



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

APPELLANT: Richard & Brenda Humphrey
DOCKET NO.: 13-01182.001-F-1
PARCEL NO.: 18-08-13-100-006

The parties of record before the Property Tax Appeal Board are Richard A. & Brenda A. Humphrey Jr., the appellants, by attorney Douglas E. Lee, of Ehrmann Gehlbach Badger & Lee, in Dixon, and the Lee County Board of Review by Special Assistant State's Attorney Christopher E. Sherer, of Giffin, Winning, Cohen & Bodewes, P.C. in Springfield.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **A Reduction** in the assessment of the property as established by the Lee County Board of Review is warranted. The correct assessed valuation of the property is:

F/Land:	\$12,347
Homesite:	\$0
Residence:	\$0
Outbuildings:	\$92,333
TOTAL:	\$104,680

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Lee County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Preliminary Matter

Prior to the date set for hearing, the board of review, through counsel, filed a Motion to Supplement Record. The board of review argued that in preparing for hearing it was discovered that more recent aerial photography of the subject parcel were available than the photograph that was originally filed as Exhibit B with the "Board of Review – Notes on Appeal" and evidence. As part of the motion, the board of review indicated the original aerial photograph was from 2007. The appellants through counsel did not object to the submission of "Updated Exhibit B" consisting of two Spring 2014 Aerial Photographs, one of which depicts the entire parcel and one, a more zoomed in version, was further denoted as a "building overview." In the absence of an objection, the board of review's Motion to Supplement Record is hereby granted, and the two

aerial photographs marked as "Updated Exhibit B" have been admitted by the Property Tax Appeal Board.

Also, for purposes of the hearing, the "building overview" aerial photograph was utilized by the parties to the proceeding and affirmatively established that a descriptive error existed in the written record concerning the subject property. Both parties were under the mistaken belief that there were 17 three-sided shelters.¹ With testimony by appellant Richard Humphrey Jr. as he reviewed the "building overview" (Updated Exhibit B) aerial photograph, it was determined that there are only 15 three-sided shelters on the property. This reduction in the number of shelters also resulted in a reduction in the board of review's total outbuilding assessment from \$95,050 to \$92,333. The board of review also agreed that the decision of the Property Tax Appeal Board should, at a minimum, reflect this reduction in the outbuilding assessment discovered at hearing by correcting the erroneous count of three-sided shelter buildings.

Issues Presented by the Parties

Counsel for the appellants contended the issues for hearing were narrow. The question presented by the appellants was the appropriate amount of depreciation to be afforded to the auxiliary shed and the shelters located on the property. The appellants contend that for use in a cattle operation, the appraiser's conclusion of 50% external (economic) obsolescence to these structures was appropriate and supported by the use of the property, the sale price of the property and the appraised value.

Counsel for the board of review essentially agreed that the issues were narrow with a focus on the shelters and the auxiliary building with the amount of depreciation to be applied to those structures. On behalf of the board of review, counsel also argued that the sale of the subject property was not an arm's-length transaction and, furthermore, the Property Tax Appeal Board had previously determined that the sale of the subject property was not an arm's-length transaction. (See Edward Sims Jr. Trust, Docket No. 12-01644.001-F-1 issued on May 19, 2017 in an appeal from Henry County.) It was further the position of the Lee County Board of Review that the methodology that was used to employ the external depreciation was invalid and that the values, without the additional external depreciation, would be more reflective of the actual value of the buildings.

Issue Presented

Therefore, the sole issue before the Property Tax Appeal Board is the application, if any, of external (economic) obsolescence in determining the correct assessment/contributory value of the auxiliary (calving) shed and the 15 three-sided shelters located on the subject property.

Findings of Fact

The subject parcel consists of ±87-acres of land of which approximately 65 acres is permanent pasture and approximately 22 acres is classified as "other" farm ground. The property is

¹ See Appellants' appraisal report, p. 33 (Exhibit 3); see appellants' attorney's brief, paragraph #1; and board of review evidence which "substantially" agreed with the building listing information in the appellants' appraisal report.

improved with an approximately 19,584 square foot show barn/arena; this building also features a 1,200 square foot office/reception area and two efficiency apartments of 882 square feet. The property includes an auxiliary (calving) shed (pole building) with an 18-foot lean-to addition totaling approximately 6,336 square feet of building area. Features of the auxiliary shed include a steel cover that is lined and insulated with a concrete floor, overhead fluorescent lights and suspended gas heaters. There are 15 three-sided shelters (lean-to's) consisting of six small shelters of 16 feet by 20 feet (320 square feet each); two medium shelters of 32 feet by 20 feet (640 square feet each); and seven large shelters of 20 feet by 65 feet (1,300 square feet each). The three-sided shelters (totaling 12,300 square feet of building area) are pole frame, steel siding with dirt floors; an unspecified number of the shelters are "equipped with an automatic, electrically heated, water fountain."² The property is located in Dixon, South Dixon Township, Lee County.

The appellants based this appeal on overvaluation and contention of law concerning the outbuilding assessment of only the auxiliary (calving) shed and 15 three-sided shelters (lean-to's). No dispute was raised with regard to the farmland assessment or the assessment of any of the other buildings.

As outlined in Appellants' Exhibit 2 provided at hearing,³ the dispute between the appellants' valuation of the disputed improvements and the valuation by the assessing officials of the disputed improvements concerns a 50% reduction for external depreciation by the appellants' appraiser in addition to the deductions made for physical depreciation and functional depreciation. (Appellants' Exhibit 2, page 1) The appellants claim the proper depreciated value (market value) of the disputed buildings requested would be:

Building	SF	Cost New	Physical Dep (24%)	Functional Dep (10%)	External Dep (50%)	Total Depr.	Dep. Value	Value per SF
Auxiliary (Calving) Shed	6,336	\$139,392	\$33,454	\$13,939	\$69,696	\$117,089	\$22,303	\$3.52
Shelters (lean-to's)	12,300 ⁴	\$58,425	\$14,022	\$5,843	\$29,213	\$49,078	\$9,347	\$0.76

Additionally, the appellants reported in Section IV – Recent Sala Data of the appeal petition that the subject property was purchased in February 2013 for \$1,134,375 from the U.S. Marshals Service via auction and "public offers" where the property was advertised for a period of 30 days. It was asserted that the property was advertised in the local paper, Multiple Listing Service and television.

² Evidence elicited at hearing revealed that not every shelter has an automatic waterer. Also disclosed in hearing was that the value of the water fountains was accounted for by both parties as part of the site improvements. No evidence of depreciation was elicited by either party concerning the value of site improvements.

³ Appellants' Exhibit 2 consists of the Lee County Board of Review memorandum along with additional documents filed by the board of review as part of its evidence in this matter.

⁴ In accordance with Ryerson's testimony at hearing, the 'over count' has been attributed to an excess count of two large (1,300 square foot) shelters for a total deduction of 2,600 square feet which results in a total of 12,300 square feet attributed to shelters on the property.

The appellants' Farm Appeal petition also included three comparable sales in the Section VI grid analysis, but this data was not addressed in any manner at the hearing. Moreover, with the limited scope of this appeal concerning the outbuilding assessments for the auxiliary shed and the shelters, the data in Section VI lacks the necessary detail and data to support the appellants' outbuilding overvaluation argument. Comparable #2 was said to have "2 barns" and comparable #3 was said to have "2 older barns." No sizes, ages or other descriptive/use information was provided nor was there any data concerning the outbuilding valuations/assessments of these structures individually as presented by the appellants in the record.

