



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

APPELLANT: Thomas & Jana Olsen
DOCKET NO.: 07-04982.001-F-1
PARCEL NO.: 06-15-04-100-014

The parties of record before the Property Tax Appeal Board are Thomas & Jana Olsen, the appellants, by attorney David D. Shockey, of Shockey & Cox, LLC of Freeport; 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:

F/Land:	\$130
Homesite:	\$15,210
Residence:	\$91,579
Outbuildings:	\$0
TOTAL:	\$106,919

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 19.66-acre parcel improved with a two-story frame dwelling with attached garage and an older pole frame building. The subject is located in Rock Run Township in unincorporated Stephenson County.

With their attorney, the appellants appeared before the Property Tax Appeal Board claiming a portion of the subject parcel was improperly classified and assessed as the basis of the appeal. The appellants did not contest the subject's improvement or farmland assessments, but claimed a 5-6 acre pond on the parcel, classified and assessed as residential land for 2007, should be classified and assessed as farmland. The appellants argued the pond on the subject parcel had been assessed as farmland in years prior to 2007. The appellants testified they dug the pond

because it is in a very wet area of the subject parcel that is fed by four springs and drain tile from a previous farm drains to the pond. The appellants agreed they had installed rip rap around the pond to deter animals. When questioned by the Hearing Officer as to whether the pond contributes to operation of a farm, the appellants responded it did not make any such a contribution and was not part of a farm on January 1, 2007. Nevertheless, the appellants contend in their petition that since the pond area remains wet for much of the year and cannot sustain crops, "it is difficult to understand how the property area in question can be deemed anything but agricultural." The appellants also testified they had prepared a forest stewardship plan for 11.7 acres of the subject parcel on which they would plant numerous trees. Their plan was approved on July 11, 2007 and will be effective for the 2008 assessment year. The appellants contend ponds on other parcels in the area are not considered residential land like the subject pond, but instead receive farmland classification and assessment. Based on this evidence, the appellants requested the subject's assessment be revised to include 2.00 acres homesite, and the balance including the pond and 11.7 acres of tree farm as part of a total of 17.66 acres of farmland.

The board of review submitted its Board of Review Notes on Appeal wherein the subject's total assessment of \$106,919 was disclosed. In support of the subject's assessment, the board of review submitted the subject's property record card, a land use map, a farmland valuation card, a copy of the appellants' Forest Stewardship Plan, photographs of the subject and copies of pertinent statutes regarding farmland, non-farmland and forestry management.

The board of review's representative testified that, following provisions of Bulletin 810 regarding changes in farmland assessment, the board of review acknowledged a change in the subject's farmland assessment was warranted. This change was made for a creek that runs through the subject parcel. The board of review also submitted Publication 129, issued by the Illinois Department of Revenue. This document describes the four types of farmland based on Section 10-125 of the Property Tax Code. Farmland must fall into the categories of cropland, permanent pasture, other farmland (including woodland pasture and farm building lots) and wasteland, which is the result of soil limitations, not a management decision. The board of review's representative testified the Stephenson County Board of Review has a policy of implementing forest stewardship plans in the year such plans are written, rather than the assessment year following, as required by statute. The representative asserted that the subject pond is near the dwelling, has riprap, a dock and a deck and appears designed for recreational use. Were the pond to be out in a farm field, it might be considered part of a farm. Publication 129 instructs assessors to "Assess ponds and borrow pits used for agricultural purposes as contributory

wasteland. If a pond or borrow pit is used as part of the homesite, assess it with the homesite at 33 1/3 percent of market value." Based on these factors the board of review asserts the pond has no agricultural use and must therefore be considered as residential land and assessed as part of the subject's homesite.

In rebuttal, the appellants submitted information on four parcels that included land broken off from larger farms where ponds are not used for livestock or farming purposes, but are assessed as farmland.

The Board finds that Section 1910.66(c) of the Official Rules of the Property Tax Appeal Board states in part:

Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in the guise of rebuttal evidence. 86 Ill. Adm. Code 1910.66(c).

Therefore, the Board finds the additional comparables are inadmissible and will not be considered.

In response to the appellants' additional information submitted as rebuttal, the board of review submitted information on three comparables to demonstrate consistent assessment of homesites on multi-acre parcels.

After reviewing the record 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 Property Tax Appeal Board further finds that a reduction in the subject's assessment is not warranted.

The appellants argued the subject's pond should be classified and assessed as farmland. They contend the area in which the pond was dug is fed by four springs, was constantly very wet and could not support crops and was unusable for any purpose. The board of review's representative testified the pond is near the subject dwelling, has riprap around its perimeter, has a dock and a deck and appears to be for recreational use. The appellants did not dispute this testimony. When questioned by the Hearing Officer as to whether the pond contributes to operation of a farm, the appellants responded it did not make any such a contribution and was not part of a farm operation. The board of review relied on Publication 129, issued by the Illinois Department of Revenue, which instructs assessors to assess ponds that are not contributing to farming operations as part of the homesite. Based on this analysis, the Property Tax Appeal Board finds that as of the subject's January 1, 2007 assessment date, the evidence and testimony in the record indicates the subject pond was not used for any agricultural purpose and was not entitled to classification and assessment as farmland.

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.