

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Timothy Robinson  
DOCKET NO.: 06-02517.001-F-1  
PARCEL NO.: 07-26-400-003

The parties of record before the Property Tax Appeal Board are Timothy Robinson, the appellant; and the Cumberland County Board of Review.

The subject property consists of a 76.28-acre parcel composed of a 5.59-acre homesite, 42.92 acres of cropland, 24.56 acres of other farmland and 3.21 acres of public road. The subject is located in Sumpter Township, Cumberland County.

The appellant appeared before the Property Tax Appeal Board claiming portions of the subject's 5.59 acre homesite should be classified and assessed as farmland as the basis of the appeal. In support of this argument, the appellant submitted a letter, and photographs of the subject and information on four comparable properties. The appellant did not contest the farmland, farm buildings or improvement assessments.

The appellant contends the subject's homesite is only one acre, that 0.2 acre is in alfalfa, 0.62 acre is in timber, 0.91 acre is a pond and approximately 2.87 acres have been planted in Christmas trees, deciduous and pine trees and should be considered a timber tract and classified as other farmland. The appellant contends the board of review erred in revising his assessment for the 2006 assessment year by classifying and assessing the entire 5.59 acres as residential land. He insists only one acre should be considered as the homesite and that the remaining portion of the 5.59 acres should be assessed as other farmland. The appellant testified he planted 250 deciduous trees in 1998 and 100 pine trees in 1994 on the disputed homesite portion of the subject and that he sold 40 white pine trees to Rooney Construction in 1996. He claimed the newly planted trees will be used for timber production when they are mature and should be considered a timber tract and assessed as other farmland. The appellant acknowledged the remaining Christmas trees have grown considerably and are too large now (20 feet tall) to be sold as Christmas trees, but that the newer trees he

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

PARCEL NO.	FARMLAND	HOMESITE	IMPROVEMENTS	FARM BLDGS.	TOTAL
07-26-400-003	\$702	\$5,361	\$40,049	\$3,110	\$49,222

Subject only to the State multiplier as applicable.

planted should be considered a timber area. He argued the pond was used to water the young deciduous and pine trees for the first few years after they were planted, that it contributes to the farm and should be classified as other farmland. The appellant acknowledged no forestry management plan certified by the Illinois Department of Natural Resources exists that covers the disputed acreage and that the area is smaller than 5 acres in size.

The appellant testified he began raising 60 chickens for personal use in 2007 and that the pond is also used to provide water for the chickens. The appellant also testified the homesite upon which the subject dwelling is situated should be one acre, as it was in 2005. The photographs of portions of the subject property that were submitted by the appellant depict grassy areas with young trees evident periodically. The appellant testified he mows these areas about three times per year.

The appellant further testified regarding his rebuttal evidence, wherein he asserted that his comparables had ponds that were not considered part of the homesite but were part of a farm. The appellant claimed his comparable 3, owned by the son of the supervisor of assessments, has a pond purportedly used to water blackberry bushes, but that no member of the board of review has witnessed the pond used in such manner. The appellant also claimed the pond on his comparable 4 should be considered part of the homesite. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject property's total assessment of \$49,222 was disclosed. In support of the subject's classification and assessment, the board of review submitted a letter, a copy of the County's policies regarding farm land assessment, a discussion of the appellant's comparables, photographs of the subject property, the subject's property record card, farmland cards, aerial maps, soil maps, and other data.

Regarding the revision of the subject's homesite from one acre to 5.59 acres, the board of review's letter referred to Bulletin 810 and advice from the Illinois Department of Revenue (IDOR), the latter of which instructs counties to "move away from the incorrect practice of assigning a set, arbitrary size for home sites." The board of review's letter states that "Home sites were reviewed and acreage adjusted using the County geographical information system, maps, pictures, and assessor information. Site visits were made to some properties. Ponds are included in the home site assessment on properties where the pond is in close proximity to the residence and are not being used for agricultural purposes. The supervisor of assessments made the changes on the 2006 assessments."

The board of review's further letter stated that a certified forestry management plan would have been acceptable evidence of acreage qualifying for farm land assessment. However, the appellant claimed he had acreage in a "Christmas tree farm". However, while he planted some pine trees, he submitted no evidence that trees were advertised for sale or sold, other than 40 trees which were sold in 1996 to Rooney Construction. The record is absent evidence of any sale of trees subsequent to 1996. Members of the board of review visited the subject on April 18, 2007. Photographs taken during that visit depict "grass which is mowed and the trees and shrubs on this acreage appear to be spaced to enhance the landscape of the residence." The board of review further contends that since no evidence of any timber on the subject property was sold as firewood, and that "using pond water for trees planted in a lawn is not an agricultural use."

The board of review's letter also discussed the appellant's comparables. Regarding comparable 1, the letter states the "pond is not located in close proximity to the house. It is located near farm buildings, therefore the pond is not included as part of the home site." Regarding the appellant's comparable 2, the board of review's letter states the pond is not in close proximity to the house "per Department of Revenue guidelines." In its Exhibit A, the board of review highlighted a page from the Illinois Real Property Appraisal Manual, which states "If a pond or borrow pit is used as part of the homesite, assess it with the homesite at 33 1/3 percent of market value." Regarding the appellant's comparable 3, the board of review's letter states the pond is used to water blackberry plants. The berries "are an agricultural crop - sold to a local winery." The board of review noted the owner of the blackberry plants "owns other farm land and this parcel is included as part of the total farm tract per Department of Revenue." Regarding the appellant's comparable 4, the board of review acknowledged "the pond on this parcel should be included with the home site. This was an over site (sic) and error made in reviewing parcels with home site."

