FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Palazzini Family Revocable Trust c/o Sandra Halpin
DOCKET NO.: 14-00589.001-F-1
PARCEL NO.: 12-27-300-009

The parties of record before the Property Tax Appeal Board are Palazzini Family Revocable Trust c/o Sandra Halpin, the appellant, and the Grundy County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds ***No Change*** in the assessment of the property as established by the **Grundy** County Board of Review is warranted. The correct assessed valuation of the property is:

F/Land:	$9,556
Homesite:	$0
Residence:	$0
Outbuildings:	$0
TOTAL:	$9,556

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Grundy County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2014 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject parcel consists 39.67-acres consisting of two farmland classifications. The dispute in this appeal centers on the amount of assessable tillable acreage and the amount of other/right-of-way acreage of the subject parcel after a recalculation of parcel size by the assessing officials. The property is located in Greenfield Township, Grundy County.

The appellant trustee Sandra Halpin appeared before the Property Tax Appeal Board with her husband, Don Halpin, claiming the classification of tillable acreage and right-of-way acreage of the subject tract of land as depicted by the Grundy County Board of Review for tax year 2014 were incorrect. The appellant asserts that the Grundy County assessing officials made an erroneous calculation of the classification of the farm acreage after a split of the parcel which reduced in the total size of the parcel by .33 of an acre of cropland. (35 ILCS 200/10-125)

As set forth in the record, the parties agree that the subject parcel was previously known as parcel 12-27-300-003 containing 40-acres of land. After a split "due to a judgment giving the adjoining property owner of parcel 12-27-300-005 an additional 11 feet of land" [or .33 of an acre] from parcel 12-27-300-003, the subject parcel was reduced to 39.67-acres of land and assigned a new parcel number of 12-27-300-009 which is now on appeal.

The appellant argued that the subject tract as a result of the mandated split is now .33 of an acre less in cropland than before the split was recorded. Prior to the split, the subject parcel had a farmland assessment of $9,520, but after the split, when the parcel was slightly smaller, the subject property had an increased total assessment for 2014 of $9,556, or $36 higher than its previous year's assessment, due to an increase in cropland acreage and a decrease in right-of-way acreage.

The parties in this appeal agree that the subject parcel is entitled to a farmland assessment based upon its use. The sole question presented on this record is the correct division of the 39.67-acres for assessment purposes between tillable acreage and other/right-of-way acreage. The appellant contends that no change should have been made to the 2-acres of right-of-way that had been recorded since 1977. The appellant contends the only acreage change should have been a reduction of .33-acres of tillable farmland acreage for a new total of 37.67-acres of tillable farmland.

The appellant contends that based upon information from Stephanie Kennedy, previous Clerk of the Board of Review, the assessing officials used a new measuring system to determine road area and farmland acreage on any property which "changes hands." The appellant contends that under this system "a pencil line is three feet wide" and thus is not as accurate as a survey of the property. Additionally, since the assessing officials were not using this new measuring system on all farmland parcels in the county, but only selectively applying the measuring system to a small segment of properties in the county, the appellant contends the use of this new measuring process was inequitable and a violation of Rule #8 of the Grundy County Board of Review Rules of Government dated August 20, 2014 (copy attached to appellant's Farm Appeal petition). Rule #8 provides:

> Complaints as to the equality of assessments between townships or in any portion of the county may be made, but the same shall contain such facts as will enable the Board to equalize the same.

In further support of the argument, the appellant submitted an aerial photograph with a handwritten notation that the USDA Farm Service Agency records the subject parcel as 37.60-acres of tillable farmland and 2.0-acres of road and ditch (right-of-way). The appellant also submitted copies of two Grundy County Individual Soil ID Land Reports, respectively, for parcels 12-27-300-009 and 12-27-300-003. As set forth on these printouts, before the split, the parcel known as 12-27-300-003 had 38-acres of tillable soil and 2-acres of public roadway for a total of 40-acres. As reported on the printout, after the split, the parcel now known as 12-27-300-009 was recorded as having 38.17-acres of tillable soil and 1.5-acres of public roadway for a total of 39.67-acres of land.

The appellant contends that the original measurements established by the assessing officials in 1977 should be applied for tax year 2014 with a deduction of .33 of an acre of tillable farmland acreage. The appellant acknowledged that neither party to the proceeding has employed a professional surveyor to measure to the subject property.

