



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

APPELLANT: Julie Cronauer
DOCKET NO.: 08-02837.001-F-1
PARCEL NO.: 09-16-200-008

The parties of record before the Property Tax Appeal Board are Julie Cronauer, the appellant, by attorney Charles E. Cronauer in Sycamore, and the DeKalb 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 DeKalb County Board of Review is warranted. The correct assessed valuation of the property is:

F/Land:	\$407
Homesite:	\$10,906
Residence:	\$49,616
Outbuildings:	\$0
TOTAL:	\$60,929

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 5-acres of land in Sycamore, Cortland Township, DeKalb County, which is improved with one-story brick single-family dwelling that was built in 1977. The home contains 1,772 square feet of living area and features a full unfinished basement, central air conditioning, two fireplaces, and a two-car garage of 676 square feet of building area.

The appellant appeared with counsel before the Property Tax Appeal Board contending both improper classification of portions of the parcel and a lack of assessment uniformity in both the dwelling and homesite assessments of the subject property. In support of these contentions, a brief and multiple exhibits which have been individually marked were presented; the appeal includes 106 numbered pages.

Contrary to the non-farmland classification of the entire subject parcel by the assessing officials, the appellant contends that the subject property consists of a 1.33-acre homesite, 3.47-acres

of tillable land and .20-acres of other farmland. In support of this classification issue, the appellant submitted a brief, provided testimony and submitted an affidavit of Dan Kohler who indicated he has farmed the disputed 3.47-acres of the subject property under a cash rent lease since 1987. (Exhibit 8-C) The appellant further testified that the land has been used to grow corn or soybeans each year since 1977. The farming was done either by the appellant's father or one of two farm managers. She contends that for the assessment year at issue this disputed acreage was harvested by the farm manager, Kohler, who also farms the surrounding 130-acres of farmland.¹ Based on this evidence, the appellant requested appropriate farmland assessments for part of the subject parcel.

The appellant also claimed a lack of assessment uniformity in both the non-farmland and improvement assessments of the subject property. In support of these contentions, the appellant submitted assessment data on comparable properties in Exhibit B consisting of a two-page spreadsheet.

For the improvement inequity argument, the appellant presented six comparables located from 2 to 13-miles from the subject consisting of one-story, one and one-half-story or two-story frame, brick or frame and brick dwellings. The homes were built between 1870 and 1992 and range in size from 1,880 to 4,384 square feet of living area. Five of the comparables have basements, one of which is reported to have some finished area. Each comparable has central air conditioning and five have garages ranging in size from 484 to 1,152 square feet of building area. Four comparables also have at least one fireplace. These comparables have improvement assessments ranging from \$34,346 to \$84,976 or from \$18.27 to \$25.25 per square foot of living area. The subject's improvement assessment is \$60,000 or \$33.86 per square foot of living area. Based on this evidence, the appellant requested a reduced improvement assessment to \$38,984 or \$22.00 per square foot of living area.

As to the homesite inequity argument, in Exhibit B the appellant set forth data on seven comparable properties that included non-farmland acreage ranging from .8 to 5.9299-acres. These properties had non-farmland assessments ranging from \$10,540 to \$21,868 or from \$3,688 to \$13,175 per non-farmland acre.² The

¹ Documentation included Exhibit 8-D, U.S. Dept. of Agriculture (USDA) 'Report of Commodities' for crop years 2006, 2007 and 2008 and Exhibit 8-E, aerial map of cropland. The USDA documents consist of a cover memorandum stating "these reports represent an acreage report filed in our office stating what crop(s) were planted in the applicable years." The attached six pages of reports include various FSA and 'farm' numbers, but have no identifying information such as to the subject's parcel identification number or street address. While counsel for the appellant argued the documents were self-authenticating, the authenticity of the documents is not in question; the unresolved issue on this record is whether the documents relate to the subject parcel.

² The appellant's grid analysis provided size and total non-farmland assessment data for comparables #4, #5 and #6, but did not report the per-acre non-farmland assessment which has been included in this analysis.

appellant requested a reduction in the subject's non-farmland assessment to \$6,585 or \$4,951 per acre of non-farmland.

In summary, based on the foregoing, the appellant requested a 2008 farmland assessment for 3.47-acres of the subject parcel and reductions in the land (homesite) and improvement assessments as outlined above.

