



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

APPELLANT: Jerry and Tim Clay  
DOCKET NO.: 07-04583.001-F-1  
PARCEL NO.: 14-09-25-200-003

The parties of record before the Property Tax Appeal Board are Jerry and Tim Clay, the appellants; and the Stephenson 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 Stephenson County Board of Review is warranted. The correct assessed valuation of the property is:

<b>F/Land:</b>	\$8,399
<b>Homesite:</b>	\$4,011
<b>Residence:</b>	\$12,984
<b>Outbuildings:</b>	\$6,243
<b>TOTAL:</b>	\$31,637

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a 79.52-acre parcel of farmland. The 79.52-acre tract of land is classified as follows: 70.96-acres as cropland, .53-acres as homesite, 7.41-acres as other farmland, and .62-acres as a right-of-way. The property is located in Dakota Township, Stephenson County.

A consolidated hearing was held on seven farm appeals challenging the assessment on ten parcels submitted by the appellants identified as Property Tax Appeal Board Docket Nos. 07-04573-F-1, 07-04576-F-1, 07-04578-F-1, 07-04579-F-1, 07-04583-F-1, 07-04585-F-1 and 07-04586-F-1. Individual decisions will be rendered for each appeal based on the applicable evidence presented.

The appellants appeared before the Property Tax Appeal Board claiming incorrect farmland assessment, classification and productivity as one basis of the appeal. The other basis of the

appeal involves a dispute over the width and corresponding acreage of county road right-of-way that border the subject parcel. The appellants are not disputing the assessments for the homesite, improvement or outbuildings.

In support of the soil identification contention, the appellants submitted a letter, maps, and the 2005 Farmland Valuation Card to support their contention that the board of review had improperly changed the classification of several soil types on the subject parcels. The appellants contend soils do not change over time and that the previous classification of soils on the subject parcels as determined in past years must be continued. The Board also takes notice that the following evidence was supplied for the other farm appeals connected with this consolidated hearing. Photographs, a copy of two pages from a prior decision issued August 7, 1990 by the Property Tax Appeal Board (no docket number provided) and a 1987 report by Soiltech, Inc., which chronicles soil sampling in numerous spots on the subject parcels by Ernest Bartoli. The report concludes "soils encountered in the 140 acre parcel are predominantly Ogle and Hitt series with minor occurrences of Ashdale, Dodgeville, and Tama." Bartoli was not present at the hearing to provide testimony or be cross-examined in support of the conclusions made in his report. The appellants further claim that in 1991 the United States Department of Agriculture (USDA) came to the same conclusion as Bartoli regarding soils in the subject's area, based on research by Steve Zwicker, who also was not present to provide testimony or be cross-examined. Based on this evidence the appellants requested the subject's farmland assessment be reduced to \$7,524

In support of their claim regarding the road right-of-way issue, the appellants testified they personally measured the distance between fence lines and across the existing roads impacting the subject parcels. The appellants argued the right-of-way for Fawver Road is 49.5 feet wide, based on their measurements. The appellants submitted no independent evidentiary support of their contention, but claimed existing fence and utility lines established the right-of-way boundaries.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment \$31,147 was disclosed. In support of the subject's assessment the board of review submitted letters prepared by the Chief County Assessment Officer, soil maps, aerial photographs, pages detailing the farmland assessment procedures issued by the Illinois Department of Revenue (IDOR) using Bulletin 810, farmland valuation cards, copies of correspondence with the Natural Resources Conservation Service (NRCS) of the USDA and descriptions of the soil characteristics for soils found in Stephenson County and copies of legal description for road rights-of-way.

During the hearing, the board of review called Mike Munda, Stephenson County Geographic Information System (GIS) technician, as a witness. Munda testified 2006 and 2007 farmland assessments in the county were formulated in compliance with the directives

of Bulletin 810, issued by the IDOR, using soil surveys developed by the NRCS and incorporating flood debasements and other pertinent factors. In the course of this project, 6,200 maps were sent to landowners to determine accuracy. Munda testified the same process was used to assess all farmland in the county. In response to the appellants' road right-of-way contention, the board of review submitted a copy of an 1850 document that describes Fawver Road as a "public highway" four rods wide. A rod is 16.5 feet and therefore, the road right-of-way is 66 feet.