Richard Humphrey, Jr.

The appellants' first witness was Richard Humphrey Jr., one of the appellants and a buyer of the subject property on February 1, 2013 from the U.S. Marshals Service. The subject land is in pasture and improved with some outbuildings. The appellants utilize the subject property for a cattle operation; he described the farm as an effort to raise beef for profit. The cows graze on the subject's pasture land in the summer and the auxiliary shed is used for calving in the winter and breeding in the summer. The calves are 'taken off' in the fall and either marketed as feeder cattle or are continued to be fed depending on what the market value is at the time.

Humphrey testified concerning the process resulting in the purchase of the subject property. The subject property was seized by the U.S. Marshals Service from the previous owner. Thereafter, the U.S. Marshals liquidated the items of personal property through a public auction, including horses. The local newspaper also reported that the U.S. Marshals would be disbursing the real estate in the future. During this process, Humphrey spoke with a representative of the U.S. Marshals office who was handling the disbursement. At that time, when Humphrey inquired, the representative did not know the manner in which the U.S. Marshals office would be getting rid of the real estate; the representative did mention four or five different options, including public auction, open advertising for sale and unsolicited bid. Humphrey testified that this latter unsolicited bid process was further explained to him.

At that time, Humphrey determined that in order to have the opportunity to purchase the property he would make an unsolicited bid offer. After the U.S. Marshals Service accepts the 'starting price' or the appellants' original unsolicited bid offer, the property is then advertised for bid for a two-week period. During this period, anyone can bid. The property is also made available on a date or dates for walk through/inspection and viewing of the property. Once the two-week bidding period is completed, the U.S. Marshals office returns to the original unsolicited bidder. If a higher bid has been received by the Marshals, without revealing the higher offering price, the U.S. Marshals office provides the original bidder with an opportunity to make an increased final bid offer. After the occurrence of the foregoing steps, the appellants made a higher offer on the subject property.

Humphrey determined his final offer price by considering the subject's acreage and recognizing this was the height of farm market values. He believes he used a figure of approximately \$13,000 per acre to develop his offer and then "added just a little bit in there to make sure that we got the property." The appellants made a 'final offer' of \$1,134,375. Once the U.S. Marshals Service accepted the appellants' final offer as being the high bidder, the Contract For Sale Of Real Property (Appellants' Exhibit 1) was presented to the appellants. As part of the contract for

sale, the appellants also were required to pay certain real estate taxes that were in arrears which exceeded \$11,000.

Humphrey was of the opinion that the disputed outbuildings do not have the value to his cattle operation as they did for the purpose for which they were originally built; the structures were overbuilt for a cattle operation. If Humphrey were to build "from the ground up," rather than 15 different structures, he would have built one or two bigger structures and divided the structures into two or three different paddocks. Similarly, for the auxiliary (calving) shed, Humphrey testified the building would not necessarily need the concrete flooring or the heater, which are "nice"; the auxiliary shed is otherwise a wide-open pole barn.

Humphrey testified that the use of the auxiliary shed was for calving and breeding that is a process that occurs over time. Calving runs from the end of December to May/June; the ability to keep the calves alive is somewhat dependent upon the weather. In winter, the desire is to keep the cattle inside and calve them inside; then, once checked and determined to be in good health, the cattle and calves are returned outside. Additionally, to calve for the following year, the operation uses artificial insemination; this is also performed in the auxiliary shed. Humphrey has also placed free-standing pens in the auxiliary shed which can be removed.

The witness also testified that the three-sided shelters differ in size and therefore hold varying numbers of cattle. Depending upon needs of the cattle operation, the three-sided shelters are used to 'house' cattle from time to time.

On cross-examination, appellant Richard Humphrey testified that the original offer on the subject property was made in December 2012 and the closing on the purchase from the U.S. Marshals Service occurred in February 2013. Humphrey acknowledged that the U.S. Marshals Service confiscated the subject property from the City of Dixon/Rita Crundwell, but otherwise he was not familiar with the operations of the Marshals Service. Humphrey also acknowledged that Rita Crundwell is his aunt.

The appellant was also questioned about the handwritten statement on page 2 of the Farm Appeal petition which he signed and dated:

The subject property is currently used for a cow/calf breeding operation. The facility was purchased mainly for the fencing infrastructure in place to use for the movement of cattle. Currently the buildings are minimally used to store personal items (snowmobiles, camper) and a few pieces of equipment for feeding cattle and cleaning paddocks. The structures are overly constructed for our needs, and do not need anything close to the current size or amenities that are there.

In a follow-up question by the Administrative Law Judge (ALJ) concerning which building(s) were being 'used for' the storage of equipment, Humphrey testified that it was the 'show barn' which is no longer being disputed in this appeal. He further contended that no other structures were used for such storage.

After closing on the purchase of the property, Humphrey testified that he 'slowly' started moving the cattle operations onto the property. There was no specific 'move-in date' but it was just over

the course of time. When asked about the basis of his appeal, Humphrey testified that while he uses the buildings, these structures are 'overbuilt' if he was to build them from scratch; shelters which the appellant has constructed over the period of 2013 to 2018 have not included heated water features and typically do not have water in the shelter, but rather have water outside the shelter with heat that keeps the water from freezing. The appellant also contends that the number of shelters on the subject parcel is unnecessary and the sizes are obsolete in that they are too small as they can hold only one or two calves; he asserted they really don't do the cattle operation 'any good.' He has 140 head of cattle; pens that only hold one or two cattle are not useful to him for the main purpose of shelter.

Based on additional questions posed by the ALJ, Humphrey testified that the cattle are free range and can therefore use the shelters as they please; use is typical by the cattle when it is hot for shade and when it is cold and windy for shelter/warmth, otherwise the cattle move about in the pasture.

As to the insemination process in which the auxiliary (calving) shed is used, Humphrey stated that cattle come into heat every 21 days and become eligible for re-breeding; the process takes about two to three months in late-spring/early-summer as the cattle come into heat at staggered dates. The process is done on a schedule so that the cattle calve at the same time.

On redirect examination, Humphrey testified that the subject property has always been used in the same manner, but that there are more cattle on the property as of the date of hearing than were present in calendar year 2013. All of the appellants' cattle are present at the property now; Humphrey had no cattle at the time that he purchased the subject property and thus 'today's use' is greater than it was in 2013.

As to Humphrey's practices of constructing new shelters and/or heated water fountains, he testified that water fountains are available in different sizes, up to one that handles 400 head of cattle. Conceivably, if the property was one pasture, he could equip it with one heated water fountain rather than 14 heated water fountains.

As to the fact that the appellant is a relative of the previous property owner, Humphrey opined that the Marshals Service may have examined the appellants' bid more closely. It was his opinion, at the end of the process, that the Marshals Service had treated the Humphreys fairly.

Brenda Humphrey

The appellants' second witness was appellant Brenda Humphrey. After acknowledging that she had heard and agreed with Richard Humphrey's testimony, she testified that the appellants' initial bid of \$770,000 the subject property was "considerably lower" than the final purchase price. She also noted that the first bid was based upon what the appellants thought the land was worth as pasture ground. As to the farming operation, Brenda Humphrey "does a little bit of everything," including book work and does the paperwork when the cattle are being bred which involves keeping track of the insemination records for each cow.

