FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Joseph Pallardy
DOCKET NO.: 07-05117.001-R-1
PARCEL NO.: 17-000-351-05

The parties of record before the Property Tax Appeal Board are Joseph Pallardy, the appellant, and the Jo Daviess 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 **Jo Daviess** County Board of Review is warranted. The correct assessed valuation of the property is:

FARMLAND:	$ 280
HOMESITE:	$ 26,040
RESIDENCE:	$ 0
FARM BLDGS:	$ 0
TOTAL:	$ 26,320

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 41.35-acres of vacant land in Stockton Township, Jo Daviess County. There are 15.31-acres of cropland and the balance of the acreage has been assessed at market value because it is said to be laying idle.

The appellant based the instant appeal on a contention of law. In support of this claim, the appellant presented a letter arguing that the subject is being wrongly assessed with a "lack of uniformity (numerous like properties assessed as farmland)." However, the appellant did not provide any comparable properties or their assessments to establish lack of uniformity in treatment of the subject property.

Next appellant argued that a change in law has resulted in a change in the treatment of the subject property. "My contention is I need time to come into compliance with new law before they can increase my taxes by over 5 times in a year time frame." Appellant further argued that placing the acreage needed into farmland would have disturbed the nesting season of various

wildlife (first tentative notice was dated May 16, 2008). Appellant concluded that he was requesting that the taxes remain the same for 2007 because "as soon as the next planting season comes I will be in compliance with having ½ of acreage in farming or CRP."

Based on this argument, the appellant requested a 2007 farmland assessment for the entire subject property.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject parcel's respective 2007 farmland assessment of $280 plus homesite (or non-farmland) assessment of $26,040 were disclosed. In support of the subject's total assessment of $26,320, the board of review submitted a memorandum outlining the attached evidence identified as Exhibits A through E.

The subject's property record card marked as Exhibit A reflects 15.31-acres of farmland and 26.04-acres of homesite for 2007. A handwritten notation for 2007 states "per township assessor north field in grain; mixed use; reclass 011 & revalue." The memorandum reports that 15.31-acres are assessed as farmland due to CRP land and crops, but the balance of the property is assessed at market value because it is lying idle. The board of review's memorandum next notes the statutory definition for "farm" from the Property Tax Code (Exhibit B) and provides portions of a Department of Revenue Guideline on assessing idle land that is larger than the farmed portion (Exhibit C). The board of review asserts that pursuant to the guidelines, if the idle portion is larger than the smaller farmed portion, then the larger idle portion should be assessed at market value.

In Exhibit D, the board of review presented documentation of five sales of vacant rural property in Stockton Township, including the appellant's purchase of the subject property in December 2006 for $199,000 or $4,812 per acre, to establish the correctness of the non-farmland assessment of the subject property based on market data. The four comparable sales ranged in size from 12.89 to 80-acres. The sales occurred from March 2006 to December 2007 for prices ranging from $100,000 to $309,396 or from $3,723 to $7,757 per acre of land.

In Exhibit E, the board of review presented aerial photographs and property record cards for five properties in Stockton Township. The board of review contended these parcels have no farming or have a mix of farming and idle land and have been treated like the subject property. Because several of the property record cards lacked detail and/or did not have 2007 assessment information, no further substantive details could be gleaned from the submission of Exhibit E.

Based on this evidence, the board of review requested confirmation of the subject's farmland and homesite assessments.

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 Board finds the subject property is not entirely entitled to a farmland classification for 2007.

The Board finds 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.

The Board finds in order for a property to receive a preferential farmland assessment the property must first meet the statutory definition of a "farm" as defined in Section 1-60 of the Property Tax Code. Based on the evidence in this record, the Board finds that the subject property is not entirely entitled to a farmland classification and a reduction in the subject's 2007 assessment is not warranted. Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" in part as:

> **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, 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. [Emphasis added.]

Here, the primary issue is whether the disputed parcel is used solely for agricultural purposes as required by Section 1-60 of the Property Tax Code. The Board finds that in order to receive a preferential farmland assessment, the property at issue must meet this statutory definition of a "farm" as defined above in the Property Tax Code. It is the present use of the land that determines whether the land receives an agricultural assessment or a non-agricultural valuation. See Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill. App. 3d 799 (3rd Dist. 1999) and Santa Fe Land Improvement Co. v. Property Tax Appeal Board, 113 Ill. App. 3d 872 (3rd Dist. 1983). To qualify for an agricultural assessment, the land must be farmed at least two years preceding the date of assessment. (35 ILCS 200/10-110).

The appellant's brief specifically asserted that appellant needed "time to come into compliance with new law" and "to put the acreage needed into farmland would have disturbed the nesting season of various wildlife." These assertions by the appellant indicate that the land at issue was not being used for agricultural purposes, but could be used for such purposes given sufficient time to comply. Moreover, there was no evidence to reveal the use of the acreage in 2007 or in the two years prior thereto. DuPage Bank and Trust Co. v. Property Tax Appeal Board, 151 Ill. App. 3d 624, 502 N.E.2d 1250 (2nd Dist. 1986), *appeal denied* 115 Ill. 2d 540, 511 N.E.2d 427, *cert. denied* 484 U.S. 1004, 98 L.Ed.2d 646. Appellant has failed to establish that the subject property has been improperly classified.

Parcels used primarily for any purpose other than as a "farm" as defined in Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) are not entitled to an agricultural assessment. In Senachwine Club v. Putnam County Board of Review, 362 Ill. App. 3d 566 (3rd Dist. 2005), the court stated that a parcel of land may be classified as farmland provided that those portions of the property so classified are used solely for agricultural purposes, even if the farm is part of a parcel that has other uses. *Citing* Kankakee County Board of Review, 305 Ill. App. 3d 799 at 802 (3rd Dist. 1999). In this matter, no evidence was offered to support the conclusion that the disputed 26.04-acres of the subject property was "farmed" and/or allowed to lie fallow as a farming practice. DuPage Bank & Trust Co. v. Property Tax Appeal Board, 151 Ill. App. 3d 624 (2nd Dist. 1986). In other words, the "use" of the property was never presented by the appellant so as to establish the assertion that the land at issue qualified under the definition of "farm" as provided in the Property Tax Code. Thus, the Board finds that in the absence of testimony to establish use, the appellant has failed to establish that the disputed land was not properly classified.

As to the assessment equity arguments in this matter, appellant argued unequal treatment in the subject's assessment as a basis of the appeal. Having determined, however, that the alleged improper classification of the subject property has not been adequately established by the appellant, the Property Tax Appeal Board need not further address the uniformity of assessments argument in this matter. Furthermore, appellant failed to submit evidence of purportedly comparable properties that were receiving farmland assessments. Appellant's entire argument questioned first the classification and secondly the uniformity of farmland assessments. Having failed in the first argument, there is nothing more as to uniformity of assessments to be considered.

In conclusion, as to the classification issue, the Property Tax Appeal Board finds that the disputed 26.04-acres of the subject property is not entitled to a farmland classification and no change in the classification of the subject's farmland assessment is necessary. Therefore, the Property Tax Appeal Board finds the subject property's assessment as established by the board of

review is correct and no reduction in assessment or change in classification 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: January 21, 2011

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.