In rebuttal, the appellant disputed the board of review's description of the subject as a well manicured lawn. The appellant's rebuttal evidence states "the grass is usually kept six to eight inches high and mowed every two to three, sometimes four weeks." The appellant also disputed the board of review's characterization regarding proximity of the subject's pond to the residence, as well as several of the comparables. Page 3 of the appellant's rebuttal includes the assertion "I am again stating I have never wanted to be in any forestry management plan of any kind." The appellant further asserted the Cumberland County policy regarding forestry management plans does not include a requirement that such a plan be approved by a certified forester. The appellant concludes by claiming his "four comparables were treated differently than my 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 parcel is not entitled to classification and assessment as farmland, and a reduction in the subject's assessment is not warranted.

The Board finds 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.

Section 10-110 of the Property Tax 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 the appellant did not submit an accepted forestry management plan to show the subject property is actively being operated in accordance with a forestry management program. Thus, the Board finds the appellant's argument that 2.87 acres of the subject property containing approximately 350 deciduous and pine trees constitutes a farm, is not persuasive. Notwithstanding the four comparables submitted by the appellant and the various disputes about proximity of a pond to a dwelling, the appellant has failed to demonstrate the pond is used for any farming purpose. As a result, the Board finds the subject parcel is not entitled to a farmland classification and assessment based on its use.

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. (Emphasis added) (35 ILCS 200/10-150).

Section 2 of the Illinois Forestry Development Act provides in part that:

(a) "Acceptable forestry management practices" means preparation of a forestry management plan, site preparation, brush control, purchase of planting stock, planting, weed and pest control, fire control, fencing, fire management practices, timber stand improvement, timber harvest and any other practices determined by the Department of Natural Resources to be essential to responsible timber management. (525 ILCS 15/2(a)).

(e) "Forest product" means timber which can be used for sawing or processing into lumber for building or structural purposes, for pulp paper, chemicals or fuel, for the manufacture of furniture, or for the manufacture of any article. (525 ILCS 15/2(e)).

(g) "Timber" means trees, standing or felled, and parts thereof, excluding Christmas trees and producers of firewood. (525 ILCS 15/2(g)).

Section 5 of the Illinois Forestry Development Act describes what is to be included in a forestry management plan. This section states in part:

A timber grower who desires to participate in the [forestry development] cost share program shall devise a forestry management plan. To be eligible to submit a proposed forestry development management plan, a timber grower must own or operate at least 5 contiguous acres of land in this State on which timber is produced . . . The proposed forestry management plan shall include a description of the land to be managed under the plan, a description of the types of timber to be grown, a projected harvest schedule, a description of forestry management practices to be applied to the land, an estimation of the cost of such practices, plans for afforestation, plans for regenerative harvest and reforestation, and a description of soil and water conservation goals and wildlife habitat enhancement which will be served by the implementation of the forestry management plan. (525 ILCS 15/5).

The Board finds the appellant submitted no evidence he had fulfilled any of the forestry management plan requirements of the Illinois Forestry Development Act described above. Indeed, the appellant's evidence stated "I am again stating I have never wanted to be in any forestry management plan of any kind." Further, the disputed area of the subject parcel does not meet the "5 contiguous acres" minimum requirement for a forestry management plan as detailed in the Illinois Forestry Development Act quoted above.

Regarding the home site area having been changed from one acre in 2005 to 5.59 acres in 2006, the Property Tax Appeal Board finds the board of review's evidence and testimony reveals the board relied on Bulletin 810, issued by the IDOR, to "move away from the incorrect practice of assigning a set, arbitrary size for home sites." The board of review's letter states "Home sites were reviewed and acreage adjusted using the County geographical information system, maps, pictures, and assessor information." The Board finds this indicates the board of review used a consistent policy to reassess home sites for the 2006 assessment year.

The Property Tax Appeal Board finds the appellant testified he began raising 60 chickens in 2007 and that he used the water from the pond for this purpose, as well as having watered the trees he planted several times a year when the trees were young, back in the 1990's. The Board finds no evidence or testimony in the record that the pond water was used for these purposes in 2004 and 2005, the two years prior to the subject's 2006 assessment year at issue in this appeal. Therefore, the Board finds the pond cannot be considered other farmland. The Board further finds the record contains no evidence or testimony that any trees on the disputed acreage were sold or harvested in 2004 or 2005. Indeed, the last time any trees from the subject parcel were sold appears to have been in 1996, ten years prior to the assessment date at issue in the instant appeal. The Board finds the 2.87 acre portion of the subject devoted to raising 350 pine and deciduous trees is below the minimum requirement for a tract to be considered for a forestry management plan, even if one was contemplated by the appellant, and thus, cannot be considered as other farmland. The Board further finds the appellant's rebuttal evidence disclosed he mows the area around the trees "every two to three, sometimes four weeks." Similarly, the Board finds none of the 0.62-acre portion of the subject that contains the Christmas trees, which are now too old to harvest, is being used for any farm purpose.

In conclusion, the Property Tax Appeal Board finds the appellant has failed to demonstrate that any portion of the 5.59-acre subject parcel homesite should be classified and assessed as farmland and the subject's classification and assessment as determined 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.



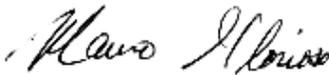
Chairman



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: June 19, 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.