FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Jeffrey Grover
DOCKET NO.: 07-04516.001-F-1
PARCEL NO.: 04-15-200-013

The parties of record before the Property Tax Appeal Board are Jeffrey Grover, the appellant, and the Boone 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 **Boone** County Board of Review is warranted. The correct assessed valuation of the property is:

F/Land:	$452
Homesite:	$19,880
Residence:	$62,520
Outbuildings:	$0
TOTAL:	$82,852

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel consists of 7.58-acres[1] with improvements. The land has been classified by the assessing officials as having an approximately 2.5-acre homesite, 4.9-acres of qualifying farmland, and .13-acres of road. The property is located in Capron, Boone Township, Boone County.

The appellant appeared before the Property Tax Appeal Board claiming that more of the subject homesite area should be classified and assessed as farmland. In Section III of the Farm Appeal form, the appellant reported the subject parcel consists of .83-acres of permanent pasture, 5.60-acres of woodlands, .61-acres of other farmland, and .54-acres of homesite. In addition, appellant raised concerns about the actions of the assessing officials in determining and/or failing to factually ascertain whether the subject parcel included farmland and/or farming

[1] The board of review included the property record card for the subject that records the parcel as 7.58-acres, although in a letter the board of review described the subject parcel as containing 7.54-acres.

activity. Moreover, the appellant contended the farmland valuation should be similar to the 2006 farmland assessment of $710, not $452 as a farmland assessment for 2007. No dispute was raised concerning the subject's improvement assessment.

In support of the classification issue, the appellant submitted a two-page brief arguing his position, copies of assessment notices from 1999 through 2006, two Soils Calculation Reports, a photocopied aerial photograph with three areas drawn-in with notations "wet" within the area currently classified as homesite, three color photographs depicting standing water, and additional color aerial photographs of the subject property.[2]

The appellant submitted historic assessment notices with farmland assessments from $1,526 in 1999 and decreases year-to-year finally to $625 in 2006.[3] None of the notices indicate the acreage deemed to be farmland versus non-farmland acreage.[4] In 2007 upon appealing a Notice of Revised Assessment to treat none of the subject's acreage as qualifying for a farmland assessment, the board of review revised the assessment and assessed a portion of the subject parcel as farmland. The appellant now appeals that determination to the Property Tax Appeal Board.

The appellant's two Soils Calculation Reports reflect $625 and $454, respectively, for farmland assessments. In the report with a $625 farmland assessment, the report indicates 5.91-acres of farmland and 1.67-acres of homesite whereas the second report lists the farmland area as 5.03-acres and the homesite as 2.55-acres. At hearing, the appellant testified his actual homesite area which he mows with a riding mower and maintains as his yard close to the dwelling is .54-acres. (See color aerial photograph)

As to the farming operation, the appellant testified that he plants, grows and harvests Christmas (fir) trees on the parcel and has done so since 1992. On September 26, 2007 when an assessing official was on the property, a view of the property would have revealed hundreds of seedlings and transplants on each side of every tree stump. Moreover, each of the approximately

[2] Appellant's data also included a copy of a visitation notice dated September 26, 2007 from the assessing officials noted as a "routine visit" along with a business card of Dale Schwebke, Boone County Deputy Assessment Officer. Since the appellant's appeal herein is taken from the decision of the Boone County Board of Review for the property's assessment as of January 1, 2007, the Property Tax Appeal Board will not further address the appellant's contentions and/or testimony regarding the initial assessment determination of no farmland which has been modified by the board of review.

[3] The Notice of Final Decision of the Boone County Board of Review for assessment year 2006 reflects an increase in the subject's farmland assessment to $710 from the original farmland assessment notice of $625.

[4] Among his documentation, appellant contends that the years of assessment notices "illustrate the elimination" of the subject's farmland assessment and depreciating rather than appreciating the subject's value.

2,000 trees on the parcel were fully pruned and cared for. Since appellant's 2006 farmland assessment was $710 and the 2007 assessment initially removed all farmland classification from the property, appellant now contends that this 2007 assessment should at least restore his farmland assessment to $710 from its current farmland assessment of $452.

