



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

APPELLANT: Holly Kohley
DOCKET NO.: 07-04332.001-R-1
PARCEL NO.: 12-23-300-005

The parties of record before the Property Tax Appeal Board are Holly Kohley, the appellant, and the McHenry County Board of Review.

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

**LAND: \$8,228
IMPR: \$0
TOTAL: \$8,228**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject vacant parcel of .50-acres or 21,780 square feet of land area is located on Franklinville Road, Woodstock, Seneca Township, McHenry County. The subject parcel is located adjacent and to the south of a ½-acre parcel on which the appellant has a residence which is not the subject of this appeal.¹

The appellant appeared before the Property Tax Appeal Board contending unequal treatment in the assessment process with regard to the subject vacant ½-acre parcel. Appellant contended that the property zoned A-1 was a non-conforming parcel in the county since A-1 zoning requires a minimum of 40-acres; appellant sought to obtain R-1 zoning for the parcel, but her request was denied by the Zoning Board of Appeals. Without the ability to re-zone the parcel, appellant contends that the parcel is unbuildable.

¹ The appellant was able to get variances and construct a residence on the northern ½-acre parcel because a subsequent zoning law change did not limit the parcel's use (grandfathered in).

The evidence establishes that the appellant's dwelling is located on a parcel which previously had a church on it. The church had obtained the subject parcel for additional space. After the church burned down, appellant obtained both parcels and constructed her residence on the northern parcel only. As of the date of hearing, appellant has chosen not to seek to combine the parcels for assessment and/or zoning purposes.

In support of the inequity argument, the appellant submitted a grid analysis with information on five comparable properties described as being located from 2 to 7.5-miles from the subject property. The comparables range in lot size from 0.82 to 5.39-acres or from 42,137 to 234,788.4 square feet of land area. For each of the comparables, appellant included various documents reflecting that each of the parcels is associated with a larger adjoining parcel that in at least two instances has been classified as 'farmland' or 'other farmland.' The parcels were reported to have land assessments ranging from \$1 to \$96. The subject has a land assessment of \$8,228. Based on this evidence, the appellant requested a reduction in the subject's land assessment to \$50 to reflect an assessed value similar to the comparables presented.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final land assessment of \$8,228 was disclosed. In support of the subject's land assessment, the board of review submitted a grid analysis with fifteen suggested comparables.

The comparable parcels ranged in size from 5 to 13-acres of land. Twelve of the comparables were described as consisting of a large portion of farmland acreage and a small portion of non-farmland; comparables #13, #14 and #15 were described as "mostly wet land." The comparables were reported to have total land assessments ranging from \$8,261 to \$22,392; there was no data breaking down the farmland and non-farmland assessments for these properties for comparison purposes.

In response to the appellant's comparables, the board of review representative contended that each of the appellant's comparables was a small parcel associated with a much larger farmland parcel unlike the subject ½-acre parcel that is associated with a residential dwelling, not farming activity.

With regard to the subject property, the board of review representative asserted that the parcel had a land assessment identical to that of the neighboring improved parcel that included the appellant's dwelling. Based on this evidence, the board of review requested confirmation of the subject's land assessment in that the assessment was equitable to the similarly sized adjoining parcel.

After hearing the testimony and considering the record, the Property Tax Appeal Board finds that it has jurisdiction over the

parties and the subject matter of this appeal. The Board further finds a reduction in the subject's land assessment is not warranted.

The Board finds the issue in this appeal is whether or not the subject ½-acre parcel is correctly classified and assessed. Section 10-110 of the Property Tax Code (35 ILCS 200/10-110) provides that:

Farmland. The equalized assessed value of a farm, as defined in Section 1-60 and if used as a farm for the 2 preceding years, except tracts subject to assessment under Section 10-145, shall be determined as described in Sections 10-115 through 10-140.

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.

A portion of a parcel may be classified as farmland for tax purposes, provided those portions of property so classified are used solely for the growing and harvesting of crops. Property that is used solely for agricultural purposes is properly classified as farmland for tax purposes, even if that farmland is part of a parcel that has other uses. Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill.App.3d 799 (3rd Dist. 1999). Santa Fe Land Improvement Co., 113 Ill.App.3d at 875, 69 Ill.Dec.708, 448 N.E. 2d at 6. In order to qualify for an agriculture assessment, the parcel must be farmed at least two years preceding the date of assessment (35 ILCS 200/10-110).

In this appeal, appellant presented small comparable parcels that she contended looked like the subject vacant parcel and which were receiving farmland assessments. Based on that evidence, appellant contended that the subject property should get the same treatment and be assessed as farmland. There was no credible evidence presented by the appellant in this matter that the subject property was used for agricultural purposes and was entitled to a farmland assessment classification.

The Property Tax Appeal Board finds that the unrefuted record evidence was that appellant's comparables were small portions of parcels that were associated with larger farmland parcels and thus were being afforded farmland classifications. Ultimately,

whether the appellant's comparables were or were not properly entitled to a farmland assessment is not before the Property Tax Appeal Board in this proceeding. The burden is upon the appellant to establish before the Property Tax Appeal Board that the subject parcel in use meets the definition of "farm" as set forth in the Property Tax Code. There was no evidence presented to establish that the subject parcel was being farmed within the meaning of the Property Tax Code. Therefore, the Board finds the appellant has not established that the subject parcel qualifies for a farmland assessment on this record.

The appellant contends unequal treatment in the subject's land assessment as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the data and having determined that each of the appellant's comparables had a farmland assessment which the subject property does not qualify for, the Board finds the appellant has not met this burden and no change in the subject's land assessment is warranted on this record.

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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: April 23, 2010

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.