



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

APPELLANT: Gary McGinnis  
DOCKET NO.: 08-00499.001-F-1  
PARCEL NO.: 02-02-15-200-014

The parties of record before the Property Tax Appeal Board are Gary McGinnis, the appellant, and the Tazewell 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 Tazewell County Board of Review is warranted. The correct assessed valuation of the property is:

<b>F/Land:</b>	\$660
<b>Homesite:</b>	\$3,339
<b>Residence:</b>	\$41,390
<b>Outbuildings:</b>	\$6,050
<b>TOTAL:</b>	\$51,439

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of 6-acres located in Washington, Washington Township, Tazewell County. The property consists of 4.27-acres of farm land and a 1.73-acre homesite that has been improved with a single-family dwelling.<sup>1</sup> The property also is improved with a 2,970 square foot pole building.

The appellant, Gary McGinnis, appeared before the Property Tax Appeal Board. Under oath, the appellant stated that he is a taxpayer on the property. Therefore, although the board of review had raised a question of standing for this appeal as the appellant is not the owner of the subject property, the Property Tax Appeal Board finds that Section 16-160 of the Property Tax Code allows "any taxpayer dissatisfied with the decision of a board of review" to timely file an appeal with the Property Tax Appeal Board. (35 ILCS 200/16-160)

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<sup>1</sup> During the course of the hearing, the parties were able to agree on the sizes of the farmland and homesite acreage.

For this appeal, the appellant challenged the classification of the property and the breakdown of the residence and pole building for assessment purposes. The appellant claims that the subject tract should be partially classified and assessed based on agricultural use. In addition, although no dispute was raised concerning the improvement assessment,<sup>2</sup> the appellant did contend a pole building should be treated as a farm outbuilding and assessed separately from the residence.

The appellant completed a Farm Appeal form which included information that the subject property is zoned agricultural (Ag-1), an aerial photograph of the subject property, along with twelve color photographs depicting the dwelling, yard, hay/alfalfa, a personal garden section, and a pole building with a tractor outside.

For purposes of farmland classification, the appellant testified that as of the date of valuation of January 1, 2008 and for at least the two years prior thereto approximately 4.5-acres of the subject property was farmed in a hay (bromegrass) or alfalfa by a tenant farmer, John Guth.<sup>3</sup> Prior to these more recent plantings, appellant testified the land was alternately farmed in corn and soybeans by farmer Martin Vorhees. Moreover, the appellant testified that there is no rental payment and no crop share/profit sharing arrangement connected to the farming activity. Instead, the appellant has this arrangement with the tenant farmer so that appellant, who is partially disabled, does not have to mow and care for this portion of the property.

As to the treatment of the 2,970 square foot pole building for assessment purposes, the appellant testified that about 1/3 of the pole building is used in the farming operation to store equipment such as tractors and riding lawnmowers. As of the valuation date of January 1, 2008, appellant acknowledged that only a hay bailer and old wagon for the farming operation were being stored in the building

As to the residence, the appellant made no claim in the appeal for a reduced assessment even though property record cards for nine improved properties were included in the documentation. In the absence of a suggested reduced assessment for the residence, the Property Tax Appeal Board finds no basis upon which to analyze the suggested comparable properties.

Based on the evidence and testimony, appellant contends that the subject's land is not being treated uniformly with other nearby properties that have partial farmland assessments.

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<sup>2</sup> The improvement assessment as determined by the board of review was \$47,440. On the Farm Appeal form, the appellant requested that the residence be assessed at \$41,500 and the farm buildings be assessed at \$6,050 which would result in a total improvement assessment of \$47,550, greater by \$100 than the current 2008 assessment.

<sup>3</sup> Among the documentation was a photocopy of a small note apparently signed by John Guth with a phone number and an indication that 2007 resulted in 15 tons of hay and bromegrass and 2008 resulted in 19 tons of hay and bromegrass.