In her opinion, the auxiliary shed was used most from December through March to bring the cows in when it is observed that the cow is going to calve (that they have milk) or bring the cow

inside if the cow calved outside. The Humphreys do not keep a cow in the auxiliary shed any longer than three days. The cow is kept inside to ensure that the calf is nursing, give the calf its first shot and then the cow and calf are sent back outside. She stated the cows are best kept outside; keeping the cows inside can allow respiratory diseases to set in. Due to this potential of disease, the Humphreys also usually do not have the heater on in the auxiliary shed. She further opined that if the appellants had constructed the auxiliary shed they would not have installed either the concrete floor or the heater. She testified that the concrete floor is a disadvantage. The appellants bring in mulch so that the cows walk on something soft; had the appellants built the auxiliary shed, the floor would have been dirt. When the appellants artificially inseminate the cows, the only reason the cows are brought into the shed is because there is a 'head gate' in the building. For this process, the cows go through a chute, the cow is stopped at the head gate, inseminated in a matter of minutes and sent back outside.

As to the three-sided shelters, Brenda Humphrey stated, "The waters are in there, unfortunately." If the Humphreys were to build a shelter, the water fountain would be outside as the cattle typically relieve themselves somewhere near that area. Due to the current configuration, the appellants are always cleaning out the shelters. The only good purpose the appellants use the shelters for is if there is a cow that is "stressing" because of the heat; the cow will "find her way in there" for the shade or if there is rain. The appellants never put cattle in the three-sided shelters and the cattle are not tied up in a shelter. As to the six small three-sided shelters, she testified that "we very rarely have anything in there"; for these small shelters due to their size, the Humphreys could only place one or two cows in a small shelter, maybe each with a calf. She testified that if you were to place any more cows than that in a small shelter, the cows would step on the calves. She gave one example that, at the time of the hearing, there was one small shelter in use with a cow and calf because the calf has a broken leg; the purpose was so the calf "does not get pushed around." The use of shelters for the cattle would also not be convenient since the cattle would have to be separately fed with hay rather than allowing pasture or field grazing. Brenda Humphrey further testified that the limestone ground cover around the show barn, auxiliary building and small sheds was not ideal for the cattle operation, but "it's there."

The witness affirmatively answered the ALJ's question whether the appellants would consider tearing down the shelters since they were not needed, but Brenda Humphrey also noted there would be a cost to demolition.

Appraisal evidence

In support of the overvaluation argument, the appellants submitted an appraisal originally marked as Exhibit #1 to the Farm Appeal petition; a complete copy was provided during the hearing marked as Appellants' Exhibit 3.⁵ The appraisal was prepared for Community State Bank. Appraiser, Michael D. Blean, who prepared the report, appeared at hearing as the appellants' third witness. Blean estimated the subject property had a market value of \$1,240,000 as of January 8, 2013 as set forth in the appraisal.

⁵ The original submission of the appraisal (Exhibit 1) with the Farm Appeal only included the odd-numbered pages due to an error in the manner of photocopying; the error was cured at hearing, including the presentation of a copy with color photographs.

Blean is an independent contractor employed by ARC Appraisal in Morrison, Illinois since 1998 and primarily performs agricultural appraisals for the firm. Blean is a Certified General Real Estate Appraiser in the states of Illinois and Iowa. He has appraised agricultural properties in the Illinois counties of Rock Island, Henry, Bureau, Whiteside, Lee, Ogle, Carroll and Jo Daviess. While he previously appraised residential, commercial and agricultural properties, for the past ten years he has focused primarily on appraising agricultural properties for attorneys, financial institutions and for individuals in some cases. He has also prepared appraisals previously for both governmental units and for taxpayers related to property tax appeal work.

The appraisal report (Appellants' Exhibit 3) was prepared at the request of Community State Bank for real estate financing purposes for the purchase of the property. The appraiser testified that, assuming that the definition of value and the scope of work requested were the same, there would be no difference in the procedures used to prepare an appraisal for a bank, an individual or an attorney.

Blean testified to the process he uses when beginning an appraisal assignment, including correctly identifying the property to be appraised. This process includes verifying a legal description, tax parcel identification number, contact person to arrange an inspection of the property and to obtain data from the local farm service agency, if available. Blean performed an inspection of the subject property January 8, 2013 at which time the property was vacant.

As to the descriptive error in the appraisal report concerning the number of three-sided buildings (page 33), Blean testified that he had an assistant with him and believed that both he and the assistant counted the number of buildings to arrive at the figure of 17 structures in the appraisal report. However, having heard the testimony along with the review of the applicable aerial photograph, Blean does not dispute the assertion at hearing that there were fewer three-sided structures than set forth in the appraisal report.

Although the farmland assessment is not disputed in this proceeding, the appraiser was asked to briefly explain his valuation of the farmland as depicted on page 36 of the appraisal. He noted that the subject property has some of the highest productivity indices in the county as depicted on page 25 of the report because of the soil types. Each of the three soil types is considered to be Class A farmland and was so valued.

In order to value the buildings on the subject property, Blean reviewed the estimated cost for reconstruction individually. He also looked at "the type of use currently and also what they could be used for" and valued the reconstruction cost less his estimate for depreciation on each component. The witness understands that the primary dispute in this assessment appeal concerns the additional depreciation which Blean applied to the three-sided shelters and the auxiliary shed.

As to the concept of physical depreciation, Blean testified this is essentially the 'effective age,' which is not necessarily the actual age, as of the date of the appraisal report. This effective age is then compared to the expected remaining economic life. The result in the difference is a percentage and reflects the depreciation; this is known as the age/life method. As depicted on page 37, all buildings were reduced from replacement cost new (RCN) by 24% for physical depreciation.

Blean testified as to functional depreciation, which can be an over-improvement or under-improvement; he noted some of it can be remedied and some of it cannot be remedied. In this appraisal report, Blean used an overall 10% functional depreciation figure as some of the buildings were overbuilt in the main building and some of the buildings, like the small shelters, were too small to be practical for an operation other than the horse industry that is very specific.

External (economic) obsolescence is a form of depreciation for factors outside the property. Blean testified that, noting the quality of the subject land, he has never seen land of this quality/caliber used for anything other than cropland. He opined that "had there not been unlimited financial resources available to this particular facility" it never would have been constructed on land that has this quality. The actual highest and best use of the subject land is the production of crops, not for pastureland. When asked how Blean concluded 50% for external obsolescence, he testified "That is an estimated value based on what the intrinsic value of the land is, based on the selling price and based also on -- I could not find any other sales at that particular time."

In reviewing Appellants' Exhibit 2 containing the summary of the appellants' position on the depreciation applied to the disputed structures (page 1) and the summary of the board of review's position on the depreciation applied to the disputed structures (page 2), Blean testified that numerically his external obsolescence/depreciation figure of 50% and the board of review's column of 'additional functional depreciation' were the same concept, although it is a different classification. For the disputed structures, Blean applied a 50% reduction from RCN for external obsolescence, but the board of review applied no additional depreciation in the column the board of review entitled "additional functional depreciation" for the disputed structures.

On page 38 of the report, Blean summarized the three types of obsolescence he had applied to the subject farm buildings: Physical, Functional and External. For external obsolescence, Blean wrote:

Due to the downturn in the horse industry since the banning of horse slaughter in the United States and the additional stigma attached to the property, given the negative publicity against the previous owner, 50 % economic obsolescence was applied to the RCN.

