



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

APPELLANT: United Comm. Bank Trustee of TR 400-249  
DOCKET NO.: 08-01355.001-F-2  
PARCEL NO.: 21-12.0-100-057

The parties of record before the Property Tax Appeal Board are United Comm. Bank Trustee of TR 400-249, the appellant, by attorney Bradley E. Huff, of Graham & Graham in Springfield, and the Sangamon 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 Sangamon County Board of Review is warranted. The correct assessed valuation of the property is:

<b>F/Land:</b>	\$1,574
<b>Homesite:</b>	\$0
<b>Residence:</b>	\$0
<b>Outbuildings:</b>	\$0
<b>TOTAL:</b>	\$1,574

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of 4.46-acres of vacant land located in Springfield, Capital Township, Sangamon County.

The appellant<sup>1</sup> appeared before the Property Tax Appeal Board through legal counsel claiming that the subject tract should be classified and assessed based on agricultural use.

The taxpayer of the parcel and a shareholder of Ginger Creek Farms, Inc., Denny McEvoy, was called for testimony. McEvoy is also the president and registered agent of Ginger Creek Farms, Inc. The property was purchased in 1993; the purchaser through a tenant farmer continued to grow corn and beans on the parcel. The witness did not know the name of the tenant farmer. McEvoy

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<sup>1</sup> In testimony it was established that the owner of the property is United Community Bank Trust 400-249 and Ginger Creek Farms, Inc. is the beneficial interest holder of that land trust.

also stated that in 2006 corn was grown on the parcel, in 2007 the property was managed to cut a hay crop from the parcel, and in 2008 likewise the property was managed to cut a hay crop from the parcel. The hay crop was planted by employees of Denmark Builders, another business owned by McEvoy; using small tractors the grass seed was spread, not drilled. Moreover, while the witness could not state the name of the person(s) hired to cut and bale the hay, he testified that the parcel produced 4,000 to 6,000 pounds of hay which were moved by Denmark employees to McEvoy's farm in Rochester for use as part of his feed for 13 or 14 horses.

For 2008, the assessing officials treated the parcel as non-farmland and applied an assessment of \$294,943 to the subject property. Based on the evidence and testimony, appellant contends that the subject's land is entitled to a farmland assessment.

On cross-examination, the witness testified that he had no written documentation related to the 2008 planting or harvesting and asserted that the individual who did the harvesting is no longer in the area.

Upon questioning by the Hearing Officer, the witness stated the hay crop consisted of a pasture mix of grasses and clover.

The board of review submitted "Board of Review Notes on Appeal" wherein the subject's total equalized assessment of \$301,107 was disclosed.

The board of review submitted five color photographs of the subject parcel and a 'confidential notes' memorandum in which the author stated "I can find no evidence documenting farm activity on this parcel other than vague statements by the tax consulting attorney and owner. I also cannot find an 'FSA number' and it appears the size of the parcel (4.46 acres) may also preclude a farm assessment according to IDOR (Illinois Department of Revenue) guidelines." The memorandum reported one of the photographs was taken on April 30, 2007 and the remaining were taken on August 22, 2008 "showing the subject property as mowed grass." The memorandum states the 'field person' reported no indication of any crops or farming activity. The 'field person' was not called for testimony at the hearing by the board of review. The memorandum also noted one of the photographs depicts a 'for sale' sign on the parcel as commercial real estate.

At hearing, the board of review representative stated the 'field person' took the photographs and that person "believed that it did not appear that there was production of a farm crop on the parcel."

Based on the foregoing evidence, the board of review requested confirmation of the subject's non-farmland assessment.

In rebuttal and through legal counsel, the appellant argued the April 30, 2007 photograph submitted by the board of review depicted crop stubble from prior years' farming operations noting that generally no crops would be planted as of April 30 of a given year in this area. As to the August 22, 2008 photographs presented by the board of review, appellant contends the photographs depict the parcel as being managed to grow a hay crop which is a use specified in Section 1-60 of the Property Tax Code.

After hearing the testimony and reviewing 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 the evidence in the record supports a change in the classification of the subject property.

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.

There was no evidence to refute the appellant's contention that a farm crop of hay was harvested from the property in both 2008 and 2007 and that corn was harvested from the property in 2006. Section 10-110 of the Property Tax Code (35 ILCS 200/10-110) provides that in order to qualify as farmland, the acreage at issue must be used as a farm the two preceding years. In order for real property to receive a farmland classification it must be used as a farm during the assessment year at issue and the two preceding years. Oakridge Development Co. v. Property Tax Appeal Board, 405 Ill.App.3d 1011, 938 N.E.2d 533, 345 Ill.Dec. 94 (2<sup>nd</sup> Dist. 2010). As stated in Oakridge Development Co., the courts have repeatedly held that "present use" controls the classification of farmland under the Property Tax Code. Oakridge Development Co., 405 Ill.App.3d at 1020.

In this appeal the appellant presented testimony and evidence that was not refuted or contradicted demonstrating the subject property was vacant and had been used for the production of hay

during 2007 and 2008 and used for the production of corn for 2006. The Board finds this use qualifies the subject for a farmland assessment.

In response to the board of review's reference to IDOR guidelines, the Property Tax Code does not enumerate a minimum of 5-acres in order to qualify for farmland classification. The uniform farmland policy outlined by the board of review is not supported by the Property Tax Code. Based on the evidence presented and not refuted, the Property Tax Appeal Board finds the subject parcel is entitled to a farmland classification and 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 farmland classification of the subject property.

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

Acting 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 20, 2012

*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.