



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

APPELLANT: John Kantor
DOCKET NO.: 14-30565.001-F-1 through 14-30565.006-F-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are John Kantor, the appellant(s); and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NUMBER	PARCEL NUMBER	FARM LAND	LAND/LOT	RESIDENCE	OUT BLDGS	TOTAL
14-30565.001-F-1	03-08-303-056-0000	0	7,203	78,983	0	\$ 86,186
14-30565.002-F-1	03-08-303-057-0000	0	8,233	0	0	\$ 8,233
14-30565.003-F-1	03-08-303-058-0000	0	3,202	0	0	\$ 3,202
14-30565.004-F-1	03-08-303-059-0000	0	6,854	22,660	0	\$ 29,514
14-30565.005-F-1	03-08-321-012-0000	0	3,713	0	0	\$ 3,713
14-30565.006-F-1	03-08-314-026-0000	0	3,150	0	0	\$ 3,150

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook 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 property consists of two improvements. Improvement #1 is situated on Permanent Index Number ("PIN") 03-08-303-056. It is a masonry constructed dwelling and it contains 6,290 square feet of living area. Improvement #1 is class 2-09 property under the Cook County Real Property Assessment Classification Ordinance. It is 18 years old. Features of the home include a full basement, central air conditioning, two fireplaces and a three and one-half car

garage. Improvement #2 is situated on PIN 03-08-303-059. Improvement #2 is a class 2-04 property under the Cook County Real Property Assessment Classification Ordinance. It is masonry constructed and contains 1,993 square feet of living area. The dwelling is 58 years old. Features of the home include a full basement, central air conditioning, and a two-car garage.

The remaining PINs consist of land parcels. The breakdown is as follows:

PIN 03-08-303-057 is a class 2-41 property that contains 54,887 square feet of land and has a land assessment of \$8,233, or \$0.15 per square foot of land;

PIN 03-08-303-058 is a class 2-41 property that contains 14,235 square feet of land and has a land assessment of \$3,202 or \$0.23 per square foot of land; and

PIN 03-08-321-012 is a class 1-00 property that contains 74,269 square feet of land and has a land assessment of \$3,713, or \$0.05 per square foot of land.

The subject is classified as a class 2 and class 1 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends that the subject parcels should be assessed as class 2-39 farm property. The appellant asserts that the parcels comprise over five acres of farm land. In support of this argument the appellant submitted a Cook County Assessor's Farm Land Questionnaire/Affidavit that indicates the subject was used as a tree farm and orchard. The appellant also submitted a United States 2012 Census of Agriculture form that includes instructions and a definition of "farmland". In addition, the appellant submitted a list of the number and varieties of his apple trees, other fruit trees, and additional fruits and vegetables. The appellant also submitted a hand drawn map that depicts the location of the fruit trees. Lastly, the appellant submitted a website print out from Schaefer Greenhouses Inc. that lists an insecticide spraying schedule.

The appellant also contends that the subject PINs are located completely or partially in a flood zone. In support of this contention, the appellant submitted a FEMA flood zone map and an aerial map wherein the appellant highlighted his property. In addition, the appellant submitted a Sidwell Map wherein the appellant highlighted the subject property and identified the flood zone portions of the property. In further support of his contention, the appellant submitted a letter and "Flood Insurance Rate Map" from Terra Consulting Group, Ltd. that states PIN 03-08-321-012, 03-08-303-057, and 03-08-303-058 are located in the same designated flood zone.

In addition, the appellant contends the subject parcels are not equitably assessed. In support of this contention, the appellant submitted four land comparable properties. The comparable properties consist of farmland located in Wheeling, Wheeling Township. The comparables have land assessments of \$0.005 per square foot of land. The appellant also submitted one improvement comparable. The comparable is a farm building with an 18,514 square foot improvement and an improvement assessment of \$0.89 per square feet of improvement area.

