



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

APPELLANT: Larry Childress
DOCKET NO.: 06-02493.001-F-1
PARCEL NO.: 25-27-35-200-004

The parties of record before the Property Tax Appeal Board are Larry Childress, the appellant; and the Fulton 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 **Fulton** County Board of Review is warranted. The correct assessed valuation of the property is:

F/Land:	\$5,280
Homesite:	\$0
Residence:	\$0
Outbuildings:	\$0
TOTAL:	\$5,280

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a parcel located in Woodland Township, Fulton County, which contains approximately 35.74 acres.

The appellant appeared before the Property Tax Appeal Board claiming the subject had been improperly classified and assessed as recreational land and inequity as the bases of the appeal. The appellant purchased the subject parcel, along with several adjacent parcels, in August 2005. The total acreage purchased was 64.78 acres, for \$94,500 or approximately \$1,459 per acre. The appellant claims the subject "is only a large wooded hill with no improvements."

In support of the inequity argument, the appellant submitted information on three comparable properties. The comparables were

described as being adjacent to the subject and containing either 40 or 50 acres. These properties were reported to have land assessments ranging from \$30 to \$410 or from \$0.75 to \$10.25 per acre. The subject has a land assessment of \$5,280 or \$147.73 per acre. Relying on the constitutional requirement for uniformity of assessments, the appellant cited the Illinois Supreme Court's decision in Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 229 Ill.Dec. 487, (1998). The appellant claims the subject is assessed in a dissimilar manner when compared to other similar parcels. Based on this evidence the appellant requested the subject's land assessment be reduced to \$40 or \$1.20 per acre.

During the hearing, the appellant claimed the subject was reassessed subsequent to his purchase of it. He acknowledged that, like the subject, none of the three comparables he submitted is being farmed. In response to a question from the Hearing Officer, the appellant testified he received approval of a Forestry Management Plan for a portion of the subject in the spring of 2008, but that it was not in effect on the subject's January 1, 2006 assessment date.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject property's total assessment of \$5,280 was disclosed. In support of the subject's assessment, the board of review submitted a letter, a copy of the Real Estate Transfer Declaration documenting the subject's sale in August 2005, a chart detailing the subject and two comparables, designated as Exhibit B, several aerial photographs and a list of 10 additional comparable sales, designated Exhibit C. The letter explained that the two comparables on Exhibit B are located near the subject, contain 91.26 acres and 62.78 acres, respectively, and sold in August 2005 for prices of \$136,500 and \$94,500 or \$1,496 and \$1,505 per acre. These two comparables are also classified as "recreational" land and are assessed at \$140 per acre, like the subject. The board of review's letter asserted that Fulton County "has long been a haven for hunters, fishermen and outdoorsmen of all types; and over the last several years, has seen a tremendous increase in the number of sales of wooded acreage and/or lakes. The demand for this type of land remains strong while the price being paid for it continues to increase. Fulton County will contend that the use of this type of land is recreational and does not qualify for the preferential "farmland" assessment. The appellant's property is no exception."

The comparable sales listed in Exhibit C are intended by the board of review "To further substantiate the marketability and value for this recreational land. . ." The comparables sold between December 2004 and August 2006 for prices ranging from \$60,000 to \$235,500 or from \$1,335 to \$3,786 per acre. Based on this evidence, the board of review requested the subject's assessment be confirmed.

During the hearing, the board of review called Reba Ford, who is the Fulton County Farm clerk, as a witness. Ford testified she has 27 years experience in property valuation and assessment and is familiar with the subject property and the appellant's comparables. She further testified that tracts classified and assessed as recreational land consist mostly of timber, are not farmed and do not adjoin farms, strip mining areas, or water fowl management areas. She asserted that the appellant's comparables were not at present classified as recreational land, but should be. She acknowledged that the board of review is not always aware of the current use of all properties in the county, but that when a sale occurs, it calls attention to such properties and gives the board of review an opportunity to update its records and observe such properties to determine if farmland classification and assessment is warranted. The Hearing Officer ordered the board of review to submit a list of parcels in Fulton County that are classified and assessed as recreational land like the subject within ten days of the hearing. The board of review complied with this order and submitted a list of 518 parcels that range in size from 0.1 acre to 300.49 acres.

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, as no farming activity took place on the subject for that year, or 2005, or 2004. The Board finds the Property Tax Code is instructive in several pertinent parts. Section 1-60 of the Property Tax Code 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 (35 ILCS 200/1-60).

Section 10-110 of the Code provides in part:

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 this record is absent any evidence that the subject parcel is now, or has been used for any farming purpose, in accordance with relevant statutes cited above, notwithstanding the status of the appellant's comparables, which the board of review's witness testified should also be classified and assessed as recreational land. The appellant's evidence indicated the subject "is only a large wooded hill with no improvements." In compliance with an order by the Property Tax Appeal Board's Hearing Officer, the board of review submitted a list of 518 parcels that range in size from 0.1 acre to 300.49 acres to demonstrate that numerous parcels in the county are classified and assessed as recreational land like the subject. The Board finds the board of review also submitted two comparables located near the subject that are also classified as recreation land and, like the subject, are assessed at \$140 per acre. The subject's assessment reflects a market value of approximately \$420 per acre, well below the \$1,459 per acre purchase price paid by the appellant in August 2005.

The Board finds the appellant's reliance on Walsh is misplaced. In Walsh, the Pekin Township Assessor had not performed a quadrennial reassessment since 1957. For each new statutory quadrennial assessment period, the assessor merely applied annual equalization factors based upon the Illinois Department of Revenue's three-year sales ratio studies. In 1992, the subject property was removed from the mass appraisal system and was assessed according to its recent sale price. The court concluded the removal of one property or a group of properties from the aforementioned mass appraisal system was in violation of the constitutional requirements of both equity in the assessment methodology and equality in the tax burden. Walsh v. Property Tax Appeal Board, 181 Ill.2d 228 (1998). The Board finds the facts in the instant appeal are not analogous to the Walsh case in that the subject property was not singled out, removed, or treated differently from other properties in Fulton County, and were not taken out of the mass appraisal scheme. Indeed, the board of review's list of 518 parcels that were also classified and assessed as recreational land like the subject demonstrates the subject was not treated inequitably. The board of review acknowledged that the appellant's comparables should also have been classified and assessed as recreational land, as no farming activity had been, or was taking place on them.

Based on this analysis, the Property Tax Appeal Board finds the subject property has been properly classified and assessed by the board of review 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: November 25, 2009

Allen Castrovillari

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.