



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

APPELLANT: John & Denise McGarel
DOCKET NO.: 09-04350.001-F-1
PARCEL NO.: 08-01-402-007

The parties of record before the Property Tax Appeal Board are John & Denise McGarel, the appellants, by attorney Jason M. Shanahan, of Shanahan & Krage, LLC, in South Elgin; and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

F/Land:	\$2,566
Homesite:	\$33,046
Residence:	\$177,100
Outbuildings:	\$19,601
TOTAL:	\$232,313

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 9.98 acre tract of land that is improved with a single family residence built in 1993. The subject parcel is also improved with a 2,600 square foot horse barn that was constructed in 1999-2000 and fenced pasture land. The property is located in St. Charles, Campton Township, Kane County.

John J. McGarel appeared represented by counsel before the Property Tax Appeal Board contending that 8.38 acres of the subject parcel is entitled to a farmland classification and assessment. In support of this argument the appellants submitted a brief addressing the appeal, plat of survey and various exhibits. Also submitted were photographs of the subject property which included alpacas, fenced pasture ground and a barn.

The appellants' attorney argued that John and Denise McGarel purchased the property in December 2006 to continue with Legacy Criations Alpacas Inc. The total acres purchased were 9.98. The assessments of the homesite of 1.60 acres, along with the residence and barn are not disputed.¹ The 8.38 acres that are used to raise and breed alpacas is the primary dispute on appeal. It is the appellants contention that they were "up and running" as of January 1, 2007 for their business.

Under cross-examination, McGarel testified that the improvements he had to make for conversion from a horse farm to an alpaca farm were to install fencing, transform the barn from horse use to alpaca use, upgrade the pasture and make sure the property was safe from coyotes. He testified that he did not have to purchase new fencing, the fencing already existed. McGarel testified that it took about six months to improve/modify the property. McGarel also testified that during calendar year 2007, he would bring alpacas to the subject property to graze and would house them in the barn.

Based on this evidence, the appellants requested a farmland assessment for 8.38 acres of the subject parcel.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$260,095 was disclosed. The board of review submitted a letter addressing the appeal. In this letter, the board of review had two issues. Issue #1 was "whether the property has been used as a farm as defined by the Illinois Property Tax Code." Issue #2 was "whether farm use is legally permissible on the property in question." They also submitted letters from the Village of Campton Hills, a letter from Jim Resser, president of the Homeward Glen Homeowners Association and a memorandum from Mark Armstrong, CIAO, as Clerk of the Board of Review.

Chris Ranieri, Zoning Officer, Village of Campton Hills, Jim Resser, president of the Homeward Glen Homeowners Association and Mark Armstrong, CIAO, as Clerk of the Board of Review were not present to give testimony or answer questions pertaining to their correspondence submitted with the board of review's evidence.

The board of review's representative called as its only witness Alan Rottmann, Campton Township Assessor.

Rottmann testified that he was informed by the Village of Campton Hills that a farm use was prohibited for the subject property because it was in a planned unit development. Rottmann testified that he questioned being able to grant a farmland assessment to a property that would be farming illegally. Rottmann also testified that the village's contention was the property wasn't considered a farm even though there were horses on the property before the purchase by the appellants.

¹ Although the residence and farm buildings should be properly segregated for assessment purposes.

Based on this evidence and testimony, the board of review requested confirmation of the subject's non-farmland assessment.²

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 the evidence and testimony in the record supports a change in the classification of the subject property and a division in the improvement assessment for both a farm building and a residence.

Here, the primary issue is whether the subject parcel is used primarily for agricultural purposes for the assessment year 2009 as required by Section 1-60 of the Property Tax Code. 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). 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 and/or the raising of livestock. Based on the evidence presented and not refuted, the Property Tax Appeal Board finds all but the homesite of the subject parcel is entitled to a farmland classification and assessment with appropriate assessments separated for the outbuilding (barn) and dwelling.

Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" in part 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.]

² At the hearing, the Property Tax Appeal Board requested the Kane County Board of Review prepare the agricultural assessment for the subject property.

In order to qualify for an agriculture assessment, the parcel must be farmed at least two years preceding the date of assessment (35 ILCS 200/10-110). The Property Tax Appeal Board gave no weight to the letters submitted by the board of review from Jim Resser, president of the Homeward Glen Homeowners Association and Mark Armstrong, CIAO, as Clerk of the Board of Review. Resser and Armstrong were not present to provide testimony or answer questions pertaining to the presence of alpacas on the subject property for the years 2007 and 2008. Based on the appellants' evidence and un-refuted testimony, the property has been used for agriculture purposes for at least two years prior to January 1, 2009.

Based on this statutory definition of a farm, the Property Tax Appeal Board finds the evidence and un-refuted testimony clearly shows 8.38 acres of the subject parcel and barn have agricultural uses that qualify for a farmland classification and assessment as of the 2009 assessment year. The Board finds the photographic evidence and un-refuted credible testimony presented by the appellants show the appellants were engaged in farming activities for the 2007, 2008 and 2009 assessment years. The Board finds the appellants raise and breed alpacas, which qualifies this portion of the subject parcel for a farmland classification and assessment based on its use. In order 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 Board finds the 8.38 acres of subject parcel complies with section 10-110 of the Property Tax Code. (35 ILCS 200/10-110).

The Property Tax Appeal Board gave no weight to Rottmann's testimony asserting that the subject property is not entitled to a farmland assessment primarily due to a perceived violation of the Village zoning laws. The jurisdiction of the Property Tax Appeal Board is limited to determining the correct assessment of real property that is the subject matter of the appeal. (35 ILCS 200/16-180). The Property Tax Appeal Board has no authority to make a determination as to whether or not the use of real property is in violation of zoning ordinances. In this appeal the evidence clearly demonstrated the subject property was being used as a farm in accordance with the relevant provisions of the Property Tax Code regardless of whether or not this use violated provisions of the Village's zoning ordinance.

Based on this record, the Property Tax Appeal Board finds 8.38 acres of the subject property is entitled to a farmland classification and assessment and the barn is entitled to a farm building classification and assessment. Therefore, the Board finds the subject's assessment as established by the board of review is incorrect and a reduction 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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: February 22, 2013

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.