Based on the foregoing evidence and argument, the appellant requested a decrease in the subject's assessment to $9,520 as it had been before the split of the parcel.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total farmland assessment of $9,556 was disclosed. At hearing, the board of review was represented by Thomas L. Hougas, the clerk of the Grundy County Board of Review and Grundy County Supervisor of Assessments.

In support of the subject's farmland assessment, the board of review submitted a memorandum, data from the "ROW calculation from farm program," an aerial photograph of the subject parcel along with surrounding parcels, before and after the parcel split printouts for the subject parcel and before and after parcel maps.

The Grundy County Board of Review contends that after the split occurred the subject farmland was "recalculated on the current boundary lines." The board of review further reported that previously calculations were made manually with a planimeter and soil overlays, taking an average of three measurements to arrive at a calculation for a parcel. "Starting in 2012, we switched to a computerized farm program that measures the parcels for us, which is a much more accurate method of determining the new soil/land use calculations." Hougas opined that the GIS maps currently in use have a high degree of accuracy pinpointing the data to an exact longitude and latitude.

For the subject parcel, when the calculations were performed after the split the "ROW" or 'right of way' for the parcel was determined to be 1.51-acres, not the previously determined 2-acres that had been calculated by hand. In concluding the memorandum, the board of review noted that the appellant benefited for many years from the calculation error that understated the amount of tillable acreage and overstated the amount of right of way area.

As to the appellant's inequity argument, the board of review contended that it was not economically feasible to remeasure all parcels at a single point in time. Hougas testified that every property that has been remeasured since 2012 has been done using the GIS system, including the subject property. The order of making changes to measurements start with properties that request changes and then secondly, properties the officials are able to get to for recalculation when time permits and resources are available. Hougas estimated that 95% of the parcels in Grundy County have been verified with the GIS system as of the date of hearing in mid-2018; Hougas did not have an estimate as of January 1, 2014, the assessment date of this appeal, but suggested it may have been 40% of parcels that had used the GIS measurements. While Hougas appreciated the appellant's equity argument, it was not a circumstance where the taxpayer was singled-out for remeasurement. Instead, it was an occasion where the new technology was available for use in calculating the subject parcel's farmland area after the split. Hougas further testified that for county budgetary reasons, it is not feasible to hire State certified surveyors to go into the field, measure individual parcels and provide an individual surveyor's

report for every individual parcel in the county. Instead, the county relies exclusively on legal descriptions that are recorded in the Recorder's Office with use of the GIS system.

On cross-examination, the appellant asked whether the individuals performing the GIS mapping functions were certified surveyors or otherwise certified. Hougas testified that the head of the GIS mapping department has a Master's degree in geo-informational services, but is not a State certified surveyor. When questioned further about the burden placed upon the property owner to hire a surveyor to question the county's determination, Hougas testified that, as in any case with a discrepancy, if evidence were brought forward to contradict the county's determination, the county would certainly correct it.

The ALJ followed up asking what the assessing officials did in response to the appellant's contention that the calculations were incorrect. At the time of the local board of review hearing, Hougas was a member of the board of review and instructed staff members to double check the measurements which was also done as part of the review of the appeal at the time.

The board of review also called Deborah Ritke, an Assessment Tech I employed in that position for about a year and a half by Grundy County. Her duties include ensuring all legal documents are in place for combinations and splits within Grundy County. The individual who performed the recalculation of the subject property in 2014 was Jana Finch [phonetic], who is no longer employed by Grundy County. Finch was the individual who trained Ritke.

Ritke testified that after a split or combination of a farm parcel, the property is digitally measured for land use with a farm program that is run on the parcel, including review of aerial photography to determine cropland, other farmland/right-of-way and/or homesite areas. In her job, Ritke then 'edits' the overlay accordingly with the land use map.

As to the subject parcel for 2014, the property had to be reassessed since it was now a different size parcel after the split. The subject property, using GIS, measured more cropland and less right-of-way than the previous measurement and it was assessed accordingly. When asked by the Administrative Law Judge (ALJ) whether the township assessor makes an actual visual inspection to determine what is cropland and what is not, Ritke testified there is no field inspection.[1] Instead, the assessing officials rely solely upon aerial GIS. The aerial photography is done 'when the leaves are down' in winter or early spring.

On cross-examination, the appellant established that Ritke or someone in her position must manipulate the digital GIS program to establish a starting point for a given line to distinguish between ditch/roadway and/or farmland areas. Ritke contended that the measurement line(s) applied in her GIS work involves very small fragments, but she could not pinpoint an exact figure in terms of inches or feet.

