

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Ben & Cheryl Willis  
DOCKET NO.: 06-02197.001-F-1  
PARCEL NO.: 04-07-09-000-402

The parties of record before the Property Tax Appeal Board are Ben & Cheryl Willis, the appellants, and the Moultrie County Board of Review, by Appointed Special Prosecutor Christopher E. Sherer of Giffin, Winning, Cohen & Bodewes, P.C., in Springfield..

The subject property consists a of 49.31-acre unimproved parcel that contains 4 acres of tillable land and 45.31 acres of timber land.

Appellant Cheryl Willis appeared before the Property Tax Appeal Board claiming the subject parcel should have been classified and assessed as farmland as the basis of the appeal. In support of this argument, the appellant submitted a letter with numerous attachments. The appellants claim the subject property was assessed as farmland through the 2004 assessment year. The appellants The appellants cited Section 1-60 of the Property Tax Code (35 ILCS 200/1-60), which defines farmland 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. . .

The appellants further cited Publication 122, "Instructions for Farmland Assessment", published in September 2006 by the Illinois Department of Revenue, wherein it states:

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

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

LAND:	\$	41,952
IMPR.:	\$	0
TOTAL:	\$	41,952

Subject only to the State multiplier as applicable.

The appellants then cited Section 10-125(c) of the Property Tax Code (35 ILCS 200/10/125(c)), which states:

Other farmland shall be assessed at 1/6 of its debased productivity index equalized assessed value as cropland.

The appellants' letter discussed Bulletin 810, established in 2002 by the Illinois Department of Revenue (IDOR) and the State Farmland Assessment Technical Advisory Board (FATAB), which stated that the provisions of the bulletin "will be implemented for the 2006 assessment year." Bulletin 810 details numerous elements regarding transitions and changes in farmland assessment methods from an earlier document entitled Circular 1156. The appellants claim Moultrie County assessment officials reassessed the subject property on January 1, 2005 from the prior "1/6 of its debased productivity index equalized assessed value as cropland" to "33 1/3(%) of its equalized assessed value". The appellants contend this 2005 reclassification and reassessment of the subject was in violation of the provisions of Bulletin 810 which, as stated above, was to be implemented for the 2006 assessment year.

The appellants' letter then discussed House Joint Resolution 95 (HJR95), unanimously passed by both the Illinois House of Representatives and Illinois Senate, which states:

RESOLVED, that if, during the 2005 taxable year, any parcel of wooded land was valued based on its productivity index equalized assessed value as cropland, then we urge the Department of Revenue to accept any similar valuation of that wooded land for the 2006 and 2007 taxable years, and be it further RESOLVED, that for the purpose of this Resolution, "wooded land" means any parcel of unimproved property that (i) does not qualify as cropland, permanent pasture, other farmland, or wasteland under Section 10-125 of the Property Tax Code; and (ii) is not managed under a forestry management plan and considered to be other farmland under Section 10-150 of the Property Tax Code. . .

The appellants claim the legislature also "created a 12-member Timberland Assessment Task Force to study the issue and present its findings to the Illinois General Assembly". The appellants claim HJR95 called on the Illinois Department of Revenue to maintain a "freeze" on 2005 timberland assessments for two more years. According to the appellants, HJR95 was made retroactive so as to coincide with implementation guidelines of Bulletin 810, such that the Bulletin 810 procedures regarding timberland assessments would not be implemented until the task force completed its work. The appellants contend that Moultrie County,

in essence, prematurely implemented provisions of Bulletin 810 for the 2005 assessment year regarding the subject property.

The appellants' letter then claimed that IDOR Director Brian Hamer "immediately placed a moratorium on the implementation of the controversial timberland assessment set forth in Bulletin 810." The appellants claim Hamer could not have known that any county, such as Moultrie County, had already implemented provisions of Bulletin 810 for the 2005 assessment year, instead of waiting to implement timberland assessment changes for the 2006 assessment year. The appellants claim that, due to the "early and improper" implementation of provisions of Bulletin 810 for the 2005 assessment year, they had borne an unfair and exorbitant increase in their property tax burden.

At the hearing, appellant Cheryl Willis reiterated points discussed in the appellants' evidentiary submission which accompanied their petition to the Property Tax Appeal Board. Willis testified Exhibit D in the board of review's evidence was a copy of a memorandum from Kara Moretto, Manager of the Property Tax Division of the IDOR, dated November 1, 2005. This memo details numerous items related to provisions of Bulletin 810 dealing with assessment of timber tracts that had previously been assessed under provisions of Circular 1156 as other farmland. Moretto's memo stated "Any violations would then be corrected before the transition to Bulletin 810, effective January 1, 2006." The appellant opined that this memo further supported the appellants' contention that Moultrie County assessment officials had failed to follow the language and intent of Bulletin 810, HJR95 and IDOR guidelines.