On cross-examination, the Chairman of the board of review inquired whether the appellant chose among various properties to include in her appeal; while the appellant did not specifically recall, she believes that she may have gathered data on about five more properties that were not included in her appeal petition.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject parcel's 2008 assessment of \$95,000 was disclosed. The assessment consists of a non-farmland assessment of \$35,000 and an improvement assessment of \$60,000.

In support of the subject's total assessment, the board of review submitted a memorandum outlining the board's position that the subject property was not entitled to a farmland assessment based on the terms of Section 1-60 of the Property Tax Code. (35 ILCS 200/1-60) According to the board of review "farm" 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. The board of review argued that the primary use of this property is residential and any farm use is incidental to the residential use. The board of review contended the classification was used throughout the county in the same manner.

At hearing, Chairman of the board of review, Gerald Wahlstrom, stated in pertinent part that "the board did not have any disagreement that a portion of this property is farmed." The Chairman further noted that he did not believe during the course of the local board of review hearing that the appellant had raised information set forth in her rebuttal concerning an Illinois appellate court opinion from 1999 in support of her farmland classification argument. Regardless, the board of review contends that there is "a difference of opinion as to the accuracy of those [appellate court] decisions" at which point the Chairman reiterated the language of Section 1-60 of the Property Tax Code set forth in the board's memorandum cited above concerning primary use.

Wahlstrom further argued that the dispute lies in what is the primary use of this 5-acre parcel that includes a dwelling and has 'roughly' 3 ½-acres farmed in the back. The Chairman next questioned whether an individual purchaser would acquire the subject property for its farming purpose or for its residential purpose. The Chairman then referenced an Illinois Department of Revenue guideline from 1990 and 1994, not previously submitted in this appeal by the board of review, which included a criterion

that to qualify as farmland, the area had to be greater than 5-acres in size. (See Illinois Department of Revenue, Publication 122 "Instructions for Farmland Assessments" (September 2006), p.5)

As to the appellant's equity evidence, the board of review asserted the properties were not all comparable to the subject. Specifically, the board of review asserted that due to differences in dwelling design (story height) comparables #1, #2, #4, #5 and #6 was not suitable properties for analysis. The board of review contends that appellant's comparable #3 is comparable to the subject. Moreover, the board reports that this property's land assessment was revised in 2009 when the error was discovered as was the improvement assessment when the error in not assessing the new addition was discovered.

In support of the subject's improvement and non-farmland assessments, the board of review presented a grid analysis of four comparable properties; despite different reported dwelling sizes, board of review comparable #4 is the same property as appellant's comparable #3. The board of review contended these parcels have no farming and have been treated like the subject property. The properties are from 1.52 to 3.5-miles from the subject. The parcels range in size from 5 to 5.93-acres and have land assessments ranging from \$21,868 to \$36,280 or from \$3,688 to \$7,041 per non-farmland acre.

These properties consist of one-story frame or brick dwellings that were built between 1973 and 1991. The Chairman at hearing contended that similar properties to the subject would be ranch dwellings ranging in size from about 1,500 to 2,000 square feet of living area. The homes presented in the board of review's grid analysis range in size from 1,320 to 2,768 square feet of living area. Three comparables feature an unfinished basement and each comparable has central air conditioning and a garage. One comparable has two fireplaces and each has a shed, chicken coop and/or a pole building. As reported in the grid analysis, these properties have improvement assessments ranging from \$40,744 to \$81,542 or from \$26.73 to \$33.27 per square foot of living area.³

The board of review also submitted a grid analysis with two sales comparables. The Property Tax Appeal Board finds that submission of sales comparables in response to the appellant's lack of assessment uniformity argument is not responsive and the board of review's additional market value comparables will not be further addressed herein.

Based on this evidence, the board of review requested confirmation of the subject's classification and assessment.

³ The per-square foot figures reported by the board of review for its comparables #1 and #4 appear to have been in error.

On cross-examination, the appellant asserted that board of review comparable #2 was a business which included a residence along with a canine training facility in a separate building on the property. The board of review acknowledged that the training facility, a large shed/pole building on this property that was constructed in 1970, would be included in the improvement assessment set forth on the grid analysis. The board of review did not have information as to the specific 2008 assessment of this pole building. The appellant further contended that the building was about 30 feet by 40 feet with a heated concrete floor and electrical service.