(Appellants' Exhibit 3, p. 38) When questioned about the appraisal report's discussion of the condition of the horse industry and the state of the horse industry at the time of the appraisal, Blean asserted the discussion was relevant at the time and continues to be relevant today. He further noted appellant Humphrey's business is also cyclical and furthermore, if the appellant were forced to cease operating the subject parcel as a cattle operation, the demand for facilities like this is not similar of what you would expect for a set of farm buildings such as grain bins, or a modern shop, or a house, or something like that. He asserted the subject property is a completely atypical set of farm buildings.

The 'negative publicity,' according to Blean, factored in as it would be against the family probably. He further noted the bidding was open to anyone from the public and the seller, U.S. Marshals Service, was obligated to obtain the highest price so as to reimburse the taxpayers. While he acknowledged it was a court-ordered sale, in this particular instance, it was not a

typical court-ordered sale due to facts that it had exposure in the market and the bidding process was open to others. In the course of developing the appraisal, Blean did consider the contractual purchase price the appellants had agreed to pay for the subject property. Blean testified it "was a consideration." The final opinion of value for the subject property developed was higher than the purchase price.

Appellants' Exhibit 4⁶ is a letter Blean prepared and addressed to the Lee County Board of Review dated November 11, 2013. The purpose of the letter was to provide explanations or documentation for depreciation in the cost approach which Blean had included. In pertinent part, after citing Section 10-140 of the Property Tax Code concerning the assessment of farm buildings (35 ILCS 200/10-140), Blean wrote:

In 2003, an Illinois appellate court in Peacock v. Illinois Property Tax Appeal Board, 339 Ill.App.3d 1060, affirmed that the test is the value of the buildings to the current owner, quoting the Illinois Supreme Court in O'Connor v. A&P Enterprises, 81 Ill.2d 260 (1980), saying that "The legislature has provided that these buildings should be valued on the basis of their contribution to the farm operation. If they are used for either their intended purpose, or for a substitute purpose, the appropriate value can be placed on them If they contribute nothing to the productivity of the farm then, of course, the buildings would add nothing to the value of the farm.'

Blean's letter went on to assert that the current owners use the facilities in their beef cattle operation. He asserted the current use is a substitute use from the original intended use which was a modern horse stabling and showing facility. Blean concluded the letter with the assertion that "[t]he structures are a significant over improvement for the current owners' use, and their contribution to the farm as a whole is therefore limited to their current use." (Appellants' Exhibit 4)

Blean also testified that the three-sided shelters and the auxiliary shed have 'some value' to the farming operation. In light of the testimony at hearing, Blean agreed that there are 15 shelters, not 17 shelters as set forth in the appraisal report and the value would be proportionately decreased. However, he also opined that nothing in the description of the use of the auxiliary shed by the appellants supports a total value conclusion of that building of nearly \$92,000 as proposed by the Lee County Board of Review. Instead, Blean contends that the value of the auxiliary shed as a contribution to the farm as a whole has a value of \$22,303. Likewise, Blean contended that nothing in the current use of the shelters as described by the appellants leads to a total value conclusion of those structures of \$46,712 [now as modified during hearing of \$38,560] as proposed by the Lee County Board of Review. Instead, Blean contends that the fair market value of the shelters in their current use as a contribution to the farm reflects a value of approximately \$11,324 [now as modified to \$9,347]; Blean claimed this value was due to the size of some of the shelters and because they only have very seasonal use.

⁶ Appellants' Exhibit 4 was provided with the appeal petition identified as Exhibit 2 and thus, there was no objection to its submission at hearing.

He further contended that a farmer constructing something like this today would not construct it in this fashion; the shelters were constructed for a specific use and that use is gone. He opined the value of the shelters is more a value-in-use than a market value.

On cross-examination, Blean was asked about various aspects of his appraisal report, the sale transaction and the hearing process before the board of review. He was asked if he described to the Lee County Board of Review that his methodology for valuing the subject property was to begin with the purchase price, deduct the land value and then allocate the remainder to the buildings on the property. Blean testified that he did not recall saying that; he further responded that if that were the case, he would not have concluded a value for the property that was higher than the sale price.

Blean acknowledged that the highest and best use of the subject property as summarized on page 6 and detailed on page 20 of the appraisal report was for crop production as vacant and for crop and beef cattle production as improved.

On page 7 of the appraisal, Blean wrote that the depth of discussion contained in the report was specific to the needs of the client for the intended use; the needs of the client was for an appraisal of the property in as-is condition for real estate-secured financing. In other words, to ensure that the bank had enough security in the collateral to make the loan; the appraisal was not prepared to establish a market value for real estate tax purposes. The intended user of the appraisal was Community State Bank. When questioned about the submission of this appraisal report as evidence in this assessment appeal proceeding, Blean noted that he did not submit the appraisal report as evidence. When questioned whether he obtained permission from Community State Bank to testify in this proceeding concerning the appraisal report, he indicated that he did not obtain such permission. Blean's testimony today involves providing an opinion of value of the subject property. Blean also acknowledged that Canon 4 of USPAP provides for rules of confidentiality in appraisal practice. The witness noted that he was "ordered" to appear for the hearing by appellants' legal counsel of record, Douglas Lee, although Attorney Lee does not represent Community State Bank to Blean's knowledge.

Blean was questioned about his knowledge of a Property Tax Appeal Board Decision in Docket No. 12-01644.001-F-1, *Edward Sims Jr. Trust* issued on May 19, 2017.⁷ In accordance with the procedural rules of the Property Tax Appeal Board, the Lee County Board of Review requested that official notice of the aforesaid decision be taken. (Citing to 86 Ill.Admin.Code §1910.90(i)). In pertinent part, as part of the analysis of the appellant's appraisal in the *Sims* case, the Property Tax Appeal Board determined an appraiser performing an appraisal for the Sims property attempted to extract purported depreciation amounts from a single comparable sale and that sale, based on that record, was found by the Board not to be an arm's-length sale – the property was the subject in this appeal. As to that single sale, the Board wrote, it did not meet two of the key fundamental elements of an arm's-length transaction as follows:

The Board find[s] this sale was not a voluntary transaction. The Board finds the auction sale was by court order due to criminal activity resulting in forfeiture.

⁷ This Property Tax Appeal Board decision is currently on administrative review in Henry County. The appeal was filed in mid-2018 concerning, in part, service of the decision on counsel of record.

(See United States of America v. Rita A. Crundwell, citation omitted).⁸ The Grantor was the U.S. Marshals Service. The record also shows the buyer at auction was a relative of the former owner, which further undermines the arm's-length nature of the transaction.

(*Edward Sims Jr. Trust*, Docket No. 12-01644.001-F-1, May 19, 2017 at page 7). Blean testified that he disagreed with this conclusion by the Property Tax Appeal Board in the *Sims* case as he believes the sale of the subject property was an arm's-length transaction.

Photographs of the auxiliary shed, three types of shelters of varying sizes and an automatic waterer (example within a shelter) are found on pages 29 and 30 of the appraisal report. As to the auxiliary shed at issue in this proceeding, Blean agreed it is a common building type found on farms, with the exception of the size and width of the doors. Since the appellants testified that not each of the shelters has an automatic water fountain, Blean was willing to modify his report from the assertion on page 33 that each of the shelters had a water fountain.