As to land located between the dwelling and the road/highway which is currently assessed as part of the homesite, the appellant testified that in 1992/1993 he planted fir trees only to have them turn red within less than a year and die due to excessive moisture. Since that 1992/1993 effort to grow trees in the disputed area, appellant put down pasture mix and has mowed over the area with a "bushhog" about twice a year to keep the growth to about 6 to 8 inches tall. The disputed area also includes some hardwoods and scattered spruces. (See aerial color photograph)

Further citing to the Illinois Department of Revenue Guidelines, Publication 122, "Instructions for Farmland Assessments" (September 2006 edition) at page 5, the appellant argued that the disputed area, which is too wet to plant with fir trees, should be deemed "idle land" and thus afforded a farmland assessment as the result of a management decision. Specifically, appellant noted the following from the guidelines on idle land:

> . . .
> - If idle land is part of a farm, and could be cropped without additional improvements, it may be assessed as cropland if the idle portion of the parcel is smaller than the farmed portion of the parcel.
> - If idle land is part of a farm but could not be cropped without additional improvements, it may be assessed as wasteland if the idle portion of the parcel is smaller than the farmed portion of the parcel.
>
> . . .

(Dept. of Revenue, Publication 122, "Instructions for Farmland Assessments" (Sept. 2006 edition).

As to the disputed area, the appellant testified that he has installed drainage tiles to dry these wet areas faster including installation of an electric pump to move the water to the pond at the rear of the property. However, the areas still remain excessively moist after rainfalls. The appellant further testified that in Spring 2008 he again planted trees in the disputed area as a test.

At hearing the appellant concluded that the subject's farmland assessment should at least be returned to its 2006 treatment.

On cross-examination, the appellant testified that he annually sells from 20 to 40 Christmas trees. When asked whether he provided any of those sales records to either the county board of review or the Property Tax Appeal Board, the appellant testified that he was not told that he had to do so. He further testified that he purchases 50 or 100 new Christmas tree seedlings annually depending on how many can be accommodated. Appellant reiterated that pasture mix has been grown in the disputed area since 1993. Furthermore, he stated the disputed area with pasture mix, some hardwood trees and spruces cannot be mowed with a riding mower. No livestock is fed on the disputed land.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $82,852 was disclosed consisting of a $452 farmland assessment, a $19,880 homesite assessment, and a $62,520 improvement assessment. As set forth in a two-page letter, the board of review was of the opinion that its determination of a 2.5-acre homesite, 4.9-acres of farmland and .13-acres of road was the appropriate assessment of the subject property.[5] Attached documentation included an aerial photograph of the subject parcel with the farmland (CR & OF) and homesite (HS) areas identified.

As to the appellant's submissions, the board of review contends that the appellant's 2005 aerial photographs depict no farming activity on the disputed land between the dwelling and the road. As to the valuation of the homesite, the board of review contends that the appellant has provided no substantive market value data to challenge the correctness of the valuation.

In support of the subject's assessment, the board of review noted that in response to the appellant's testimony at a hearing before it regarding his Christmas tree operation, the board of review changed part of the subject parcel to a farmland classification. The board of review further contends that the disputed area between the subject dwelling and the road is residential or homesite as it does not produce or support any farming operation.

Based on the foregoing, the board of review requested confirmation of the subject's assessment.

Appellant filed a three-page written rebuttal. In rebuttal at hearing, appellant testified that the area around the pond at the rear of the parcel is surrounded by "blue clay" which does not support fir trees.

[5] As noted in Footnote 1, in the letter the board of review described the subject parcel as containing 7.54-acres. Moreover, the three classifications of land set forth in the letter total only 7.53-acres. The letter, however, cites the property record card as the source of this data; the property record card reports "legal acres" of 7.58 and shows a 2.51-acre homesite, 4.72-acres as cropland, .13-acre as 'non-agricultural', and .18-acre as 'other farmland' which added together total 7.54-acres.

In response to further inquiries from the Hearing Officer, the appellant asserted there are three 'wet' areas between the dwelling and road which total approximately 1.5-acres and cannot be planted with Christmas trees. Besides reiterating that the area was planted with pasture mix, has drainage tiles/pumping systems installed and is kept down to six or eight inches with a "bushhog," appellant provided no other evidence as to the use or contribution of the disputed land area to the Christmas tree farming operation.