The appellant asserts that the subject property is a farm pursuant to 35 ILCS 200/1-60 which states, "'Farm' does not include property which is primarily used for residential purposes even

though some farm products may be grown or farm animal bred or fed on the property incidental to its primary use." The appellant stated that the primary use of a parcel containing only intensive farm and residential uses is residential unless the intensively farmed portion of the parcel is larger than the residential portion of the parcel. The appellant stated that his apple orchard is an intensive farm use as the per acre income and expenditures are significantly higher than in conventional farm use.

The appellant also asserted that two of the subject PINs are not buildable as they are located in a floodway. He stated that he consulted with a civil engineer and referred to the previously submitted engineering report which stated that PIN 03-08-303-057 and 03-08-303-058 are in the same flood zone as PIN 03-08-321-012.

The appellant submitted assessment information for another farm in Wheeling Township. He stated that the other farm has a land assessment of \$0.005 per square foot of land and that the subject farm land should be assessed at this amount. The appellant conceded that a portion of the subject class 2-09 improvement parcel is residential and he suggested that the Board prorate the subject's land to account for a portion of the subject property having a residential use.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject property of \$133,998. In support of its contention of the correct assessment, the board of review submitted property record cards for the subject parcels.

At hearing, the Administrative Law Judge ("ALJ") took judicial notice of the subject's prior year Property Tax Appeal Board ("PTAB") decision, docket 13-31171. The appellant stated that the facts and use of the subject property is the same as the prior year. The appellant requested that the ALJ allow the submission of printouts of additional comparable properties. The appellant indicated that the comparable PINs were listed on the previously submitted Sidwell Map. The ALJ reserved ruling on the submission of this evidence, pursuant to PTAB rule section 1910.67(k)(1) which precludes the submission of evidence that that was not submitted to the PTAB prior to the hearing. The appellant stated that PINs 03-08-308-038 and 03-08-314-019 are adjacent to the subject property, located in a flood plain, and have assessments of \$0.005 per square foot of land. The appellant argued that the subject's vacant parcels should be assessed at the same rate.

At hearing, the board of review's representative rested on the board's previously submitted evidence. The board's representative argued that the subject property does not meet the definition of "farm" pursuant to 35 ILCS 20/160 as the subject property is primarily residential and the farming is incidental to the subject's primary residential use. Upon questioning from the board of review's representative, the appellant stated that he has four part time contact workers who hand pick fruit from trees located on the subject property.

Upon further questioning, the appellant stated that he submits a Schedule F income and expense form with his personal income tax returns. The Schedule F form lists the income the appellant receives from the harvest. For tax year 2014, the appellant stated the harvest resulted in an income of \$7,800. In addition, the appellant stated that he previously inquired with the Village of Arlington Heights as to whether he was required to have farmland zoning. The appellant stated

that based on that inquiry, he was of the opinion that he was not required to file for a zoning change and therefore, he never filed for a zoning change.

Conclusion of Law

The appellant contends the subject should be classified and assessed as farmland. After reviewing the record and considering the testimony and evidence, the Board finds the evidence presented by the appellant was not credible in establishing the subject property is used as a farm entitling it to a farmland classification and a farmland assessment.

Section 1-60 of the Property Tax Code defines farm in part as:

Farm. When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. 35 ILCS 200/1-60.

In addition, Section 1-60 of the Property Tax Code states:

For purposes of this code, "farm" does not include property which is primarily used for residential purposes, even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. (35 ILCS 200/1-60)

The Board finds that the subject dwellings are residential houses located in a residential neighborhood that is not zoned for farming. In addition, the Board finds that the appellant did not submit evidence such as aerial or other photos or a survey that show the exact location of the farming activity. Moreover, the appellant testified that in 2014, the income from his orchard was \$7,800. Based on these factors, the Board finds the uncontradicted evidence and testimony in this record indicates the subject is primarily used for residential purposes and that any farming activity is merely incidental to its primary use as residential. Therefore, the Board finds the subject is not entitled to a farmland assessment.