The appellant also asked Ritke how she distinguished between grass and a growing crop on the aerial photography. Ritke testified that her assignment was to determine tillable ground and

[1] Hougas interjected that there is no township assessor for the subject property's township; the assessment is done at the county level.

right-of-way areas. The witness was also asked whether the road ditch areas are included in the right-of-way to which Ritke responded that the line was placed where the road was dedicated.

At the request of the ALJ, Ritke reviewed the aerial photograph of the subject parcel that was presented by the board of review with its evidence. Ritke testified that as part of the GIS mapping, the technician selects a parcel number, such as the subject property. For this aerial photograph, the computer has delineated the right-of-way areas on the west and south sides of the subject parcel and noted the remainder to be cropland. She further testified that the computer knows, due the land use map, the distinction between right-of-way and cropland, each of which are then assessed accordingly in terms of soil types and where the boundary lines are in terms of the different soil types. Upon further questioning, Ritke acknowledged that as the operating technician, she or another technician determined how 'wide' the right-of-way would be for the subject parcel.

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

As rebuttal testimony, Don Halpin reported his previous work experience that was admittedly 'some time ago' with the Farm Service Agency with use of digital technology to determine land sizes. In Halpin's experience, the lines applied by the FSA office at that time were about three feet wide. He further contended that the technician operating the computer must place the points on the mapping system. Halpin asserted that a computer does not on its own set forth lines on an aerial photograph.

Conclusion of Law

In summary, the appellant appealed the assessment of the subject parcel in part under the category of a contention of law to the Property Tax Appeal Board for tax year 2014. The land assessment issue was raised as a question of proper classification between cropland and right-of-way. Section 10-15 of the Illinois Administrative Procedure Act (5-ILCS 100/10-15) provides:

> Standard of proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence.

The rules of the Property Tax Appeal Board are silent with respect to the burden of proof associated with an argument founded on a contention of law. See 86 Ill.Admin.Code §1910.63.

The appellant argued the subject's farmland assessment is incorrect because the amount of land considered tillable cropland has been overstated while the amount of land considered right-of-way was incorrectly decreased by use of modern GIS technology rather than continuing use of manual measurements that were established in approximately 1977. The appellant argued that the subject's farmland assessment should be returned to its tax year 2013 assessment as the size of the parcel was decreased to account for 0.33-acres of cropland that were split or removed from the parcel.

The Board finds the appellant failed to refute the farmland calculation made by the assessing officials for the subject parcel. The appellant requested the subject's assessment be decreased by $36 to continue to reflect a classification of 2.0-acres of right-of-way and 37.67-acres of tillable farmland. The Board finds the best evidence in this record of the subject's farmland measurements is the testimony and evidence presented by the board of review and is further supported by the aerial photographs presented by the board of review with GIS calculations. The Board finds the testimony and photographs depict the assessable right-of-way is made to the center of roadway as compared to the previous manual manner of determining parcel size with use of a planimeter with multiple calculations. Therefore, the Board finds the best evidence of the subject's proper classification to be 1.5-acres of right-of-way and 38.17-acres of tillable farmland. Therefore, the Board finds the subject's assessment as found by the board of review is correct and no change in the subject's farm classification is warranted.

The taxpayer also contends in part assessment inequity as a basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and no reduction in the subject's farmland assessment is warranted on grounds of a lack of assessment uniformity.

The Supreme Court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The Court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) The court in Apex Motor Fuel further stated:

> . . . the rule of uniformity ... prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation purposes is valued at either a grossly less value or a grossly higher value. [citation.]
>
> Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A practical uniformity, rather than an absolute one, is the test.[citation.]

Apex Motor Fuel, 20 Ill.2d at 401. In this context, the Supreme Court stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the court, uniformity is achieved only when all property with similar fair cash value is assessed at a consistent level. Kankakee County Board of Review, 131 Ill.2d at 21.

The appellant contends that it was inequitable for the assessing officials to utilize GIS measuring technology as to the subject parcel in 2014 when this measuring technology was not being uniformly applied to all parcels in Grundy County simultaneously. The evidence on record indicates and was not refuted that GIS measuring technology was implemented in 2012 by the Grundy County assessing officials and has been consistently used since that date for purposes of new measurements and checking/correcting of existing records. By the time of hearing in 2018, most of the parcels in Grundy County have been remeasured using GIS technology.

Based on this record, the Board finds no evidence of a lack of uniformity in the application of the GIS measuring system to the subject parcel and thus, no change in the subject's assessment is warranted on this basis.

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:

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: June 18, 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.

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