



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Rubloff Belvidere, L.L.C.
DOCKET NO.: 06-02428.001-F-3 through 06-02428.005-F-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Rubloff Belvidere, L.L.C., the appellant(s), by attorney Daniel M. Mroz, of Rubloff Belvidere, L.L.C. of Rockford; and the Boone County Board of Review.

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

DOCKET NUMBER	PARCEL NUMBER	FARM LAND	Land/Lot	RESIDENCE	OUT BLDGS	TOTAL
06-02428.001-F-3	08-06-200-004	0	94,087	46,337	0	\$ 140,424
06-02428.002-F-3	08-06-200-011	0	65,728	0	0	\$ 65,728
06-02428.003-F-3	08-06-200-014	0	51,668	0	0	\$ 51,668
06-02428.004-F-3	08-06-200-013	0	83,201	0	0	\$ 83,201
06-02428.005-F-3	08-06-200-010	0	234,386	0	0	\$ 234,386

Subject only to the State multiplier as applicable.

ANALYSIS

Prior to the hearing the parties stipulated to consolidate this appeal, Docket No. 06-02428, with Docket No. 06-02429 for purposes oral hearing. The subject properties consist of five vacant parcels of various sizes ranging from 9.98-acres to 63.60-acres. Prior to the hearing the parties stipulated that the subject parcels under appeal were used as farmland for the 2004 and 2005 assessment years. In 2006 the subject parcels were reclassified and assessed by the township assessor as non-farmland property.

The appellant, through legal counsel, appeared before the Property Tax Appeal Board claiming the subject parcels should receive a farmland classification and assessment for the 2006 assessment year. In support of its argument, the appellant

submitted a sworn affidavit from David Branch and memorandum of law.

Counsel for the appellant called David Branch as a witness. Branch is the president and CEO of Hallmark Homes which primarily builds homes. Hallmark Homes is in common ownership with Rubloff Belvidere, LLC; which provides farm management services to various entities. Branch is personally responsible for overseeing and managing the subject parcels under appeal. Prior to 2006 a combination of bean and corn had been harvested from the parcels. Branch testified that no crops were growing on January 1, 2006. Branch stated that this was similar to other farmland property in northern Illinois. However, as of January 1, 2006 the properties' primary use was the growing and harvesting of crops. Branch further testified that no crops were grown or harvested during the summer months of 2006. Branch was inadvertently trying to find a farmer that could take the capacity of all of the land, instead of using multiple farmers. Because of this, Branch did not get a farmer until it was past the planting season. Branch stated that crops were planted and harvested on the subject parcels in 2007.

During cross-examination, Branch stated that in 2006 the only activity that occurred on the parcels was the picking up of trash, cleaning up of garbage and mowing. The grasses were cut and left on the parcels, but not harvested. Based on this evidence, the appellant requested the subject parcels be reclassified and assessed as agriculture property.

The board of review submitted its "Board of Review Notes on Appeal" wherein the assessment for each parcel was disclosed. In support of the subject parcels' classification and assessment, the board of review submitted a brief, statutory citation, an Illinois Department of Revenue Publication No. 129 and a letter from acting Boone Township Assessor, Dale Schwebke.

The board of review first called Kathy Hendrickson, a multi-township assessor for District 2 in Boone County, as its witness. Hendrickson testified that she had been in the assessment business since 1998. She is also a farmer. She stated she saw no farming activities on the subject parcels in 2006.

During cross-examination, Hendrickson stated that in 2006 the decision was made to classify the subject as 30; which is vacant land¹. She stated this was a practice followed throughout the township and throughout the county to the best of her knowledge.

The next witness called by the board of review was Dale Schwebke. He has been associated with the assessment processes since 1994.

¹ The board of review computer incorrectly lists classification 30 as "residential." However, it is considered vacant land by the Boone County Board of Review and assessed accordingly at market value of vacant land.

He is a partial owner of farmland and has been associated with farming his entire life. He stated that throughout the various jurisdictions he oversees he uses the same criterion; whether there are crops grown on the land. In support of his criteria, he relied upon the Property Tax Code (35 ILCS 200/1-60) and the guidelines printed by the Illinois Department of Revenue. It was his understanding that since no persons farm on January 1, a decision could be made later in the year.

During cross-examination, Schwebke stated that based on his correspondence with Hendrickson and the information he had, none of the parcels under appeal had any of the farming activities as described in Section 1-60 of the Property Tax Code during the 2006 assessment year. Based on this evidence, the board of review requested confirmation of the subject properties' classification and assessment as non-farmland property.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds the subject parcels do not qualify for a farmland classification and assessment. Section 1-60 of the Property Tax Code defines "farm" in part as:

When used in connection with valuing land and buildings for an **agricultural use**, 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.

(35 ILCS 200/1-60) (emphasis added).

In addition, Section 10-110 of the Property Tax Code provides in pertinent part:

The equalized assessed value of a farm, as defined in Section 1-60 **and** if used as a farm for the 2 preceding years... shall be determined as described in Sections 10-115 through 10-140.

(35 ILCS 200/10-110) (emphasis added).

The Property Tax Appeal Board finds the record in this appeal is un-refuted that the subject properties were used as a farm for the years 2004 and 2005, but were not farmed during the 2006

assessment year. As a result, the Property Tax Appeal Board finds the subject parcels do not fall under the statutory definition of farmland as provided by Section 1-60 of the Property Tax Code (35 ILCS 200/1-60). Thus, the Property Tax Appeal Board finds the subject parcels are not entitled to a farmland assessment and classification based on the applicable statutes. The Board finds the controlling statutes clearly provide that in order for a particular property to receive a farmland assessment, it must be used for an agricultural purpose for the assessment year in question and the two years that precede that assessment date, which clearly did not occur in this appeal.

Illinois case law and publications issued by the Illinois Department of Revenue provide that the actual use of land is the determining factor on whether a particular parcel receives a farmland classification and assessment. For example, property that is used solely for the growing and harvesting of crops 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 (3rd Dist. 1999). The present use of land determines whether it is entitled to a farmland classification for assessment purposes. Santa Fe Land Improvement Co. v. Property Tax Appeal Board, 113 Ill.App.3d 872, 875, (3rd Dist. 1983). Based on the actual use of the property during the 2006 assessment year, the Property Tax Appeal Board finds the subject parcels are not entitled to a farmland classification and assessment.

In reviewing the guidelines issued by the Illinois Department of Revenue as well as the controlling case law and statutes, the Property Tax Appeal Board finds the board of review properly followed the statutes and legal instructions in a common and logical sense in classifying and assessing the subject parcels as non-farmland because a crop was not planted or harvested during the 2006 assessment year. Property used primarily for any other purpose other than as a "farm" as defined in Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) are not entitled to an agricultural assessment. Senachwine Club v. Property Tax Appeal Board, 362 Ill.App.3d 566, 568 (3rd Dist. 2005)

In conclusion, the Property Tax Appeal Board finds the subject parcels do not fall under the statutory definition of a farm as provided by Section 1-60 of the Property Tax Code. (35 ILCS 200/1-60). Thus, the subject properties are not entitled to a preferential farmland classification and assessment. Therefore, the Board finds the subjects' land assessment as established by the board of review is correct and no 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.



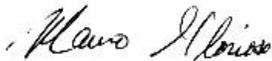
Chairman



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: September 28, 2009



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.