As to the appellant's request at hearing to submit printouts of comparable properties, PTAB rule section 1910.67(k)(1) precludes the submission of evidence that that was not submitted to the PTAB prior to the hearing. The appellant stated that the PINs were listed on the previously submitted Sidwell Map; however, the PTAB finds that complete PINs are not listed on the Sidwell Map and that the appellant's hand written notes on the Map do not indicate which PINs he intended to use as comparable properties. Accordingly, the Board denies the appellant's request for these comparables to be made part of the record.

As to the appellant's equity of improvement assessment argument, 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 a reduction in the subject's assessment is not warranted.

The Board finds the properties submitted by the appellant in support of his improvement equity argument are classified as farm properties and not residential dwellings like the subject property. As such, the Board finds these properties are insufficient to support the appellant's assertion that the subject improvements are inequitably assessed. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject improvements are inequitably assessed.

The appellant also argued that subject land parcels 03-08-303-057 and 03-08-303-058 should be assessed the same as 03-08-321-012 as they are located in the same flood zone. 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). The Board finds that the appellant has not met the burden of proving, by a preponderance of the evidence, that the subject is overvalued.

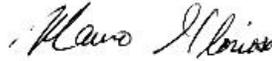
The Board finds that the appellant submitted a FEMA map that shows the three land parcels are located in Zone X. The appellant also submitted a letter from a civil engineer at the Terra Consulting Group that states PINs 03-08-303-057 and -058 should be assessed at the same rate as 03-08-321-012 as they are located in the same Designated Flood Zone. The Board finds that the appellant's assertion that the three land parcels are located in the same flood zone is hearsay as no engineer was present to testify. In addition, the Board finds the appellant did not submit any evidence of the correct market value of these parcels, such as an appraisal of the parcels, a recent sale, or comparable sales as required by 86 Ill.Admin.Code §1910.65(c). As such, the Board finds that the appellant has not met the burden of proving, by a preponderance of the evidence, that these parcels are overvalued.

Additionally, the Board finds that the appellant's argument that subject land parcels 03-08-303-057 and 03-08-303-058 should be assessed the same as 03-08-321-012 as they are located in the same flood zone is without merit from an equity standpoint. The appellant asserts that two parcels of land should have lower assessments because one parcel of land with the same zoning has a lower assessment. The Board finds that the evidence does not contain a range of comparables within which to compare these two land parcels. As such, the Board finds that the appellant has not met the burden of a proving by clear and convincing evidence that PINs 03-08-303-057 and 03-08-303-058 are not equitably assessed. Based on this record the Board finds a reduction in the land assessment of these two PINs is not justified. In addition, the Board notes that Illinois courts have held that a Permanent Index Number under appeal cannot be used as a comparable property. Pace Realty Group, Inc. v. Property Tax Appeal Bd., Nos. 2-98-0946 & 2-98-0830, 2nd District, 15 July 1999.

In the alternative, the appellant argued that the subject's land is not equitably assessed when compared to four suggested comparables. As stated above, 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 a reduction in the subject's assessment is not warranted.

The board finds the appellant submitted four comparables located in the Village of Wheeling, Wheeling Township. The board of review did not submit additional land comparables. The appellant's comparable properties are class 2-24 or 2-39 farm properties. The Board accords no weight to these comparables as they are farm properties, while the subject is not farm property. In addition, these comparables are located in a different village than the subject property. Accordingly, the Board finds that the appellant has not met the burden of a proving by clear and convincing evidence that the subject is not equitably assessed. Based on this record the Board finds a reduction on this basis 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(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(b)) 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



Acting 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: December 19, 2017



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

AGENCY

State of Illinois
Property Tax Appeal Board
William G. Stratton Building, Room 402
401 South Spring Street
Springfield, IL 62706-4001

APPELLANT

John Kantor
2825 North Arlington Heights Road
Arlington Heights, IL 60004-2152

COUNTY

Cook County Board of Review
County Building, Room 601
118 North Clark Street
Chicago, IL 60602