

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Harold E. Miller
DOCKET NO.: 06-02758.001-F-1
PARCEL NO.: 10-0-00081-000

The parties of record before the Property Tax Appeal Board are Harold E. Miller, the appellant, by attorney Thomas J. Logue, Mattoon, Illinois; and the Coles County Board of Review.

The subject property consists of an approximately 11.87-acre tract of land primarily improved with a mobile home and a two car garage. The subject property is located in Paradise Township, Coles County, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming the Coles County Board of Review improperly classified and assessed the subject parcel as rural residential land. The appellant contends eight acres of the subject property are entitled to a farmland assessment. In support of this claim, the appellant submitted photographs and aerial photographs depicting the subject property and an affidavit by Jeffrey Bosewell.

The appellant testified approximately eight acres of the subject property have been dedicated for growing and harvesting of grass hay since he purchased the property in 2001 for \$35,000. The appellant testified approximately three acres are dedicated for a homesite and roadway. The appellant testified he personally constructed a two-car garage on the subject property "for probably \$5,000", excluding the value of his labor.

The affidavit of Jeffrey Bosewell states at the end of the grass hay year in the years 2005 and 2006, Boswell purchased and cut grass hay off approximately eight acres of land owned by Harold E. Miller for \$50.00. Based on this evidence, the appellant requested eight acres of the subject parcel be reclassified and assessed as farmland.

Under questioning by the Hearing Officer, Miller twice testified for the Board's clarification that the grass hay crop was not cut or harvested during assessment year 2004.

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

LAND:	\$	13,136
IMPR.:	\$	2,734
TOTAL:	\$	15,870

Subject only to the State multiplier as applicable.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$15,870 was disclosed. In support of the subject's assessment, the board of review submitted a letter addressing the appeal and testimony of Jean Tipsword, the Chief County Assessment Officer and Clerk of the Coles County Board of Review. The subject's property record card was also submitted.

Tipsword testified the subject property was revalued due to a mandate issued by the Illinois Department of Revenue to implement Bulletin 810, new farmland classification and assessment procedures. One of the new mandates was to ascertain the primary use of a given property. The board of review next presented a primary use guideline regarding farmland assessments contained in the 2002 Illinois Real Property Appraisal Manual, which cites 1-60 of the Property Tax Code in part:

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)

The board of review contends the primary use of the subject parcel is rural residential. This finding was based in part because the appellant did not own enough property to be a true farm situation. Thus, the board of review argued the farm definition prohibits farmed portions of a primarily residential parcel from receiving a farmland assessment.

The board of review next explained the value method of assessing rural acreage in the subject's area. The first acre is valued at \$10,000 with the remaining acreage valued at \$2,500 per acre. Tipsword testified the per acre values were based upon open market transactions from the subject's township and area. Based on this evidence, the board of review requested confirmation of the subject property's rural residential land classification and assessment.

Under cross-examination, Tipsword testified the mandate of Bulletin 810 was issued by the Illinois Department of Revenue. She was not aware if Bulletin 810 was based on a statute, but opined the bulletin was issued to provide uniformity of farmland assessment throughout the State of Illinois. Tipsword testified the subject will receive a preferential land assessment for the 2008 assessment year under a land conservation stewardship program. With respect to the definition of primary use, Tipsword testified one factor considered is whether a property is improved with a residence. With properties that are improved with a residence, Tipsword testified Coles County Assessment Officials use their own guidelines and judgment to determine whether the primary use of a particular property is residential or agricultural. Factors considered include whether the property owner is an actual farmer; any land less than 15 to 20 acres on

an individual basis that are not contiguous to a larger farm operation is not considered a farm, but if the owner has other non-contiguous farmland, the property would receive a farmland assessment; and whether the property was used for a primarily recreational use. Tipsword acknowledged these guidelines are not contained in the Property Tax Code nor enumerated in Bulletin 810.

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 subject parcel is not entitled to a farmland classification and assessment.

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).

The Property Tax Appeal Board finds the appellant submitted credible documentation and testimony showing approximately 8 acres of the subject parcel has been used for agricultural purposes for the years 2005 and 2006, in growing and harvesting a grass hay crop. However, the Board finds the record is unrefuted that the subject was not cropped or harvested during the 2004 assessment year. In order to qualify for an agriculture assessment, the land must be farmed at least two years preceding the date of assessment. 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.

Here, the evidence and testimony offered by the appellant clearly provide that the subject property was not farmed during the 2004 assessment year. Therefore, the Property Tax Appeal Board finds the subject parcel does not meet the two year use requirement as detailed in Section 10-110 of the Property Tax Code. As a result, the Board finds the subject parcel is not entitled to a farmland classification and assessment.

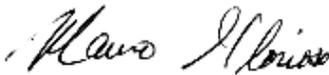
This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



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: August 24, 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.