As to board of review comparable #3, the appellant contends this dwelling has dormers, similar to properties the board of review criticized the appellant for using at her DeKalb County Board of Review hearing.

Appellant also questioned the submission of board of review comparable #4 to support the subject's assessment given the board's acknowledgement that there was an error in the 2008 assessment of this property which was corrected in 2009. Namely, the appellant contends that the property was remodeled and made into a 2,800 square foot dwelling whereas the assessing officials report the dwelling as only 1,568 square feet prior to the remodeling. This comparable also features metal pole building of 1,944 square feet of building area, including a 216 square foot office. This property's 2009 improvement assessment became \$61,661 from its 2008 assessment of \$52,171. Appellant contends that the 2009 improvement assessment is about \$22.00 per square foot with the dwelling size being advertised by the owners, which is still less than the subject's current improvement assessment on a square foot basis. Furthermore, this property has 5.93-acres that were incorrectly assessed for \$21,868 which was increased in 2009 to \$37,294.

In written rebuttal,⁴ the appellant cited to Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill.App.3d 799 (3rd Dist. 1999) to rebut the contention of the board of review that none of the subject 5-acre parcel could qualify for a farmland assessment as "the primary use of this property is residential and any farm use is incidental to the residential use." Citing this and other case law, the appellant contends that the DeKalb County Board of Review has not correctly applied the provisions of the Property Tax Code; the appellant contends that the 3.47-acre portion of the subject property that is used solely for the growing and harvesting of crops should properly be classified as farmland.

⁴ At hearing, the appellant referenced rebuttal evidence dated/filed on November 15, 2010. Upon further examination of the rebuttal document presented to the Hearing Officer during the hearing, the Board finds the appellant erred by referencing that the filing concerned Docket No. 08-04994, not Docket No. 08-02837 assigned to this appeal. At hearing, the board of review did not object to the appellant's rebuttal submission and therefore it has been discussed herein.

In further rebuttal to the board of review's purported uniform assessment of parcels, the appellant submitted several comparable properties of smaller acreage that have been granted a farmland classification for assessment purposes. Due to the initial factual determination necessary for the proper classification of the subject parcel, this comparative data will not be further analyzed in this decision, but is acknowledged as responsive to the board of review's contention that less than 5-acre parcels are not afforded farmland assessments.

In rebuttal to the improvement inequity argument, the appellant argued that the comparables she presented are assessed 53% lower than the subject property even though the subject has fewer amenities, is smaller and has no ancillary buildings. The appellant further argued that the board of review's four equity comparables present an average improvement assessment that is 14% lower than that of the subject, despite the fact that these comparables also include ancillary structures and amenities not enjoyed by the subject.

In rebuttal to the homesite inequity argument, the appellant reiterated her comparables have an average non-farmland assessment of \$4,950 per acre whereas the subject is assessed at about \$7,000 per acre. Appellant also presented new comparables #9 through #12 to refute the board of review's contention that it uniformly does not provide farmland classifications to parcels deemed primarily residential.

Subsequent to the hearing and at the request of the Property Tax Appeal Board, the DeKalb County Board of Review submitted a farmland assessment and homesite breakdown for the subject property. In the calculation, the board of review re-calculated the subject homesite of 1.33-acres for a non-farmland assessment of \$18,948 or \$14,247 per acre. In addition, the board of review reported the farmland assessment for the remaining acreage was \$407.

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.

As to the farmland classification dispute, the Property Tax Appeal 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. 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.]

The evidence revealed through the testimony of the appellant that the subject disputed acreage is used solely to grow and harvest crops of either corn or soybeans. The board of review did not dispute those factual assertions made by the appellant and, in fact, agreed that the land was 'farmed' as stated by the board of review representative.

The Property Tax Appeal Board further finds that Section 10-110 of the Property Tax Code (35 ILCS 200/10-110) provides:

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. [Emphasis added.]

The record evidence was that the disputed acreage has been farmed in corn or soybeans since 1977. The board of review presented no evidence contrary to this factual assertion. Thus, the subject property has also satisfied the requirements of Section 10-110 of the Property Tax Code.