As set forth on page 37 of the appraisal report, for replacement cost new based on Marshall and Swift, Blean opined a value for the auxiliary shed of \$139,392 or \$22.00 per square foot. Likewise, on page 37 of the appraisal report, for replacement cost new of 14,900 square feet of three-sided shelters based on Marshall and Swift, Blean opined a value of \$70,775 or \$4.75 per square foot. The witness was questioned how he calculated the total square footage of the shelters and after a lengthy pause, Blean confirmed it was based on his determination of the dimensions of 17 shelters as set forth on page 33. The reported price per square foot of the shelters did not include the automatic water fountains as those were included in the appraisal under other site improvements of the property.

The external (economic) obsolescence that Blean applied was 50% across all the improvements on the subject property. When asked where the calculations were shown for the depreciation, Blean responded that page 32 provides the definitions of depreciation. The Property Tax Appeal Board also finds upon examining the report that details of the three types of depreciation applied to the improvements of the subject property are each described on page 38 of the report. On page 38 of Appellants' Exhibit 3 as to external obsolescence, Blean wrote:

Due to the downturn in the horse industry since the banning of horse slaughter in the United States and the additional stigma attached to the property, given the negative publicity against the previous owner, 50% economic obsolescence was applied to the RCN [replacement cost new].

Blean was asked what market evidence was used to determine external obsolescence. He responded that if he had had sales of similar properties to the subject, they would have been included with the report. However, given the lack of sales of properties with similar improvements, the external obsolescence calculation was an estimate based on his own judgement. Given the property's highest and best use as improved for cattle production, Blean contended that the foregoing statement about the banning of horse slaughter was relevant because of the over-improvement of the subject property for this use so the market does not

⁸ U.S. v. Crundwell, 735 F.3d 743 (7th Cir. 2013).

recognize the value. The cattle operation was a proposed use, not an actual use. When asked if the property was valued at its highest and best use or as a horse farm, Blean answered he was valuing the property based on its highest and best use of crop and cattle production. He further expounded that the external obsolescence was concluded from a perception of the market at the time because the buildings would be a very unique use for a cattle operation as compared to most cattle operations, so it was more of a user specific value than a market evidence value of highest and best use.

Blean contends that he valued the subject property at its market value based on the definition set forth in the appraisal; he also thinks that Humphreys' current use is a value in use.

Upon questioning by the ALJ, Blean agreed that a determination of the highest and best use of a property as it stands as of the date of valuation is the starting point to determine the appraiser's analysis for purposes of valuing the property. To expound on his analysis in the appraisal report, Blean testified that the current use for cattle production is an interim highest and best use; the buildings were designed for horse production even though that probably was their original highest and best use, but this use by the appellants is an alternate use and an alternate highest and best use than what it was originally designed for. People looking at the subject property, the primary buyer of this property, would have been a horse buyer.

Blean further noted that with 60+ acres in pasture which should be in crop production instead of pasture and he asserted that the cattle production should be of very limited scope on the subject property. He opined that because there are a limited number of people that would have use for the kind of buildings on the subject property that cattle use became the ultimate highest and best use than what it would have been. Blean noted that the appellants are making use of the subject property and he has to acknowledge that it is being used as a cattle facility.

Blean also testified that he arrived at his highest and best use conclusion of crop and cattle production because "it was the projected use and the only projected use out of all of the sales" and you do not find cattle facilities that are designed like this; this is the reason Blean used horse facilities for comparables because of the structures and the way the improvements were designed. While the information on the pending sale drove the appraiser's determination of highest and best use as improved; Blean disagreed that in the absence of the pending sale, the highest and best use would have been for a horse barn/show facility since as depicted in the appraisal there were other horse barn facilities that were on the market that had not sold. He further noted that in the absence of unlimited funds for this facility, from a business standpoint, this facility would never have been developed the way that it was.

On redirect, counsel for the appellants inquired of Blean if it was relevant that for highest and best use analysis that he appraised the vacant land as cropland as opposed to pasture. Blean testified that for purposes of an appraisal, the land has value and either the improvements contribute or do not contribute to value, but the land always has value. In this case, the quality of the land was Blean's consideration.

Board of Review

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$107,397. The assessment consists of a farmland assessment of \$12,347 and a total outbuilding assessment of \$95,050 consisting of a number of structures of which only the auxiliary shed and shelters are in dispute.

Also as noted previously in this decision, in the course of hearing, the board of review modified the total farm outbuilding assessment to reflect the reduced number of shelters resulting in a revised outbuilding assessment of \$92,333 and a total revised assessment of land and buildings of \$104,680.

The assessing officials contend that the disputed structures on the subject property are not entitled to 'additional functional depreciation' or external obsolescence.

Contrary to the requirements of the procedural rules of the Property Tax Appeal Board, the board of review failed to provide a copy of the property record card of the subject property. (86 Ill.Admin.Code §1910.40(a)). However, the board of review's two-page memorandum adopted the building listing information, size, cost new, physical depreciation and functional depreciation attributed to each of the outbuildings as set forth in the appellants' appraisal report (see pages 33 & 37 of appraisal) along with a site improvement value of \$25,000 "per appraisal,"⁹ except as to the disputed auxiliary shed and shelters.

The data on the disputed assessments/valuations are as follows with corrections as developed in the course of hearing:

Building	SF	Cost New	Physical Dep (24%)	Functional Dep (10%)	Additional Functional Dep (50%)	Total Depr.	Dep. Value	Value per SF
Auxiliary (Calving) Shed	6,336	\$139,392	\$33,454	\$13,939	\$0	\$47,393	\$91,999	\$14.52
Shelters (lean-to's)	12,300 ¹⁰	\$58,425	\$14,022	\$5,843	\$0	\$19,865	\$38,560	\$3.14

In further support of its contention of the correct assessment, the board of review submitted a two-page memorandum addressing the appellants' evidence (presented at hearing as Appellants' Exhibit 2). Additionally, the board of review submitted as evidence its Exhibit A, consisting of a corrected grid analysis of the appellants' Section VI comparable sales data and Exhibit B, a 2007 aerial photography of the subject parcel [which has been supplemented by two 2014 aerial photographs as discussed previously and identified as Updated Exhibit B] along with an eight-page brief prepared by Lee County Assistant State's Attorney Matthew T. Klahn.

⁹ Appraiser Blean testified that the value of the automatic, electrically heated, water fountain in the shelters was accounted for within the site improvement value. No evidence in the record indicates any depreciation applied to the site improvement value.

¹⁰ In accordance with Ryerson's testimony at hearing, the 'over count' was attributed to an excess count of two large (20' x 65') shelters for a total deduction of 2,600 square feet which results in a total of 12,300 square feet attributed to shelters on the property.

Supervisor of Assessments/Chief County Assessment Officer

The first witness called by the board of review was Wendy Ryerson, clerk of the board of review and appointed Lee County Supervisor of Assessments who has held that position for 18 years. Ryerson was previously employed in the office as a deputy assessor commencing in 1986. She also previously (prior to appointment as Supervisor of Assessments) worked for about ten years as a part-time appraiser.

