



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

APPELLANT: Martin Merkhofer
DOCKET NO.: 15-05177.001-F-1
PARCEL NO.: 09-08-477-002

The parties of record before the Property Tax Appeal Board are Martin Merkhofer, the appellant, by attorney Laura Godek of Laura Moore Godek, PC, in McHenry; and the McHenry County Board of Review.

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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

F/Land:	\$ 608
Homesite:	\$ 3,114
Residence:	\$51,602
Outbuildings:	\$ 2,763
TOTAL:	\$58,087

Subject only to the State multiplier as applicable.

ANALYSIS

In March 2018, the Property Tax Appeal Board rendered a decision reclassifying a portion of the subject property from residential land to farmland in accordance with relevant provisions of the Property Tax Code. The McHenry County Board of Review was ordered to compute a farmland assessment and certify said assessment to the Property Tax Appeal Board in accordance with the decision. The revised assessment was received on April 4, 2018. After reviewing the board of review's revised assessment, the Property Tax Appeal Board finds that the assessment is proper and a reduction in the subject's assessment is warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code. 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 15, 2018



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

Martin Merkhofer, by attorney:
Laura Godek
Laura Moore Godek, PC
913 North Curran Road
McHenry, IL 60050

COUNTY

McHenry County Board of Review
McHenry County Government Center
2200 N. Seminary Ave.
Woodstock, IL 60098



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ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Martin Merkhofer
DOCKET NO.: 15-05177.001-F-1
PARCEL NO.: 09-08-477-002

The parties of record before the Property Tax Appeal Board are Martin Merkhofer, the appellant, by attorney Laura Godek, of Laura Moore Godek, PC in McHenry; and the McHenry County Board of Review.

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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

F/Land:	TBD
Homesite:	\$3,114
Residence:	\$51,602
Outbuildings:	\$2,763
TOTAL:	TBD

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the McHenry County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2015 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 a one-story dwelling of frame construction with 2,102¹ square feet of living area. The dwelling was constructed in 1969. Features of the home include a full basement that is partially finished and an attached two-car garage. The subject also has a 1,303-square foot shed. The property has 2.37 acres of land area and is located in Ringwood, McHenry Township, McHenry County.

The appellant contends overvaluation and misclassification of land as the bases of the appeal. In support of the overvaluation argument the appellant submitted information on five comparable

¹ The Board finds the best evidence of the subject's size is the sketch of the subject dwelling from the board of review.

sales. The comparables had varying degrees of similarity to the subject. The comparables had sale dates occurring from January 2014 to May 2015 for prices ranging from \$89,500 to \$146,500 or from \$86.06 to \$94.58 per square foot of living area including land.

As to the classification of land, the appellant argued that the subject lot contains 2.37 acres of land, of which .7 acres is residential land and the remainder is farmland used for raising bees and harvesting nuts and fruit. The appellant also argues that the 1,303-square foot shed is used for storage of bee equipment. The appellant's evidence included photographs of the beehives and harvested apples. The appellant submitted 2009 aerial images depicting the beehives in place. The appellant cited Sections 1-60 and 10-110 of the Property Tax Code to support the farmland classification argument. (35 ILCS 200/1-60 and 10-110)

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$64,907. The subject's assessment reflects a market value of \$194,974 or \$92.76 per square foot of living area, land included, when using the 2015 three-year average median level of assessment for McHenry County of 33.29% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales. The comparables had varying degrees of similarity to the subject. The comparables had sale dates occurring from June 2015 to July 2016 for prices ranging from \$192,500 to \$259,000 or from \$73.59 to \$142.00 per square foot of living area including land.

As to the appellant's argument regarding the classification of farmland, the board of review argued that six beehives on 2.38 acres falls short of a reasonable definition of farm use. The board of review cited the primary use section of 1-60 of the Property Tax Code. (35 ILCS 200/1-60)

The appellant submitted rebuttal critiquing the board of review's submission.

Conclusion of Law

The appellant argued that a portion of the subject property is used for keeping bees and harvesting nuts and fruit and was entitled to a farmland assessment based on section 1-60 of the Property Tax Code. Section 1-60 of the Property Tax Code provides:

When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, **fruit**, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, **bees**, fish and wildlife farming. The dwellings and parcels of property on which farm dwellings are immediately situated shall be assessed as a part of the farm. Improvements, other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm

dwelling when such buildings contribute in whole or in part to the operation of the farm. For purposes of this Code, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. The ongoing removal of oil, gas, coal or any other mineral from property used for farming shall not cause that property to not be considered as used solely for farming. (35 ILCS 200/1-60)

Section 10-110 of the Property Tax Code provides:

The equalized assessed value of a farm, as defined in Section 1-60 and **if used as a farm for the 2 preceding years**, except tracts subject to assessment under Section 10-145, shall be determined as described in Sections 10-115 through 10-140. To assure proper implementation of Sections 10-110 through 10-140, the Department may withhold non-farm multipliers for any county other than a county with more than 3,000,000 inhabitants that classifies property for tax purposes. (35 ILCS 200/10-110)

The Property Tax Appeal Board finds that 1.67 acres of the subject property's land is entitled to a farmland assessment due to its use of keeping bees and harvesting fruit. In addition, the Board finds that the 1,303 square foot shed is used for bee equipment and should be assessed as a farm outbuilding.

The board of review claimed the subject's primary use is residential based on the definition of the farm contained in Section 1-60 of the Property Tax Code. The Board gave this argument little weight. The Property Tax Appeal Board finds a portion of a parcel may be classified as farmland for tax purposes, provided those portions of property so classified are used solely for agricultural purposes. Property that is used solely for agricultural purposes is properly classified as farmland for tax purposes, even if that farmland is part of a parcel that has other uses. Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill.App.3d 799 (3rd Dist. 1999). Santa Fe Land Improvement Co., 113 Ill.App.3d 872, 875.

The appellant also contends the market value of the subject property is not accurately reflected in its assessed valuation. 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 the appellant did not meet this burden of proof and a reduction in the subject's residential assessment is not warranted on the grounds of overvaluation.

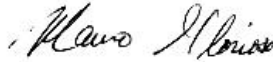
The Board finds the best evidence of market value to be the appellant's comparables #2 and #5, as well as the board of review's comparable #3. These comparables were most similar to the subject in location, style, size, age and features. These most similar comparables sold for prices ranging from \$137,500 to \$259,000 or from \$89.29 to \$142.00 per square foot of living area, including land. After adjusting the subject's land assessment to reflect a residential lot size of .7 acres and removing the 1,303 square foot shed, the subject's non-farm assessment of \$54,716 reflects a market value of \$164,164 or \$78.10 per square foot of living area, including land, when

using the statutory level of assessment. The Board finds the subject's non-farm assessment is supported by the best comparables in this record. The Board gave less weight to the parties' remaining comparables due to their difference in style, age, size and/or sale dates not proximate in time to the January 1, 2015 assessment date. Based on this evidence the Board finds a reduction in the subject's non-farm assessment is not justified.

In summary, the Property Tax Appeal Board finds the subject's non-farm estimated market value as reflected by that portion of its assessment is supported by the evidence in this record and the subject's 1,303 square foot shed shall be assessed as a farm outbuilding. The 1.67 acres of the subject parcel that is used for keeping bees and harvesting fruit is entitled to a farmland classification as cropland in accordance with this decision.

Therefore, the Property Tax Appeal Board hereby orders the McHenry County Board of Review to compute a farmland assessment in accordance with this decision. This farmland assessment shall be certified to the Board within 15 days from the date of this decision.

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



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: March 20, 2018



Clerk of the Property Tax Appeal Board

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