FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Donald W. Schmitz
DOCKET NO.: 08-02992.001-R-1
PARCEL NO.: 07-07-26-300-005

The parties of record before the Property Tax Appeal Board are Donald W. Schmitz, the appellant; and the Clinton 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 **Clinton** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$4,330
IMPR.:	$0
TOTAL:	$4,330

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a three-acre, unimproved rural parcel located in Wade Township, Clinton County.

The appellant submitted evidence to the Property Tax Appeal Board claiming the subject parcel should be classified and assessed as farmland as the basis of the appeal. In support of this argument, the appellant submitted a letter, photographs and a grid analysis of two comparable properties described as adjacent to the subject and containing 78.7 and 97 acres, respectively. The appellant's letter claimed the subject "became woodland when, in cooperation with the Il Dept of Natural Resources (IDNR), I planted 1,000 tree saplings on the property. The saplings were furnished by IDNR and the land was accepted by them under their Forest Stewardship Program. This required a 10 yr commitment by me and I kept that obligation (sic)." The appellant supplied no dates corresponding to the planting of the trees or the commencement or duration period of the aforementioned Forest Stewardship Program, nor did he submit any documentation of the program. The appellant contends the subject is bisected by a

drainage ditch, is not suitable for a homesite and should be considered farmland "or even more accurately woodland." The appellant acknowledged many of the trees are now 20 to 30 feet high and the subject "provides excellent wildlife cover." He further stated "Subsequently the state has defined woodlands as a minimum of 5 contiguous acres. This should not negate the fact that a prior program had no such definition and was entered in good faith as a long term commitment."

The appellant's two comparables were described as "Krebs Farm" and "Voss Farm" and were reported to have land assessments of $12,000 and $14,000 or $152 and $144 per acre, respectively. The subject has a land assessment of $4,330, or $1,443 per acre. Based on this evidence the appellant requested the subject's land assessment be reduced to $500.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $4,330 was disclosed. In support of the subject's assessment, the board of review submitted a letter, photographs and property record cards for the subject and two comparables, in addition to the appellant's two comparables. The board of review's letter cited Section 10-150 of the Property Tax Code, which states in part:

> In counties with less than 3,000,000 inhabitants, any land being managed under a forestry management plan accepted by the Illinois Forestry Development Act shall be considered as "other farmland" and shall be valued at 1/6 of its productivity index equalized assessed value as cropland. (35 ILCS 200/10-150)

The letter further stated "[T]he appellant's previous plan expired in 2006 and no longer qualifies for the Forest Management Plan, therefore, does not meet the requirements for a preferential tax assessment for the woodlands (sic)." The letter stated assessment information on the two comparables submitted by the appellant is incorrect. The board of review contends the appellant's comparable #1 is improved with a home and farm buildings. "The $12,000 land value is the market value for the homesite area used for residential purposes which is .60 acres. His indication that it is valued at $152 per acre is incorrect; the price per acre would be $20,000 the remaining 78.16 acres is valued as productivity."

Regarding the appellant's comparable #2, also improved with a home and farm buildings, the board of review's letter stated "The $14,000 land value is the market value for the homesite area used for residential purposes which is 1.05 acres. His indication that it is valued at $144 per acre is incorrect; the price per acre would be $13,333 the remaining 95.95 acres is valued as productivity."

With respect to the board of review's two comparables, these properties are located about 12 miles from the subject and have a creek running through them. The board of review claimed the

comparables contain 0.26 acre and 0.88 acre and have land assessments of $910 or $10,460 per acre and $1,960 or $6,295 per acre. Finally, the board of review's letter stated that these two comparables were inferior to the subject and that a home could be built on the subject parcel if some trees were removed. Based on this evidence, the board of review requested the subject's assessment be confirmed.

In rebuttal, the appellant argued the actual use of land, not any potential use, is the determining factor in its proper assessment. The appellant argued the subject parcel is surrounded by farmland and reiterated his claim that the subject should be classified and assessed as farmland.

