

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Tressa Powell  
DOCKET NO.: 06-02505.001-F-1  
PARCEL NO.: 04-10-100-005-000

The parties of record before the Property Tax Appeal Board are Tressa Powell, the appellant; and the Monroe County Board of Review.

The subject property consists of approximately a 6.26 acre parcel improved with a one-story single family dwelling that contains 2,136 square feet of living area. Features of the home include a full basement, central air conditioning, a fireplace and an attached two-car garage. The home was constructed in 2005. The property is located in Columbia, Monroe Township, Monroe County.

The appellant and her husband, Kenneth Powell, appeared before the Property Tax Appeal Board contending a portion of the subject property was entitled to a farmland assessment. The appellant provided testimony that the entire parcel was farmed in 2004. The appellant further indicated that in 2005 and 2006 approximately 5.12 acres were farmed while the remaining area was used as for the homesite. The appellant testified the acreage was cultivated by Edward Schaefer who planted the subject acreage alternatively in either soybeans or wheat. Ms. Powell testified a portion of the crop was given to her grandmother, who owned the land prior to the appellant constructing the home on the site.

The appellant also submitted two affidavits signed by Mr. Schaefer attesting to the fact that he has farmed the subject property for the past 20 years. In an affidavit dated June 6, 2007, Schaefer attested to the fact that he farmed 3.550 acres of the subject parcel. In an affidavit dated June 11, 2008, Schaefer stated that he farmed 5.14 acres of the subject parcel in 2004,2005, 2006 and 2007. At the hearing the appellant identified Appellant's Exhibit A as a plat of survey of the subject parcel. The plat of survey identified the house and associated yard as containing 1.14 acres and the farm area as containing 5.12 acres. The appellant explained that the second affidavit is more correct because it was based on the plat of survey dated June 9, 2008. Based on this evidence the appellant requested the subject property receive a farmland assessment.

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

FARM: \$ 240  
LAND: \$ 8,550  
IMPR.: \$ 71,820  
TOTAL: \$ 80,610

Subject only to the State multiplier as applicable.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$91,620 was disclosed. The board of review's representative asserted the subject property was not entitled to a farmland assessment based on the applicable guidelines issued by the Illinois Department of Revenue. According the board of review the guideline provides that "farm" as defined by the Property Tax Code does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. The board of review went on to assert that the guideline provides that, "The primary use of a parcel containing only conventional farm and residential uses is residential unless the conventionally farmed portion of the parcel meets both of the following requirements: 1) it is larger than the residential portion of the parcel; and 2) it is not less than 5 acres in area." The board of review argued that the subject parcel did not meet the criteria; therefore, it was not entitled to a farmland assessment.

At the hearing the board of review presented an aerial photo of the subject parcel, which was marked as Board of Review Exhibit A. The appellant marked the aerial photograph noting the location of the homesite and the farmland.

Subsequent to the hearing, at the request of the Property Tax Appeal Board, the Monroe County Board of Review submitted a farmland assessment for the subject 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 the appeal. The Board further finds a reduction in the assessment of the subject property is supported by the evidence in the record.

The appellant contends the subject property is entitled to a farmland assessment. Section 1-60 of the Property Tax Code (hereinafter Code) defines farm in part as:

Farm. 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. The dwellings and parcels of property on which farm dwellings are immediately situated shall be assessed as a part of the

farm. Improvements, other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm dwellings when such buildings contribute in whole or in part to the operation of the farm. For purposes of this Code, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. . .

35 ILCS 200/1-60. Furthermore, section 10-110 of the Code (35 ILCS 200/10-110) provides that in order to qualify for a farmland assessment, the property must be used as a farm for the two preceding years. It is the use of the property which determines whether it is to be assessed at an agricultural valuation. Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill.App.3d 872, 875, 448 N.E.2d 3 (3<sup>rd</sup> Dist. 1983). Property that is used solely for the growing and harvesting of crops is properly classified as farmland, 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, 803, 715 N.E.2d 274 (3<sup>rd</sup> Dist. 1999).

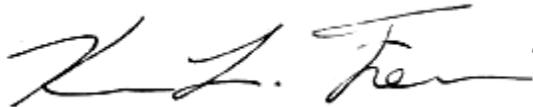
The record is clear that slightly in excess of five acres of the subject tract was planted and harvested in either soybeans or wheat in 2004, 2005 and 2006. The Property Tax Appeal Board further finds that Illinois Department of Revenue Guideline relied upon by the board of review is a guideline and advisory only, giving criteria to a board of review that may be considered in classifying property used for farming for assessment purposes. Nevertheless, even using the guidelines espoused by the board of review would result in the subject property qualifying for a farmland assessment under the facts of this appeal.

For these reasons the Property Tax Appeal Board finds the subject property qualifies for a farmland assessment and a reduction in the land assessment is accordingly justified.

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.



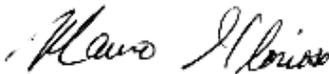
Chairman



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: July 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.