On cross-examination, the appellant reiterated that no direct income was drawn from the farming operation and the sole benefit was to not have to maintain that acreage through his own efforts.

The board of review submitted "Board of Review Notes on Appeal" wherein the subject's total assessment of \$59,020 was disclosed. The board of review presented a letter and a grid analysis of four suggested comparable properties to support that the subject was equitably assessed with nearby properties on Cruger Road.

As set forth in the letter and at hearing, the board of review was of the opinion that the subject's "highest and best use" was for residential purposes and that it was assessed accordingly. The board of review's representative further asserted the subject property was not entitled to a farmland assessment based on the applicable statutory language and the guidelines issued by the Illinois Department of Revenue. According to the board of review, "farm" as defined by the Property Tax Code 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) Thus, in their written submission the board of review argued that the subject parcel did not meet the statutory requirements as it was primarily residential and, therefore, it was not entitled to a farmland assessment.

In rebuttal, the appellant submitted data of additional suggested comparable properties and disputed the comparability of the properties presented by the board of review's grid analysis.

Pursuant to the Official Rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill. Admin. Code, Sec. 1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill. Admin. Code, Sec. 1910.66(c)). In light of these Rules, the Property Tax Appeal Board has not considered the new comparable properties submitted by appellant in conjunction with his rebuttal argument.

At the hearing, the parties reviewed an aerial photo of the subject parcel wherein the appellant marked the location of the homesite and the farmland.

Subsequent to the hearing at the request of the Property Tax Appeal Board, the Tazewell County Board of Review submitted a farmland assessment and improvement breakdown for the subject property. In the calculation, the board of review re-evaluated the subject homesite of 1.73-acres using the township assessor's market value of \$30,000 per acre for the first acre and a lesser value for remaining acreage. Based on that data, the board of review requested an increase in the assessment of the homesite from \$11,580 to \$14,950, although the previous submission of the

board of review notes on appeal simply requested confirmation of the subject's land assessment. In addition, the board of review reported the 4.27-acre farmland assessment was \$660 and the improvement assessments are \$41,500 for the residence and \$6,050 for outbuildings.

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 a reduction in the assessment of the subject property is supported by the evidence in the record.

Here, the primary issue is whether the subject parcel is used primarily for agricultural purposes as required by Section 1-60 of the Property Tax Code (35 ILCS 200/1-60). In Senachwine Club v. Putnam County Board of Review, 362 Ill. App. 3d 566 (3<sup>rd</sup> 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 (3<sup>rd</sup> Dist. 1999). A parcel of property may properly be classified as partially farmland, provided those portions of property so classified are used solely for the growing and harvesting of crops. Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill. App. 3d 872, 875, 448 N.E.2d 3, 6 (3<sup>rd</sup> Dist. 1983).

Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines farmland 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.  
[Emphasis added.]

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 in the Property Tax Code. The Property Tax Appeal Board finds portions 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. There was no evidence to refute the appellant's contention that hay and alfalfa were being grown and harvested on 4.27-acres of the subject's 6-acre parcel. The Property Tax Code does not enumerate a minimum of 5-acres in order to qualify for farmland classification. The board of

review's interpretation of "highest and best use" and/or property that is "primarily used for residential purposes" is not supported by the Property Tax Code and applicable case law that has developed as cited above. Based on the evidence presented and not refuted, the Property Tax Appeal Board finds all but the 1.73-acre homesite of the subject parcel is entitled to a farmland classification and assessment with appropriate assessments separated for the pole building and dwelling as set forth by the board of review. In addition, the Property Tax Appeal Board finds that the subject non-farmland shall not suffer an increase in assessment as result of the instant appeal wherein the board of review was originally seeking confirmation of the subject's assessment.

In conclusion, the Property Tax Appeal Board finds the board of review's classification and assessment of the subject property's land was incorrect and a reduction is warranted in accordance with a partial farmland classification of the subject property and assessing the outbuildings and residence separately.

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 M. Louie*

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: June 24, 2011

*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.