

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Edwin W. Gebke
DOCKET NO.: 06-02683.001-F-1
PARCEL NO.: 13-12-09-200-012

The parties of record before the Property Tax Appeal Board are Edwin W. Gebke, the appellant; and the Clinton County Board of Review.

The subject property consists of a 41.87 acre parcel with a 7.34 acre homesite. The property is improved with a one-story brick dwelling with 1,612 square feet of living area that was constructed in 1983. The subject property also has three outbuildings that range in size from 800 to 3,200 square feet. The property also has a six acre lake that is considered part of the homesite for assessment purposes.

The appellant appeared before the Property Tax Appeal Board contesting the classification of the lake as part of the homesite. The appellant argued the lake should be classified and assessed as part of the farmland. The appellant testified the lake was constructed 30 years ago on worthless pasture area or waste ground that had ditches and brush. The appellant indicated the ground where the lake was constructed was worthless and had much soil erosion. The appellant explained that the neighbor's farmland drains into the pond and that periodically, every three to five years, he has to dredge the lake's "throat" of the soil that has silted into the lake. The appellant indicated that prior to 2006 the lake was classified as wasteland. He did testify that the lake is not used in connection with any farming operation but does serve to promote soil conservation. He also indicated in his written submission that the lake provides fire protection for the dwelling and buildings. The appellant submitted a copy of the 2006 assessment change notice disclosing the subject's land assessment was increased from \$3,605 to \$10,516. The land assessment was subsequently reduced to \$8,545 by the board of review. He requested the subject's land, specifically the pond area, be changed to its original classification and the land assessment be reduced to \$3,605.

(Continued on Next Page)

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

F/LAND: \$	765
LAND: \$	8,545
HOUSE: \$	39,440
O/BLDG: \$	2,757
TOTAL: \$	51,507

Subject only to the State multiplier as applicable.

The appellant submitted photographs of the subject lake, an aerial photograph of the property and photographs depicting the soil removed from the lake. At the hearing the appellant also argued a neighboring property had two ponds and more farm buildings but had a lower real estate tax. However, the appellant did not submit any documentation to support this assertion.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$51,507 was disclosed. The board of review indicated that it classified and assessed the lake as part of the homesite at 33 1/3% of market value in accordance with farmland assessment guidelines. It contends the lake is not used in connection with any farming operation that would allow the area to be assessed and classified as farmland. The board of review submitted photographs of the subject as well as an aerial photograph of the property depicting the lake as being incorporated or integrated as part of the homesite. The board of review indicated the lake was incorporated into the homesite and assessed at 33 1/3% of market value in accordance with Bulletin 810, Average Crop, Pasture, and Forestry Productivity Ratings for Illinois Soils published by the University of Illinois. The board of review indicated that all properties were reviewed through aerial maps taken in 2004 to identify actual homesites. The board of review submitted Exhibits 8 through 17, which were copies of aerial photographs of depicting homesite areas in gray and their associated property record cards indicating lakes were included as part of the homesite. The board of review also submitted a copy of page 95 of the Illinois Real Property Appraisal Manual, Rural Section, Farmland Implementation Guidelines, marked as Exhibit 19. The guidelines provided in part:

Ponds and borrow pits. Assess ponds and borrow pits used for agricultural purposes as contributory wasteland. 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.

Based on this record, the board of review requested confirmation of the subject's assessment.

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 subject's assessment is not warranted.

The appellant argued the assessment of the subject property's homesite is excessive due to the fact that the lake on the property had been included as part of the homesite. The appellant contends the lake should be classified and assessed as farmland. The Board finds the appellant's argument is without merit.

Section 1-60 of the Property Tax Code defines farm in part as:

Farm - When used in connection with valuing land . . . for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof. . . . (35 ILCS 200/1-60).

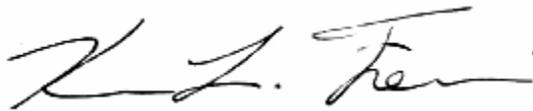
The testimony and evidence submitted by the appellant did not demonstrate or establish that the subject lake was used in connection with any farming operation. The photographs and aerial photographs or aerial maps depict the subject lake as being contiguous to and integrated with the homesite. Therefore, the Property Tax Appeal Board finds the board of review properly classified the lake as part of the homesite and assessed it as part of the homesite at 33 1/3% of market value as required by section 10-145 of the Property Tax Code. (35 ILCS 200/10-145). The Board finds the appellant did not otherwise challenge the correctness of the assessment as being inequitable or not reflective of market value. The board of review did submit evidence depicting similar homesites with incorporated ponds being assessed as part of the homesite at 33 1/3% of market value. The Board does find that the lake does provide for soil conservation by collecting silt in the "throat" that has to be removed every three to five years; however, this is not an agricultural use which allows for an agricultural classification and farmland assessment.

Based on this record the Board finds a reduction in the subject's assessment is not 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

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: October 10, 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.