As part of the 2013 tax year appeal process at the local board of review level, the board of review members and Ryerson toured the subject property in January 2014. Ryerson testified that the property record card for the subject buildings reports the ages of the various structures and she asserted that the buildings were not all the same age as indicated in Blean's appraisal report. According to the property record cards, the largest building, the horse barn/arena along with office area, was built in 2006 and the auxiliary shed along with lean-to was built in 2010. According to Ryerson, the assessing officials do not have record of the apartment units and thus it was unknown when the apartments were built. The assessing officials' records indicate the three-sided shelters were built between 2003 and 2011; also several of the shelters were not contained within the property record card for the subject. She also testified that some building permits were obtained for many of the structures, but not for the apartments or "loafing sheds." It was also noted that the previous owner had the subject property gated for security purposes and thus, the local assessor would not have been able to readily discover the structures.

As part of Ryerson's testimony, she stated appraiser Blean appeared before the Lee County Board of Review at its hearing and explained his appraisal process. Ryerson testified that Blean reported his methodology was that he essentially calculated the value of the land itself and then once he knew the value of the land he took the overall purchase price and allocated the remaining value to the buildings and that was in part how he calculated his depreciation.

Ryerson testified that Exhibit A, the reiteration of the appellants' Section VI comparable sales grid analysis was presented to clarify the information that was provided by the appellants.¹¹

As to the board of review's contention with regard to the correct assessment of the auxiliary shed and the shelters, Ryerson testified that based upon the in-person inspection and what the appellant described to the board of review, these disputed shelters were being used by the cattle operation. As to the board of review's disagreement with the valuation conclusion of the appraiser, Ryerson stated the biggest dispute from the board of review's perspective concerns Blean's conclusion that the highest and best use is for a cattle operation, but yet 50% depreciation was applied for external obsolescence because of the downturn in the horse economy.

Looking to page 37 of the appellants' appraisal report, as to the three-sided shelters, Ryerson agreed with Blean's reported cost basis of \$4.75 per square foot for a standard three-sided shelter

¹¹ Ryerson testified that comparable sale #1 of vacant land had also been owned by Rita Crundwell and was part of the seizure/confiscation; this property was also a court-ordered sale. Similarly, comparable sale #2 was also a court-ordered sale and comparable sale #3 reflects a less than 100% interest in the property. Additionally, comparable sales #2 and #3 were each also improved with dwellings which differs from the subject property.

with no water feature. The only issue with regard to the three-sided shelters concerns the appellants' appraiser's application of 50% for external obsolescence. Ryerson testified that the board of review agreed with the application to the auxiliary shed and three-sided shelters of physical depreciation of 24% and functional depreciation of 10% as set forth in the chart above.

Ryerson contended that she and the board of review disagreed with the application of 50% external obsolescence to the disputed improvements because (1) the shelters and auxiliary shed were being used and (2) it seemed as though Blean was not valuing the automatic waterer features that were in the shelters, but yet was deducting 50% for depreciation saying the shelters were over-improved which Ryerson viewed as a 'double dipping.' She further questioned if the base cost of \$4.75 per square foot for the shelters does not include the automatic waterers, then why reduce the value of the shelters on the basis that it was an over-improvement? When asked by the board of review's legal counsel if there should be any external obsolescence depreciation applied, Ryerson testified that there should not be any external obsolescence applied to any of these disputed structures. When asked why not by the ALJ, Ryerson stated, "Because they were, in effect, being used." She was next asked if the structures were an over-improvement for a cattle operation. Ryerson agreed that they were an over-improvement and also pointed out that the appellants' appraiser accounted for the over-improvement in the 10% functional obsolescence deduction. She also stated the subject auxiliary shed is "not all that uncommon for a farm today"; perhaps in the 1970's it may have been unusual to have a concrete floor, but today the assessing officials see buildings constructed with concrete floors and overhead doors, like the subject property. When asked by the ALJ if Ryerson's calculation for the shelters includes the water feature, she stated her calculation did not include the water feature, but she also noted she did not subtract for them being an over-improvement.

Before the correction to the improvement assessment made in the course of hearing, according to Ryerson, the Lee County Board of Review's total estimated market value of all the improvements divided by the gross square footage of all structures reflects a market value of \$6.65 per square foot. Ryerson opined that this seemed like a very reasonable per-square-foot price and not at all an over-improvement type of price. In contrast, the Blean appraisal suggests a value of \$3.61 per square foot for all of the structures on the subject property.

At page 38 of the Blean appraisal, the bases for physical, functional and external obsolescence were each set forth. Ryerson pointed out that the functional obsolescence deduction accounted for the over-improvement or super adequacy of the structures which the Lee County Board of Review has agreed with. However, the board of review disagreed with the external obsolescence deduction of 50% tied to the horse industry that was of concern to the board of review which "did not seem like a reasonable conclusion."

Ryerson also testified that appellant Humphrey has built two similar three-sided sheds on other parcels he owns in Lee County for his cattle.

Based on the foregoing testimony and correction to the record, the board of review requested that the outbuildings of the subject property be assessed at \$92,333 with no change to the farmland assessment.

On cross-examination, Ryerson agreed that despite all the questions about the appraisal methodology employed by Blean, the only disagreement was with the 50% external obsolescence applied to the auxiliary shed and the three-sided shelters. Based on the way that Blean described the respective depreciation calculations on page 38 of the appraisal, Ryerson also agreed that the dispute in this appeal is not about the over-improvement/super adequacies of the subject property since the parties have agreed to a 10% functional obsolescence deduction for the super adequacies of the structures. Rejection of the external obsolescence deduction set forth in the appraisal report, as Ryerson had testified, was due to viewing the property and hearing from the appellant that the disputed buildings were being used. Ryerson further opined that if the appellants were not the owners/users of the property and there was no cattle operation present, the question would be what is the highest and best use of the auxiliary shed and the shelters; according to the witness, the auxiliary shed is a very common equipment-type shed. Therefore, she contended that another potential buyer would/could make use out of it, not necessarily for the same use as the appellants, but as an equipment shed. Ryerson acknowledged the requirement to assess properties in accordance with the Property Tax Code and the case law interpretations, including to assess farm buildings based on how they contribute to the farm operation and how they are used.

Upon further examination concerning Blean's testimony of the appraisal methodology before the Lee County Board of Review, counsel questioned why Blean would not have arrived at the purchase price for his final value conclusion if he performed the valuation as Ryerson contended. The witness stated Blean's assertion before the board of review was that he determined the external obsolescence was necessary as there was a gap between what the property sold for and what he was concluding as a value in terms of land value; thus, "in order to get where he needed to go" Blean applied the external obsolescence. Ryerson testified that is what led Blean to believe that the external obsolescence was important. Ryerson agreed that part of the problem in valuing the subject property is that there are no comparable properties locally and the subject property is very unique which is problematic for both assessors and appraisers.

At the time of inspection of the subject property, Ryerson did not recall if there were any calves in the auxiliary building, but that, appellant Richard Humphrey, told them that is what the building would be used for. As she recalls, there were some pieces of farming equipment and some sort of feed was also in the auxiliary building; it did not have a motor home or any other type of equipment stored in it, other than farming equipment. The day of the inspection there was a blinding snowstorm, so Ryerson does not recall if there were cattle present using the three-sided shelters and they did not go out and check the shelters. She testified that since that time, she has driven past the subject property which is on a major highway and, as has been testified, has observed that the cattle use the shelters occasionally to get out of the weather which is the intention of these "loafing sheds" such that cattle are not confined to a building.

