FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Estate of Harold Jacobs
DOCKET NO.: 07-00565.001-R-2
PARCEL NO.: 23-15-26-300-031-0000

The parties of record before the Property Tax Appeal Board are Estate of Harold Jacobs, the appellant, by attorney Barry Ehlers in Northbrook, the Will County Board of Review; Crete Township and the Crete Township Road Fund, intervenors, by attorney Bruce M. Konzelman of Bonds, Zumstein & Konzelman in Joliet.

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

LAND:	$8,710
IMPR.:	$0
TOTAL:	$8,710

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of an unimproved, 17.42-acre parcel that is heavily wooded. The subject is located in Crete Township, Will County.

Through its attorney, the appellant appeared before the Property Tax Appeal Board claiming improper classification as the basis of the appeal. The appellant argued the subject parcel is entitled to a farmland classification and assessment. In support of this argument, the appellant submitted a letter detailing various points. The appellant claimed the subject was part of a larger farm know as the Jacobs Crete Farm for many years and that in its present unspoiled state, "provides esthetic beauty and other intangibles to the general public, property owner and neighbors". The appellant acknowledged 14 other parcels totaling approximately 50 acres are heavily wooded like the subject and that firewood and logs are harvested by the owner's brother, who, in exchange for the firewood, maintains a dam for a pond on the

subject. The appellant cited Section 10-125 of the Property Tax Code to justify that the subject should be assessed as wasteland.

> Sec. 10-125. Assessment level by type of farmland. Cropland, permanent pasture and other farmland shall be defined according to U.S. Census Bureau definitions in use during that assessment year and assessed in the following way:
>
> (a)Cropland shall be assessed in accordance with the equalized assessed value of its soil productivity index as certified by the Department (of Revenue) and shall be debased to take into account factors including, but not limited to, slope, drainage, ponding, flooding, and field size and shape.
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> (b)Permanent pasture shall be assessed at 1/3 of its debased productivity index equalized assessed value as cropland.
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> (c)Other farmland shall be assessed at 1/6 of its debased productivity index equalized assessed value as cropland.
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> (d)Wasteland shall be assessed on its contributory value to the farmland parcel.
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> In no case shall the equalized assessed value of permanent pasture be below 1/3, nor the equalized assessed value of other farmland, except wasteland, be below 1/6, of the equalized assessed value per acre of cropland of the lowest productivity index certified under Section 10-115.

The appellant's evidence also indicated that unauthorized hunting occurs on the subject and that no forestry management plan has been sought for the subject. Based on this evidence the appellant requested the subject's assessment be reduced to $331.

During the hearing, the appellant agreed no cattle, sheep, horses or other animals are bred or fed on the subject, nor are they raised on the other 14 parcels, which together comprised part of the Jacobs Crete Farm. However, the appellant opined many deer populate the subject. The appellant also agreed the firewood taken off the subject annually by the owner's brother amounts to 7 to 12 cords of wood, but the firewood is gathered from fallen trees. Under questioning by the Hearing Officer, the appellant acknowledged no traditional farm row crops, hay, or alfalfa are planted or harvested on the subject or the other 14 parcels owned by the appellant. However, the appellant argued the natural vegetation on the subject and other parcels is allowed to continue and that the harvesting of firewood constitutes farming in a general sense. The appellant also opined the subject meets the definition of wasteland. Finally, the appellant acknowledged

the subject received an open space assessment for 2007, which reduced the subject's assessment from $131,653 to $8,710.

Under cross examination, the intervenor submitted an aerial view of the subject parcel and its environs, which the Hearing Officer allowed into the record, and asked the appellant if the area bordered in white on the photo represented the subject parcel. The appellant agreed that it did and the photo depicts dense, mature trees.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $131,653 was disclosed. The board of review also submitted a letter prepared by the Chief County Assessment Officer that states the subject is not being cropped and harvested, but is receiving an open space assessment for 2007, as well as a letter from the township assessor. The assessor's letter reiterated the subject's assessment change from farmland for many years, to residential land pursuant to Bulletin 810, which changed farmland assessment guidelines, to an open space assessment.

During the hearing, the board of review's representative deferred to the intervenor, who called Crete Township Assessor Sandra Drolet as a witness. The witness testified the subject's assessment as open space was warranted and the board of review's representative agreed. Drolet testified when she became aware of the appellant's request for the subject to receive the open space assessment, she contacted the Will County farmland specialist to obtain information on open space assessments in the county. The witness testified she did no independent research into open space valuation.

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 appellant claimed the subject was entitled to a farmland assessment because it had been assessed as farmland for many years when it was part of an ongoing farming operation and prior to having been re-classified and assessed in 2006 pursuant to Bulletin 810, which required all farmland assessments in Illinois to be reevaluated. The subject was granted an open space assessment for 2007 upon application by the appellant, pursuant to Section 10-147 of the Property Tax Code which states:

> Former farm; open space. Beginning with the 1992 assessment year, the equalized assessed value of any tract of real property that has not been used as a farm for 20 or more consecutive years shall not be determined under Sections 10-110 through 10-140. If no other use is established, the tract shall be considered to be used for open space purposes and its valuation shall be determined under Sections 10-155 through 10-165 (35 ILCS 200/10-147).

However, the appellant contends the subject should further be reclassified and assessed as farmland. The Board finds the appellant acknowledged no crops have been grown on the subject parcel, which is heavily wooded, nor have any animals been raised or bred. The appellant argued that 7 to 12 cords of firewood being taken from the subject and the presence of numerous deer are factors that meet the statutory requirements for a property to be classified and assessed as farmland in the subcategory of wasteland. The Property Tax Appeal Board finds this argument is without merit. The Board finds the courts have found that the actual use of land is relevant. Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill.App.3d at 872,(3rd Dist.1983). 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 Board further finds 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 disclosed that no crops were grown and harvested on any of the 15 parcels owned by the appellant, including the subject parcel, during the assessment year under appeal and the two prior years, nor were any animals kept, raised, or fed within the clear meaning of Section 1-60 of the Code. Therefore the Board finds this record devoid of any evidence that supports a farmland classification and assessment of the subject parcel. However, the record further disclosed that the subject was granted a 2007 open space assessment of $8,710 subsequent to a request for such classification and assessment by the appellant. The Board finds this record includes testimony by the board of review's representative and the township assessor that this assessment was determined to be appropriate. Therefore, the Property Tax Appeal Board finds the subject's 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: October 22, 2010

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.