In this matter, the primary issue raised by the board of review is whether the subject parcel is used primarily for residential purposes, citing to Section 1-60 of the Property Tax Code (35 ILCS 200/1-60):

For purposes of this Code, "farm" 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.

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). 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 (3rd Dist. 1983).

There was no evidence to refute the appellant's contention that corn or soybeans were being grown and harvested on 3.47-acres of

the subject's 5-acre parcel since 1977. 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 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. The courts have held that "it is the use of real property which determines whether it is to be assessed at an agricultural valuation. The statutory sections do not speak of possible alternative uses nor intended future uses." Santa Fe Land Improvement Co., 113 Ill.App.3d at 875. Furthermore, a review of the controlling statutes shows the definition of a "farm" does not require the property classification be based on the primary use as a whole. Rather, property that is used solely for the growing and harvesting of crops is properly classified as farmland, even if the farmland is part of a parcel that has other uses. Kankakee County Board of Review, 305 Ill.App.3d at 802 citing Sante Fe Land Improvement Co., 113 Ill.App.3d at 875 (3rd Dist. 1983).

In conclusion, the Property Tax Appeal Board finds the board of review's classification and assessment of the disputed acreage of the subject parcel was incorrect and a reduction is warranted in accordance with a partial farmland classification of the subject property. Based on the evidence presented and not refuted, the Property Tax Appeal Board finds all but the 1.33-acre homesite of the subject parcel is entitled to a farmland classification and assessment.

As to the assessment inequity arguments in this matter, the appellant contends unequal treatment in the subject's homesite and improvement assessments as an additional basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has met this burden as to both arguments.

Having determined that the subject parcel is partially entitled to a farmland assessment, the analysis of the homesite assessment will be based upon the new assessment determination for the 1.33-acre homes of \$18,948 or \$14,247 per acre. Excluding common parcels, the parties presented homesite assessment data on ten properties. These parcels ranged in size from .8 to 5.9299-acres. The board of review acknowledged that the 2008 homesite assessment for its comparable #4 was erroneous and thus, less weight will be afforded to this comparable.

The remaining nine homesite comparables had assessments ranging from \$10,540 to \$36,280 or from \$4,189 to \$13,175 per acre. The subject's proposed 1.33-acre homesite assessment of \$18,948 or \$14,247 per acre is higher than the most similar homesite comparables presented by both parties on this record.

Furthermore, the highest per-acre homesite assessment of \$13,175 is for appellant's comparable #5 which is a .8-acre homesite. Given the economies of scale, a smaller site such as this would be expected to have a higher per-acre assessment. The Board finds that appellant's comparables #4 and #6 have 1.7 and 1.1-acre homesites, respectively, similar to the subject's 1.33-acre homesite. These properties have homesite assessments of \$7,021 and \$9,582 per acre. The Board finds the subject's homesite assessment, even as proposed by the board of review after adjustment for the farmland, is inequitable given these most similarly size homesite parcels in the record. Therefore, a further reduction in the subject's homesite assessment is warranted.

As to the improvement inequity argument, the Property Tax Appeal Board finds that the parties have presented nine suggested equity comparables. The Board has given reduced weight to board of review comparable #1 due to its dwelling size that is nearly 1,000 square feet larger than the subject. Similarly, the Board has given less weight to appellant's comparables #1, #2, and #5 due to differences in dwelling size. Moreover, the Board has given less weight to appellant's comparables #4 and #6 due to the age of the dwellings as compared to the subject.

The Board finds the remaining three comparables submitted by the board of review, comparables #2, #3, and #4 (which is also appellant's comparable #3) were most similar to the subject dwelling in design, age, size and amenities. These comparables had improvement assessments ranging from \$26.73 to \$33.27 per square foot of living area. The subject's improvement assessment of \$33.86 per square foot of living area is above the range of the most similar comparables on this record. Each of these comparables features additional structures of a 'shed,' chicken coop or pole building, which is not enjoyed by the subject. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's improvement assessment is not equitable and a reduction in the subject's improvement assessment is warranted.

In conclusion, as to the classification issue, the Property Tax Appeal Board finds that the disputed 3.67-acres of the subject property is entitled to a farmland classification. Furthermore, the Property Tax Appeal Board finds the subject property's improvement and homesite assessments as established by the board of review are incorrect and reductions are 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

Shawn P. 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: October 21, 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.