Ryerson explained the reason the board of review's memorandum (Appellants' Exhibit 2, page 2) uses the phrase "additional functional depreciation" rather than external obsolescence was due to the letter from Blean to the board of review (Appellants' Exhibit 4). She stated she would have used the phrase "external obsolescence," but in the letter Blean shifted gears from external obsolescence to some sort of additional functional obsolescence. Ryerson further testified based on the phrasing in the letter and the eventual filing of the legal brief, she did not know what to call this deduction because "it seemed like it was a moving target." According to Ryerson, Blean

described the external was due to the downturn in the horse economy, not a use issue. She testified that she does not know if there has been a downturn in the horse economy; what the board of review found not reliable or credible was that Blean found the highest and best use to be a cattle operation and tried to use depreciation tied to a horse operation which did not make sense to the assessing officials.

As set forth in the board of review's memorandum (Appellants' Exhibit 2), Ryerson acknowledged that the additional functional depreciation (external obsolescence) that was applied by Blean to the horse barn/arena, office/reception area and apartments was accepted. Ryerson further testified that the horse barn/arena was "certainly not being used by the appellants as a horse barn or arena"; "so, yes there was this additional --." Ryerson then opined would there be some use or potential buyer that would purchase this property as a farm and would they be willing to pay the price of the cost of that building; there was concern on the part of the board of review that "did ring somewhat true." There was discussion among the board members what would we do with that building; part of the discussion was it could be used as a storage building.

When asked if the approach of the board of review in assessing the building was what would a different purchaser pay for it, Ryerson said, "No, I think that was just part of our own conversation of what was the highest and best use." Ryerson asserted she was just expounding on some of the conversation that had occurred. Despite that the board of review agrees that this is a unique property, certainly the horse barn/arena is a unique property and would have limited use to a cattle operation. From a commonsense perspective, the assessing officials could not see placing much more value on the horse barn/arena. In other words, that seemed more reasonable. The end result of value seemed more reasonable than the value on the auxiliary shed and shelters that were actually being used by the cattle operation.

As to the total estimated market value of all structures on a per-square-foot basis, Ryerson testified that since a typical pole building costs \$8 to \$10 per square foot to construct without the amenities of concrete flooring or overhead doors, the overall conclusion of the board of review for the subject property of approximately \$6.65 per square foot seemed to be a very reasonable conclusion when the board of review discussed it. In determining the reasonableness of that conclusion, the board of review did not seek to relate the valuation directly to a cattle operation.

The ALJ asked whether the assessing officials consider, in determining contributory value of farm buildings, the amount of time that a given structure may be put to use. Ryerson responded that it would be very difficult for the assessing officials to document the amount of time that a particular structure was being used.

Ryerson confirmed that it is the position of the board of review that there is no external obsolescence whatsoever as to the auxiliary shed or the shelters. When asked by the ALJ what factors the board of review would consider to qualify as external obsolescence for these types of buildings in a farming operation, Ryerson testified external obsolescence is something that is happening outside the boundaries of the property; so, in this instance, it would be a downturn in the cattle market which would require a taxpayer to provide evidence such as import/export tariffs applied to cattle shipped/bought from another country like Canada.

The board of review called as its second witness Tom Mead, Chairman of the Lee County Board of Review. Mead is also a farmer who has been farming "his entire life." Mead was familiar with the auxiliary shed located on the subject property and testified that he has a similar shed on his own property. He opined that this type of shed was a very common building to have with a farming operation. Mead had this type of shed constructed about five to six years ago at a cost of approximately \$170,000 for a 10,000 square foot shed with a concrete floor. Mead testified that auxiliary sheds of this type are "very high on demand for use" and would likely be seen on most farms.

On cross-examination, Mead testified that he uses his auxiliary shed for farm equipment storage; sometimes the building is full of equipment and "sometimes the birds are flying around" depending on what is going on. Mead does not and never has raised cattle, calved cattle or inseminated cattle in his shed. Mead also has never constructed an auxiliary shed in order to raise cattle.

Applicable Statutory Provisions

Pursuant to Section 1-60 of the Property Tax Code (Code) the definition of "farm" includes the following provision:

. . . 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. . . .

(35 ILCS 200/1-60)

Section 10-140 of the Code further provides as follows:

Other improvements. Improvements other than the dwelling, appurtenant structures and site, including, but not limited to, roadside stands and buildings used for storing and protecting farm machinery and equipment, for housing livestock or poultry, or for storing feed, grain or any substance that contributes to or is a product of the farm, shall have an equalized assessed value of 33 1/3% of their value, based upon the current use of those buildings and their contribution to the productivity of the farm.

(35 ILCS 200/10-140)

Applicable Guideline Publication

Publication 122 entitled "Instructions for Farmland Assessments" (dated January 2013) is a guideline issued by the Illinois Department of Revenue [IDOR]. At pages 36-37 of the guideline concerning the "assessment of farm buildings," it states in pertinent part:

. . . The law requires farm buildings, which contribute in whole or in part to the operation of the farm, to be assessed as part of the farm. They are valued upon the current use of those buildings and their respective contribution to the

productivity of the farm. Farm buildings are assessed at 33 1/3 percent of their contributory value. . . .

Valuation of farm buildings based upon contribution relies on theory as well as reality. Farm buildings are usually an integral part of the farm. When farms are sold, the land and improvements are valued together. The portion of this value attributable to farm buildings depends upon the degree to which they contribute to farming operations. Some farm buildings, even though they are in good physical condition, may play a minor role in the operation of the farm and have little value. These same buildings on another farm may be vitally important to the farming operation. The value of the farm buildings in these two instances is different.

. . .

Value must be based on cost. This entails a third problem – depreciation. Since most farm buildings are constructed in the hopes of increasing efficiency or productivity, the undepreciated cost of the building will approximate market value when the building is new. The undepreciated cost of the building may be quite different than the value as the building ages. This difference between actual cost of replacement and the value of building is **depreciation**.

. . . Depreciation can be in the form of physical deterioration, functional obsolescence, or economic obsolescence.

Physical deterioration is a loss in the physical ability of a building to withstand normal use. Deterioration results from use, wear and tear, structural defects, and decay. Physical depreciation is observable and identifiable.

Functional obsolescence is a loss in value due to characteristics of the building which cause a failure of the building to serve the purpose for which it was intended. Inadequacy may result from poor design, surplus capacity, and changes in farming techniques. Functional inadequacy causes a loss in desirability and usefulness.

Economic obsolescence [also known as external obsolescence] is a loss in value due to changes in the economic environment of the farm. Economic obsolescence results from external influences such as land-use changes, government regulations, and farm market conditions. Economic obsolescence causes loss in desirability and utility.

Depreciation reflects loss in value due to all possible factors. Value of contribution to productivity can be determined by deducting all depreciation from replacement costs. This value will reflect such factors as improper design (functional obsolescence), neglect of repairs (physical deterioration), and more stringent government regulations (economic obsolescence).

. . . Economic obsolescence will require investigation into such factors as government regulation changes, current market fluctuations, and any land use changes of the surrounding property.

[Emphasis in original]. (Publication 122, Instructions for Farmland Assessments issued by the Illinois Department of Revenue, Jan. 2013).

