,339, based on the corrected size of the barn used as a horse arena as containing 8,640 square feet. The appellant accepted this stipulation. The appellant testified approximately 4.5 acres of the subject has been used exclusively as a horse boarding and training business for at least the years 2004, 2005 and 2006. The appellant testified he notified the board of review in 2003 that the subject was being used for this purpose. The appellant also testified two colts have been bred recently, that riding lessons and horse training lessons are offered at the subject facility and that year round horse boarding is provided. The appellant further testified his three comparables were all used as horse boarding facilities, whereas none of the board of review's comparables are used as such, nor are they used for any other farming activity. The appellant referred to Item 3 in his rebuttal evidence, which is a copy of Schedule C from the appellant's 2004 federal income tax Form 1040. This document lists income and expenses associated with "horse boarding", as depicted on Line A of the form.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$139,242 was disclosed. In support of the subject's assessment, the board of review submitted a letter prepared by a board of review member. The letter claimed the appellant had "supplied no evidence that the property is used as a commercial stable." The letter also stated "Department of Revenue guidelines indicate that for agriculture to be a primary use, there should be a minimum of five acres in agricultural use." The letter further disclosed that the appellant's comparable 3 contains 1,141 square feet of living area and that its improvement assessment is actually \$96.41 per square foot.

A separate letter prepared by the township assessor that was included in the board of review's evidence indicated the appellant's three comparables "have filed the proper paper work justifying a horse boarding business which qualifies a portion of the land to be farmland." The letter also described four comparables that range in size from 5.0 to 5.3 acres with equalized land assessments of \$28,085 or \$28,295 or from \$5,299 to \$5,659 per acre. The letter stated these comparables have improvements, but provided no descriptions of such improvements. The board of review also submitted numerous photographs of these comparables.

In rebuttal, the appellant submitted numerous items that expanded the points raised in his petition. The rebuttal evidence included photographs of the appellant's three comparables that are used as horse boarding facilities, some of which show signs identifying the facilities. The evidence also included a 2005 advertising receipt and a copy of a 2007 advertisement for the subject's horse boarding operation. The appellant claimed the subject parcel is "in complete compliance as a commercial horse boarding facility", after reviewing the McHenry County Department of Planning and Development horse boarding requirements. Finally, the appellant reiterated that the four comparables referenced by the board of review were not "for profit" horse boarding facilities like the subject and the appellant's comparables.

During the hearing, the Hearing Officer requested the board of review to submit within 15 days of the hearing a breakdown of the subject's assessment if the Property Tax Appeal Board ultimately determined a portion of the subject property qualified for agricultural classification and assessment. The board of review submitted the requested breakdown, which acknowledged a 0.57-acre homesite and 4.43 acres of farmland, but the board of review did not stipulate that the subject deserves an agricultural assessment. However, if such a determination were to be made, the board of review's breakdown indicated the following:

Urban land	21,891
Farm land	56
Urban building	79,946
Farm buildings	24,393
Total	126,286

The breakdown referenced the agreement of the parties at the hearing to a total building value of \$104,339.

The board of review did not refute the appellant's assertion that the subject meets McHenry County requirements for a horse boarding facility.

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 further finds that 4.43 acres of the subject parcel is entitled to a farmland classification and assessment.

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

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 (emphasis added).

The Board also finds 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)

The board of review argued the appellant "has supplied no evidence that the property is used as a commercial stable." The board of review referenced Illinois Department of Revenue

guidelines "that for agriculture to be a primary use, there should be a minimum of five acres in agricultural use." The Property Tax Appeal Board finds no statutory minimum acreage requirement to satisfy the definition of a farm cited herein. 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). The Board further finds the aforementioned Department of Revenue guidelines do not have the weight of law and cannot overcome the provisions of Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) and Section 10-110 of the Code (35 ILCS 200/10-110) cited above.

In this 2006 appeal, the Property Tax Appeal Board finds the appellant provided testimony and documentation showing that, of the subject's 5.0 acres, 4.43 acres has been used exclusively to board, raise and train horses for at least the years 2004, 2005 and 2006. The appellant submitted Schedule C from his 2004 federal income tax return wherein income and expenses for a "horse boarding" enterprise were claimed and documented. The appellant testified year round horse boarding is provided, as well as riding and training lessons. In order to qualify for an agricultural assessment, land must be used as a farm for at least the two years preceding the date of assessment (35 ILCS 200/10-110). The Board finds this requirement has been met. The Board thus finds 4.43 acres of the subject parcel should be classified and assessed as farmland. The Board further finds that at the hearing, the parties agreed the subject's improvement assessment should be reduced to \$104,339 to reflect the corrected size of the barn used as a horse training arena.

The Board further finds the appellant argued unequal treatment in the assessment process as a basis of the appeal. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of a 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.

In support of the inequity argument, the appellant submitted three comparables which are used as horse boarding facilities. The appellant did not provide a breakdown of acreage devoted to this use, nor did he provide a breakdown of the improvements into dwelling and farm buildings. The Board gave little weight to the appellant's comparables because they differed in size and age

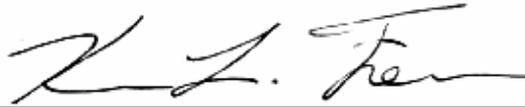
when compared to the subject and no age was supplied for one comparable. The Board gave no weight to the four comparables submitted by the board of review because no descriptive information was provided, nor were these properties used as horse boarding businesses. Nevertheless, the Board finds the improvement assessments of the appellant's own comparables range from \$39.35 to \$96.41 per square foot, after correcting the living area of the appellant's comparable 3 to reflect 1,141 square feet of living area, as reported by the board of review. The subject's improvement assessment of \$104,339, to which the parties agreed at the hearing, is \$44.38 per square foot, which falls near the low end of the range of the appellant's own comparables. Therefore, the Board finds no additional reduction in the subject's improvement assessment based on equity is appropriate.

In summary, the Property Tax Appeal Board finds the appellant has sufficiently met the requirements contained within sections 1-60 and 10-110 of the Property Tax Code (35 ILCS 200/1-60 and 10-110) and a farmland assessment is warranted for 4.43 acres of the subject parcel.

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



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: June 27, 2008



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.