



**FINAL ADMINISTRATIVE DECISION  
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: William R. Kautz  
DOCKET NO.: 07-03359.001-C-2  
PARCEL NO.: 12-12-200-022

The parties of record before the Property Tax Appeal Board are William R. Kautz, the appellant, and the Kane County Board of Review.

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

**F/LAND:       \$386**  
**LAND:         \$78,551**  
**IMPR.:        \$24,375**  
**TOTAL:        \$103,312**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a 5.67 acre track improved with various buildings. The property is located in Geneva, Geneva Township, Kane County.

The appellant and his wife, Pamela Kautz, appeared before the Property Tax Appeal Board contesting the land assessment. Mr. Kautz testified there is a 750 square foot apartment he lives in that is located over a bakery he has on the site. The property also has a shed in which he stores a tractor and tillage equipment used on the parcel and other buildings. The appellant identified Appellant's Exhibit #1 as an aerial photo depicting the subject property in the upper left hand corner of the photograph.

The appellant testified that the way the property is being currently used is to grow produce for the food bank. He testified he purchased the subject property from his parents in 1974 or 1975 and it has been a vegetable garden to this day. He further testified he has lived on the site since 1974 or 1975. The appellant identified Appellant's Exhibit #2 as another aerial photograph of the subject property in which he further identified

the tractor shed, a shop area that he used at one time for scooters and areas used for hay production. His argument was that the area marked "hay field" should receive some type of farmland assessment. Mr. Kautz testified the area used for hay or the garden is approximately 4 to 4½ acres.

The witness further testified that the goods produced in the bakery are being donated to the food bank. The bakery has been on the site since 1980 or 1981 but nothing has been coming out of it lately.

The appellant testified that in 2005 there were gardens on the subject site and the produce grown was being given away. In 2006 Mr. Kautz indicated they had a full line of vegetables including tomatoes, pumpkins, squash, peppers, green beans and onions. These vegetables were planted and harvested on the subject property and given to the food bank, given to friends and the appellant also consumed some of the vegetables. He asserted the property was used the same way in 2005 as it was in 2006. Mr. Kautz also testified that in 2007 the subject property was used to grow vegetables and raspberries. The produce would be given to friends, neighbors and the food bank in St. Charles. The witness reiterated that in 2005, 2006 and 2007 they primarily gave the fruit and vegetables grown on the site away and consumed a small amount. The appellant identified Appellant's Exhibit #3 as an aerial photo of the subject property depicting tilled raspberry beds that were present in 2007 or 2008. The appellant testified they planted 3,500 raspberry plant roots purchased from Michigan and harvested approximately 3½ million raspberries.

Mr. Kautz identified Appellant's Exhibits #4, #5 and #6 as photographs of the subject property depicting the gardens that existed in 2005, 2006 and 2007.

The appellant provided a copy of a Notice of Revised Assessment, indicating the property had a total assessment of \$339,556. Based on this evidence and testimony the appellant requested the property receive an agricultural assessment. The appellant requested the subject's assessment be reduced to \$80,140, which was based in part on the 340% reduction in the subject's assessment in 2009.

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property. By letter dated July 23, 2010, the Property Tax Appeal Board informed the board of review it was found to be in default. Following the hearing the board of review submitted an agricultural assessment of the subject property consistent with the appellant's testimony as requested by the Property Tax Appeal Board.

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 the evidence and testimony in the record supports a reduction in subject's assessment.

The appellant contends the subject's land assessment should be reduced due to its agricultural use. The appellant's standard of proof in this appeal is a preponderance of the evidence.<sup>1</sup>

Section 1-60 of the Property Tax Code provides in part:

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** (emphasis added) . . . 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. Additionally, section 10-110 of the Property Tax Code provides that in order to qualify for an agricultural assessment the property has to be used the two preceding years as a farm. (35 ILCS 200/10-110).

The unrefuted testimony in this appeal was provided by the appellant, Mr. Kautz, that approximately four acres of the subject property have been used similarly in 2005, 2006 and 2007 to produce fruits and vegetables that were either consumed by the appellant or given to the food bank, friends and neighbors. The exhibits submitted by the appellant further corroborate the appellant's testimony with respect to the use of the property during the years in question.

The board of review did not submit any evidence in support of its assessment of the subject property or to refute the appellant's argument as required by Section 1910.40(a) of the rules of the Property Tax Appeal Board and is found to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code 1910.40(a) & 1910.69(a)).

Based on this record the Board finds the subject property is entitled to a farmland classification and assessment. The Board finds that following the hearing the board of review did submit a

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<sup>1</sup> See section 10-15 of the Illinois Administrative Procedure Act. 5 ILCS 100/10-15).

revised assessment calculation based on a farmland assessment at the Property Tax Appeal Board's request and consistent with the appellant's testimony and exhibits regarding the subject's land use. The Board finds a reduction in the subject's assessment in accordance with the calculations submitted by the Kane County Board of Review is appropriate.<sup>2</sup>

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<sup>2</sup> The Board finds that in reviewing the assessment calculation provided by the Kane County Board of Review, the subject property received a farmland classification and assessment in the 2009, 2010 and 2011 tax years.

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.

*Donald R. Cuit*

Chairman

*[Signature]*

Member

*[Signature]*

Member

*[Signature]*

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: May 24, 2013

*Allen Castrovillari*

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.