Conclusion of Law

The appellants contend the market value of the subject property is not accurately reflected in its assessed valuation concerning only the outbuildings assessment. The sole issue before the Property Tax Appeal Board is the application, if any, of depreciation for external (economic) obsolescence in order to determine the correct assessment of the contributory value of the auxiliary shed and the 15 three-sided shelters. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c).

Through the development of the evidence at hearing, the Property Tax Appeal Board finds a reduction in the subject's outbuilding assessment is warranted based upon a factual descriptive error that was previously discussed herein, however, the Board finds that no additional reduction in the outbuilding assessment should be applied as argued by the appellants.

Once descriptive details were agreed to at hearing, the parties to this proceeding have agreed to the RCN for the auxiliary shed of \$22.00 per square foot of building area and to the RCN for the 15 three-sided shelters of \$4.75 per square foot of building area. The appellants and the board of review have also both agreed upon the application of depreciation of 24% of RCN for physical depreciation and 10% of RCN for functional obsolescence. The only disagreement in the valuation of the auxiliary shed and the shelters concerns the appellants' contention that depreciation of 50% to RCN should also be applied for external (economic) obsolescence and the board of review's assertion that no additional deduction is warranted on these improvements. The Board finds the appellants failed to prove the overvaluation claim by a preponderance of the evidence.

The appellants did not dispute that the auxiliary shed and shelters should be assessed to the extent that they contribute to the cattle farming operation. In this appeal, the appellants have only contested the assessing officials' determination to assess the structures without application of any external obsolescence.

Guidance for the assessment of farm outbuildings is somewhat limited from applicable case law. Where farm structures do not contribute to the productivity of the farm, then the buildings would add nothing to the value of the farm. O'Connor v. A&P Enterprises, 81 Ill. 2d 260, 267-68 (1980); see also Peacock v. Illinois Property Tax Appeal Board, 399 Ill. App. 3d 1060, 1071-1073 (4th Dist. 2003). In O'Connor, the Illinois Supreme Court discussed Section 10-140 of the Property Tax Code concerning 'other improvements' as:

a recognition by the legislature that certain structures located on a farm may have become obsolete by changes in farming methods or practices, and either have a greatly diminished value, or possibly no value at all in connection with the farming operation when considered as a part of the farm as a whole. The corncrib, once an essential structure on every farm for the storage of ear corn, has become primarily a relic of the past, due to the almost universal practice of combining the corn and drying and storing it as shelled corn. Horse barns now stand idle due to the disappearance of the use of horses for the powering of farm machinery, and many dairy barns are no longer used because of the decrease in the number of small dairy herds. The legislature has provided that these buildings should be valued on the basis of their contribution to the farm operation. If they are used for either their intended purpose, or for a substitute purpose, the appropriate value can be placed on them. Section 1(25) of the Revenue Act of 1939 [since replaced by the Property Tax Code] provides that these buildings shall continue to be valued as a part of the farm. If they contribute nothing to the productivity of the farm then, of course, the buildings would add nothing to the value of the farm. Being valued as a part of the farm, the failure to place a value on these buildings is a method or procedure of valuation and not an exemption from taxation. Just as a well that is no longer usable or a shade tree that is dead does not enhance the value of the farm, a barn or a corncrib that is not usable adds nothing to the value of a farm.

O'Connor at 269.

On this record, the Property Tax Appeal Board finds that the unrefuted testimony of the appellants focused on the concept of functional obsolescence. The appellants provided evidence that the auxiliary shed has an unnecessary and/or unhelpful concrete floor. The appellants have chosen to haul in and cover the floor with mulch for a softer walking surface for the cattle. The appellants also provided testimony that the heater is "nice" but an unnecessary amenity in the auxiliary shed. The testimony was that regular use of the heater would and/or housing of the cattle for lengthy periods in the shed would potentially spawn the spread of respiratory diseases. As to the shelters, the testimony was the appellants would not have built the shelters in this manner; the appellants contend that there are too many small three-sided shelters with automatic waterers. The appellants would have preferred to have a few larger shelter buildings and automatic waterers for a larger number of cattle that would have been outside of the shelter building(s).

The Property Tax Appeal Board finds that each of the aforesaid criticisms of the current configuration and/or construction of the disputed auxiliary shed and shelters are related to the concept of functional obsolescence. As set forth in the IDOR guidelines and on page 38 of the Blean appraisal, functional obsolescence concerns "functional inadequacies, type of building, structural deficiencies, and super adequacies [t]he degree of finish and amenities . . . are considered super adequacies."

The record is unrefuted that the appellants' evidence through the appraiser set forth a 10% deduction from RCN for functional obsolescence. The Lee County Board of Review in

determining the assessment of the improvements has agreed to a 10% deduction from RCN for functional obsolescence.

The question posed in this appeal by the appellants is the application of external (economic) obsolescence which is generally negative influences outside the property and generally an incurable matter. (*The Dictionary of Real Estate Appraisal*, 4th Edition, Appraisal Institute, 2002, page 106) On page 38 of the Blean appraisal report, the appraiser was very specific and reiterated the specific reason for external obsolescence in his testimony was due to the downturn in the horse industry/banning of horse slaughter in the United States. Although the appraisal report also mentions under this form of depreciation both the "additional stigma" attached to the property and the "negative publicity against the previous owner," neither of these factors were discussed in Blean's testimony or supported by evidence presented by the appellants in this proceeding.

Instead, the entirety of the external obsolescence argument was related to the downturn in the horse industry which, as discussed by the appellants' witnesses, was all related to issues of super-adequacies of the property that were originally constructed for use as a modern horse stabling and showing facility. The appellants' appraiser in Appellants Exhibit 4, the letter addressed to the board of review, sought to clarify and/or expound upon the bases for external obsolescence. In the letter, Blean contended that the current use for a beef cattle operation is a substitute use from the original intended use. This assertion again is related to functional obsolescence, not external obsolescence. Finally, the last sentence Blean wrote on Appellants Exhibit 4 is:

The structures are a significant over improvement for the current owners' use, and their contribution to the farm as a whole is therefore limited to their current use.

While Blean may have intended to expound on a reason for applying 50% depreciation for external obsolescence, the Property Tax Appeal Board finds that Blean's further explanation merely re-states and reiterates the basis for functional obsolescence.

The Property Tax Appeal Board further finds that none of the factual criticisms raised by the appellants in this appeal relates to the issue of external (economic) obsolescence. As stated in the IDOR guideline, external obsolescence "results from external influences such as land-use changes, government regulations, and farm market conditions." Nothing presented in this record by the appellants supports the argument that external obsolescence has affected an actual loss in the value of the subject property. For a commercial cattle operation, like the subject, this loss of value may mean a decrease in the property's income generating capability. While Blean calculated a numerical obsolescence factor of 50%, he did not attribute the claimed obsolescence to any specific cause related to the concept of external obsolescence. On this record, the Board finds that the appellants failed to provide probative evidence of the cause of the claimed external obsolescence, the quantity of such external obsolescence and that the asserted cause of the external obsolescence actually affected the subject property. (See *Eurofresh, Inc. v. Graham County*, 218 Ariz. 382 (2007)).

Based on this evidence, the Property Tax Appeal Board finds a further reduction in the subject's improvement assessment for purported external obsolescence is not justified.

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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.

Chairman



Member

Member



Member

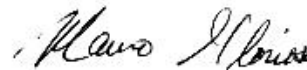
Member

DISSENTING: _____

CERTIFICATION

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: May 21, 2019



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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