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 parcel is not entitled to a farmland classification for 2008. In spite of the fact that the subject had qualified for a Forest Stewardship Program administered by the IDNR in past years, the record is devoid of any evidence that in the 2008 assessment year, or the two years prior, the subject still met the requirements for a preferential farmland assessment. The Board finds the appellant's petition and evidence included no dates corresponding to the planting of the trees or the commencement or duration period of the aforementioned Forest Stewardship Program, nor did he submit any documentation of the program. The Board finds, as cited by the board of review, that Section 10-150 of the Property Tax Code provides in part:

> In counties with less than 3,000,000 inhabitants, **any land being managed under a forestry management plan accepted by the Department of Natural Resources under the Illinois Forestry Development Act** shall be considered as "other farmland" and shall be valued at 1/6 of its productivity index equalized assessed value as cropland. (Emphasis added)(35 ILCS 200/10-150).

Section 2 of the Illinois Forestry Development Act provides in part that:

> (a) "Acceptable forestry management practices" means preparation of a forestry management plan, site preparation, brush control, purchase of planting stock, planting, weed and pest control, fire control, fencing, fire management practices, timber stand improvement, timber harvest and any other practices determined by the Department of Natural Resources to be essential to responsible timber management. (525 ILCS 15/2(a)).
>
> (e) "Forest product" means timber which can be used for sawing or processing into lumber for building or structural purposes, for pulp paper, chemicals or fuel, for the manufacture of furniture, or for the

> manufacture of any article. (525 ILCS 15/2(e)).
>
> (g) "Timber" means trees, standing or felled, and parts thereof, excluding Christmas trees and producers of firewood. (525 ILCS 15/2(g)).

Section 5 of the Illinois Forestry Development Act describes what is to be included in a forestry management plan. This section states in part:

> A timber grower who desires to participate in the [forestry development] cost share program shall devise a forestry management plan. To be eligible to submit a proposed forestry development management plan, a timber grower must own or operate **at least 5 contiguous acres of land in this State** on which timber is produced . . . The proposed forestry management plan shall include a description of the land to be managed under the plan, a description of the types of timber to be grown, a projected harvest schedule, a description of forestry management practices to be applied to the land, an estimation of the cost of such practices, plans for afforestation, plans for regenerative harvest and reforestation, and a description of soil and water conservation goals and wildlife habitat enhancement which will be served by the implementation of the forestry management plan (emphasis added). (525 ILCS 15/5).

The Board further finds that, at 3.0 acres, the subject parcel does not meet the minimum size requirement of Section 5 of the Illinois Forestry Development Act, notwithstanding the appellant's assertion that a "good faith" commitment entered into by previous standards should be preserved for the 2008 assessment year under appeal. The board of review's evidence disclosed that the appellant's "previous plan expired in 2006 and no longer qualifies for the Forest Management Plan, therefore, does not meet the requirements for a preferential tax assessment for the woodlands." The Property Tax Appeal Board finds the appellant did not refute this claim by the board of review and did not submit any evidence that the subject property is currently enrolled in or qualifies for such a plan.

Furthermore, section 10-110 of the Property Tax Code (35 ILCS 200/10-110) provides that in order to be assessed as a farm, the property must be used as a farm for the 2 preceding years.

In determining whether a property is entitled to a farmland classification, the focus is on the present use of the property. DuPage Bank and Trust Co. v. Property Tax Appeal Board, 151 Ill.App.3d 624, 627, 502 N.E.2d 1250, 1252 (2nd Dist. 1987); Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill.App.3d 872, 875, 448 N.E.2d 3, 5 (3rd Dist. 1983).

The fact that the subject parcel is surrounded by farmland, owned by others, does not redound to the subject's classification and assessment as farmland "or even more accurately woodland" by default, as claimed by the appellant. The Board finds that for the 2008 assessment year, the record is devoid of any evidence that the subject parcel is presently enrolled in or qualifies for a forestry management plan administered by the IDNR. Therefore, the subject's classification and assessment as farmland of any type is not 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

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

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.