The board of review then called Steve Higgins, a soil scientist with the NRCS, who has 35-40 years experience mapping and describing soils. Higgins testified the controversy about soil types arose because the NRCS decided in the early 1990's to redefine the phases of pertinent soils in Stephenson County. For example, Tama moderately wet soil was renamed Osco. The reason is that Tama is normally a well drained soil, whereas Osco is a moderately wet soil prevalent in many counties in that region of the state. Higgins further testified that after extensive study by the USDA, no representative series of Tama moderately wet soil could be found in Illinois; thus, the Osco renaming took place. The witness opined Zwicker and Bartoli had done their work prior to the reclassification of Tama moderately wet soil to Osco. Higgins also found Bartoli's soil descriptions inadequate and testified that water tables on land must be measured over time and not just in an isolated occurrence. Based on this evidence and testimony, the board of review requested the subject's assessments be confirmed.

After hearing the testimony and considering the evidence the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessments.

The Board finds the appellants submitted evidence of classification in prior years of several soil types on the subject parcels. The appellants argued that since soils do not change, the board of review erred in failing to carry forward the prior years' assessments to 2007. The appellants had no witnesses to provide testimony or be cross-examined regarding the soil surveys and analysis performed by Bartoli and Zwicker. The Property Tax Appeal Board has given the appellants' arguments related to the soil types and productivity of the subject property little merit. The Board finds that in the absence of the appellants' witnesses at the hearing to be cross-examined as to the methodology and conclusions in the report Bartoli's submission can be given little weight. Without supporting testimony, the Bartoli document is tantamount to hearsay. Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other competent evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2<sup>nd</sup> Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1<sup>st</sup> Dist. 1971). In the absence of

Bartoli being available and subject to cross-examination regarding methods used and conclusion(s) drawn, the Board finds that the weight and credibility of the evidence is significantly diminished and cannot be deemed conclusive.

With respect to the road right-of-way contention, the appellants supplied no evidentiary support for their oral testimony that they measured the right-of-way from fence line to fence line across the road, or that their measurement precluded any errors in placement of fences or utility lines as a result of encroachment on the road right-of-way.

The board of review submitted extensive documentation detailing the procedures promulgated by the IDOR and used to assess all farmland in Stephenson County according to guidelines in Bulletin 810 for 2006 and 2007. Furthermore, the board of review provided testimony by Steve Higgins, a soil scientist with extensive experience, who elucidated the revised soil survey process undertaken by the NCRS in the early 2000's. As detailed above, it was found that no examples exist in northwestern Illinois of Tama moderately wet soil, so Tama was changed to Osco, a moderately wet soil commonly found in the area. Other changes to soil types were based on this revised survey. The Board finds the Stephenson County Board of Review properly followed the procedures of the farmland assessment law. The law requires farmland to be assessed in accordance with agricultural assessment provisions detailed in the Property Tax Code (35 ILCS 200/10-110 et seq.) and according to its productivity indices set forth in guidelines promulgated by the Illinois Department of Revenue, which in this appeal is governed by Bulletin 810.

Section 10-125(a) of the Property Tax Code (35 ILCS 200/10-125(a)) delineates the manner in which cropland is to be defined and assessed. This section provides in part: Cropland shall be assessed in accordance with the equalized assessed value of its soil productivity index as certified by the Department [of Revenue]. (35 ILCS 200/10-125(a)).

The Board also finds the board of review provided documentation and credible testimony that supports its classification and assessment of the subject parcels and of its claim that the right-of-way is 66 feet wide.

Based on the evidence and testimony in the record, the preponderance of the evidence supports the assessed valuation and procedures applied by the board of review. Therefore, the Board finds the soil classifications and assessments of the subject parcels, as well as the right-of-way determinations are 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.

*Donald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

Member

*J. R.*

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 23, 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.