In cross examination, the board of review's counsel asked the appellant when the subject was purchased. The appellant responded she thought it was in September 2005. The appellant acknowledged no appeal to the board of review had been filed for the 2005 assessment year and that she knew the time to appeal the subject's 2005 assessment had passed. When asked how the subject was being used on January 1, 2006, the appellant responded four acres was farmed and the balance was going into a forestry management plan. The witness was then directed to board of review Exhibit B, which is a standard questionnaire used by the Moultrie County Board of Review to determine eligibility for preferential farmland assessment. When asked if the subject had been used to grow and harvest hay for 2004, 2005 and 2006, the appellant acknowledged she had answered "no". When asked if the subject had been used for feeding, breeding and management of livestock continuously for 2004, 2005 and 2006, the witness responded "no". When asked if the subject had been used for any other agricultural or horticultural activity continuously for 2004, 2005 and 2006, the appellant responded "no". The appellant then acknowledged a forestry management plan for the wooded portion of the subject property was approved in October 2006, but such plan had not approved on January 1, 2006, the beginning of

the 2006 assessment year. When attention was called to the subject's property record card, which indicated the property was actually purchased by the appellants on November 3, 2005, the appellant acknowledged the subject had been reassessed on January 1, 2005 as residential land when it was still owned by the previous owner, who sold it to the appellants.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject property's total assessment of \$41,952 was disclosed. In support of the subject's assessment, the board of review submitted a brief discussing the issues surrounding the instant appeal, along with various exhibits. Exhibit C is a memorandum dated April 30, 2004, from Steve Jones, IDOR farmland assessment specialist, to all Chief County Assessment Officers. While acknowledging that full implementation of Bulletin 810 had been delayed, the memo stated "the granting of an additional year should not be cause for counties to slow down their efforts to bring farm assessments into compliance." The memo also stated "Counties are not, however, prohibited from making corrections and improvements to current farmland assessments for use between now and 2006. Most of the requirements outlined in the May 5, 2003 memorandum are not new to Bulletin 810 but have, in fact, been in existence since the farm law's enactment." The board of review's Exhibit F is a copy of a letter dated January 12, 2007 from Michael Cody of the IDOR Property Tax Division regarding the Forestry Management Act. The memo states in part that "Changes in assessed value resulting from a new, amended or cancelled plan should begin on January 1 of the assessment year immediately following the plan's effective date." The effective date of the forestry management plan for the subject property is October 27, 2006. The board of review noted on this document copy that based on the language in this memo, the subject's plan would become effective for tax (assessment) year 2007, for which taxes would be paid in 2008.

At the hearing, the board of review's counsel called Moultrie County Chief County Assessment Officer Cynthia Kidwell to testify. The witness testified the subject property was split off a larger parcel in 2004 and that the owner at the time was notified by letter on January 27, 2005 that the subject would be reassessed for 2005. The witness testified the subject was not farmed in 2005, but was used for hunting. Some sunflowers had grown on the property but did not appear to have been harvested.

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 the subject parcel is not entitled to a farmland classification for 2006.

The Board 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 finds the appellants acknowledged that no complaint regarding the subject's 2005 classification and assessment had been filed with the Moultrie County Board of Review by the previous owner of the subject. Indeed, testimony revealed the subject had been used for hunting in 2005 and that while some sunflowers had grown on the property, none had been harvested. Since the subject property was not farmed in 2005, it cannot be classified and assessed as farmland for 2006, as it does not meet the requirements of Section 10-110 of the Property Tax Code cited above. The Board finds the April 30, 2004 memo from Steve Jones to all Chief County Assessment Officers stated that "Counties are not, however, prohibited from **making corrections and improvements to current farmland assessments for use between now and 2006** (emphasis added)." Based on these factors, the Property Tax Appeal Board finds Moultrie County assessment officials did not err in changing the subject's 2005 classification and assessment to reflect the fact that no farming activity occurred on the subject that year. Because of this, the subject could not be classified and assessed as farmland for 2006 and provisions of HJR95 which called for postponement of changes in the method of assessing timber tracts as specified in Bulletin 810 are moot.

The Board next finds Section 10-150 of the Property Tax Code provides in part:

In counties with less than 3,000,000 inhabitants, any land being managed under a forestry management plan accepted by the Department of Natural Resources under the Illinois Forestry Development Act shall be considered as "other farmland" and shall be valued at 1/6 of its productivity index equalized assessed value as cropland. (35 ILCS 200/10-150).

The Board finds a forestry management plan for the subject parcel was approved on October 27, 2006, but, since it was not effective until that date, cannot affect the subject's assessment until "the assessment year immediately following the plan's effective date" - in this case, January 1, 2007 - as explained in the board of review's Exhibit F.

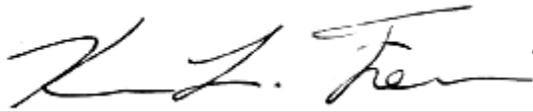
In summary, the Board finds that, since no farming activity took place on the 4 tillable acres of the subject property in 2005, the subject's timber area could not be classified and assessed as other farmland. Further, the Board finds the subject's forestry management plan, which was approved on October 27, 2006, is not

effective until January 1, 2007. Finally, the Board finds no portion of the subject is entitled to be classified and assessed as farmland for the 2006 assessment year.

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: December 5, 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.