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 set forth in the Property Tax Code ("PTC"), the Property Tax Appeal Board is charged with determining the correct assessment of property which is the subject of an appeal. (35 ILCS 200/16-180) The Property Tax Appeal Board lacks authority to address how assessments are determined and/or how local assessing officials make their assessment determinations.

The Property Tax Appeal Board further finds the best evidence of the subject's parcel size was presented on the property record card depicting 7.58-acres. Moreover, the Notice of Final Decision issued by the Boone County Board of Review reports the subject as having 7.58-acres.

Initially, the appellant contested the farmland assessment of the subject property disputing a reduction from the 2006 farmland assessment of $710 to a 2007 farmland assessment of $452. Section 10-110 of the PTC provides in part that "[t]he equalized assessed value of a farm . . . shall be determined as described in Sections 10-115 through 10-140. . . ." (35 ILCS 200/10-110)

Section 10-115 of the PTC provides in part that:

> The Department [of Revenue] shall issue guidelines and recommendations for the valuation of farmland to achieve equitable assessment within and between counties. . . . (35 ILCS 200/10-115)

Furthermore, section 10-115 of the PTC sets forth the various components that the Department of Revenue is to certify to each chief county assessment officer on a per acre basis by soil productivity index for harvested cropland such as: gross income, production costs, net return to the land, a proposed agricultural economic value, the equalized assessed value per acre of farmland for each soil productivity index, a proposed average equalized assessed value per acre of cropland for each individual county, and a proposed average equalized assessed value per acre for all farmland in each county.

Section 10-125 of the PTC (35 ILCS 200/10-125) provides for the assessment of farmland by type and states in part that:

> (a) Cropland shall be assessed in accordance with the equalized assessed value of its soil productivity index as certified by the Department [of Revenue] and shall be debased to take into account factors including, but not limited to, slope, drainage, ponding, flooding and field size and shape. (35 ILCS 200/10-125(a)).

The subject property has been partially classified as cropland and other farmland. The Boone County Board of Review must follow the farmland assessment guidelines provided by the Illinois Department of Revenue in assessing farmland. The appellant's own Soils Calculation Reports depict various soil types the board of review was using on soil survey maps and the PI or productivity index associated with the soil type(s) identified on the maps and the EAV per acre as certified by the Department of Revenue for each soil type in assessing the subject's farmland.

Based on this record, the Property Tax Appeal Board finds that the board of review correctly assessed the farmland on the subject parcel even though the value may have been reduced from 2006 at $710 to 2007 at $452. The Board finds the appellant did not submit any evidence that challenged the soil types, PI, and EAV per acre used by the Boone County assessment officials in calculating the farmland assessment for the subject parcel.

The Boone County Board of Review and the appellant agree that a portion of the subject parcel qualifies for a farmland assessment because of its use for growing Christmas trees. (See board of review's land use map) Publication 122 on page 3 specifically discusses "land in Christmas tree production."

The next issue is whether the disputed area(s) of the subject parcel should also be entitled to a farmland assessment or whether the land is properly assessed as part of the homesite. Since the homesite was said to be 2.5-acres and the appellant contends the actual homesite is .54-acres, the Board herein will discuss the "disputed" acreage as consisting of approximately 2-acres.

Section 1-60 of the PTC defines farm 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. The dwellings and parcels of property on which farm dwellings are immediately situated shall be assessed as a part of the farm. Improvements, other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm dwellings when such buildings contribute in whole or in part to the operation of the farm. 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. . . . [Emphasis added.]

35 ILCS 200/1-60. Furthermore, section 10-110 of the Code (35 ILCS 200/10-110) provides that in order to qualify for a farmland assessment, the property must be used as a farm for the two preceding years. It is the use of the property which determines whether it is to be assessed at an agricultural valuation. Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill.App.3d 872, 875, 448 N.E.2d 3 (3rd Dist. 1983). Property that is used solely for the growing and harvesting of crops is properly classified as farmland, even if that farmland is part of a parcel that has other uses. Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill.App.3d 799, 803, 715 N.E.2d 274 (3rd Dist. 1999).

The record is clear that more than half of the subject tract was planted and harvested in Christmas trees in 2004, 2005 and 2006. The board of review did not dispute that fact.

The appellant submitted aerial and ground level photographs of the subject property. Three ground level color photographs of water pooled in grassy areas with some nearby scattered evergreen and hardwood tress were identified on back as "4/13/08." Appellant also submitted an aerial photograph of the subject property and drew in areas that were marked "wet." Three of those "wet" areas were in the disputed land between the subject dwelling and the road/highway. Moreover, two of those "wet" areas in the disputed land area appear to cross the appellant's access road/driveway to his dwelling and extend into parts of the area currently classified as cropland with Christmas trees. Appellant further testified that the disputed area has been planted in prairie mix, has had drainage tiles/pump installed to assist in water removal, and is kept to a six to eight inch height to use of a "bushhog" twice a year. He provided no other evidence as to the use or contribution of this disputed 2-acre area to the Christmas tree farming operation.

Further analysis must begin with the definition of land use from section 10-125 of the PTC (35 ILCS 200/10-125) and what type of land is at issue. The Board finds Publication 122, Instructions for Farmland Assessments, published in September 2006 by the Illinois Department of Revenue, identifies the four types of farmland as cropland, permanent pasture, other farmland and wasteland. The disputed area is not cropland as no crops or hay

have been harvested/cut from the area; moreover, while land may qualify as cropland if "crops failed," in this matter the evidence was that the last time crops failed was 1992/1993 with no further efforts to crop the land until 2008. The disputed area is not pastureland as no livestock is pastured on the land. The issue then is whether the disputed land qualifies either as "other farmland" or "wasteland."

From Publication 122, other farmland is defined as "woodland pasture; woodland, including woodlots, timber tracts, cutover, and deforested land; and farm building lots other than homesites." Wasteland is defined as "that portion of a qualified farm tract that is not put into cropland, permanent pasture, or other farmland as the result of soil limitations and not as the result of a management decision."

Also from Publication 122, page 32, the Department of Revenue provides the following guidance on "Assessment of Farm Homesites and Rural Residential Land":

> A farm homesite is the part of the farm parcel used for residential purposes and includes the lawn and land on which the residence and garage are situated. Areas in gardens, non-commercial orchards, and similar uses of land are also included.
>
> Rural residential land may include farmland that is incidental to the primary residential use. It is generally comparable in value to the farm homesite. . . . (Publication 122, p. 32)

The appellant testified that he made a management decision due to the wetness of the areas not to plant or re-plant fir trees in the disputed area. Therefore, by the appellant's own testimony the area may not qualify as wasteland. Furthermore, by definition to be assessed as farmland, the land in question must be "used in connection with . . . an agricultural use." (35 ILCS 200/1-60) Wasteland is assessed based on its contributory value. The Property Tax Appeal Board finds that while the disputed 2-acres are contiguous to cropland separated only by the driveway to the dwelling, the appellant wholly failed to identify how these 2-acres contribute, if at all, to the Christmas tree farming operation. In this regard the appellant did not provide any evidence that the disputed 2-acres has any contributory value to the Christmas tree farming operation such as draining nearby land on which Christmas trees are grown.

Appellant also argued that the disputed land qualifies as "idle land" under the guidelines as set forth on page 5 of Publication 122. However, the disputed 2-acres fails to meet the tests of either of the two types of idle land cited by the appellant. The appellant indicated the area is too wet to be cropped without additional improvements. Alternatively, to qualify as idle land the disputed land would have to qualify as wasteland, which as discussed above, it does not.

In conclusion, as to the classification issue, the Property Tax Appeal Board finds that the disputed approximately 2-acres of the subject property is not entitled to a farmland classification and furthermore no change in the subject's farmland assessment is necessary on this record. Therefore, the Property Tax Appeal Board finds the subject property's assessment as established by the board of review is correct and no reduction in assessment or change in classification 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.

Chairman

Member

Member

Member

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: March 18, 2011

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.