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

APPELLANT: Eric Bramlet
DOCKET NO.: 15-06713.001-R-1
PARCEL NO.: 04-106-07-100-002

The parties of record before the Property Tax Appeal Board are Eric Bramlet, the appellant; and the Wabash 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 **Wabash** County Board of Review is warranted. The correct assessed valuation of the property is:

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|---|---|
| **LAND:** | $36,395 |
| **IMPR.:** | $0 |
| **TOTAL:** | $36,395 |

Subject only to the State multiplier as applicable.

## Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Wabash 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 approximately 52 acres of land area. The parcel is described as unimproved, mostly wooded area with approximately 2 acres which were cleared and planted with cover crops and corn. The site is located in Lancaster Township, Wabash County.

The appellant appeared before the Property Tax Appeal Board contending that the re-classification of the subject property from farmland to residential property was erroneous. In support of this claim, the appellant submitted a three-page brief along with both aerial and ground-level photographs of the subject property. In addition, the appellant submitted a copy of the Warranty Deed that disclosed that the subject parcel was purchased in November 2013. The appellant asserted in his brief that began clearing one area and planted fall cover crop in 2013 which he claimed satisfied the two-year farmland use required by the Property Tax Code. Finally, the appellant's evidence included a copy of the notice of property re-assessment and a copy of the board of review Notice of Revised Assessment.

Appellant, Eric Bramlet testified that he purchased the subject property in November 2013. Bramlet argued that prior to his purchase, the subject property was classified as "other farmland" and was receiving a preferential farmland assessment. After his purchase, however, the parcel was re-classified and re-assessed as residential property even though there had been no change in the physical characteristics of the parcel such as construction of residence, outbuilding or structure of any kind. Bramlet further asserted that after purchasing the parcel, he planted cover crops not for the purpose of harvesting them but for the "enrichment of the soil and conservation of the property." Bramlet testified that he planted legumes, soybeans, peas, clover, alfalfa and corn, along with various fruit trees which both enrich the soil and prevent erosion. He indicated that the majority of the property is uneven and thus subject to erosion. The two areas that were cleared and planted per the appellant's testimony totaled approximately two acres in size. He asserted the remainder of the parcel consists of timberland, along with some wasteland consisting of ditches and rocky areas which are not tillable. As to the trees, Bramlet stated that the trees were timbered approximately 18 to 20 years prior to his purchase and will again be timbered when they mature in the next 5 to 10 years. There are existing timber trails which were overgrown at the time of purchase Bramlet indicated he mowed those trails so that they could be used again for timbering in the future.

Based on this evidence, the appellant requested that the Property Tax Appeal Board restore the classification of the entire subject property to farmland.

Under cross examination, Bramlet clarified that he planted "fall cover crop" in 2013, immediately after purchasing the subject parcel. Upon further questioning, Bramlet stated that the primary purpose of the subject parcel is "farmland" pursuant to the Illinois Department of Revenue [IDOR] definition. Also, Bramlet testified that the purpose of planting the various cover crops was for "conservation of soil" rather than for harvesting the crops or the production of income. Mr. Bramlet argued, however, that there is no statutory requirement that the crops produce income or be harvested in order to be classified as "farmland" according to the IDOR guidelines in Publication 122. Bramlet admitted that he used the subject parcel occasionally for hunting, however, he argued that other uses of the subject parcel do not negate a farmland use pursuant to the Illinois Property Tax Code and the Illinois Department of Revenue guidelines in Publication 122.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject parcel's total assessment of $36,395 was disclosed. The subject's assessment reflects a market value of $109,988 or approximately $2,115 per acre of land area when using the 2015 three-year average median level of assessment for Wabash County of 33.09% as determined by the Illinois Department of Revenue. It is undisputed on this record that the subject is assessed at 1/3 of fair market value rather than a preferable farmland assessment. Furthermore, the appellant made no argument besides disputing the classification of the parcel.[1]

In support of its contention of the correct classification and assessment, the board of review submitted information on four comparable parcels located within 14 miles of the subject parcel. The parcels range in size from 8.19 acres to 20 acres. The board of review also submitted

[1] The board of review's evidence revealed the property was purchased for $109,200 in November 2013.

property record cards and aerial photographs of the four comparable parcels which indicate that each of the four parcels was re-classified from farmland to residential properties after they were sold and ceased being used for agricultural purposes.

The board of review also submitted a memorandum prepared by the Supervisor of Assessments and the Clerk of the Board of Review, Deborah Gittings, setting forth the arguments in support of the subject's re-classification and assessment. In the memorandum, the board of review argued that under Illinois law, any land that changed ownership after October 2007 that does not meet the IDOR's definition of "farmland" must be assessed at 1/3 of fair market value. The board of review contended that the appellant's use of the parcel does not meet the Illinois Department of Revenue's definition of "farmland" and thus it is not entitled to a preferential farmland assessment. The board of review further noted that appellant acknowledged there is no income produced by the subject parcel and there was no forestry management plan in place for the year in question.

Gittings appeared before the Property Tax Appeal Board on behalf of the Wabash County Board of Review and testified that the parcel purchased by Bramlet had previously been classified as "farmland" due to being contiguous to a parcel of cropland farmed by the previous owner of both parcels. Gittings further testified that Bramlet's parcel is treated the same as the four comparable parcels which were each re-classified and re-assessed as residential land after being sold and after no longer being used for agricultural purposes. Gittings noted that this is reflected on the property record cards for the comparable parcels. Gittings cited Illinois Department of Revenue Bulletin 810 which mandated that any property sold after October 2007 which does not meet the Department of Revenue definition of farmland should be assessed at 1/3 of fair market value. Gittings argued that the aerial photographs of the subject property showed that the subject property was not being used for any agricultural purpose and therefore the decision to re-assess the subject at 1/3 of market value as of January 1, 2015 was supported. Furthermore, Gittings noted that the board of review applied the same policy to all sold parcels, i.e. reviewing each parcel after a sale to determine whether it should be re-classified; therefore, all parcels in the county are treated equitably. Finally, Gittings suggested that there are other options to lower the subject's assessment available to the appellant such as enrolling in a Conservation Stewardship Plan or Forestry Management Plan.

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

## Conclusion of Law

The appellant contends that the re-classification of the subject property from farmland to residential property after he purchased the subject parcel was erroneous. 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 Board finds that the evidence and testimony in the record supports the board of review's decision to change the classification of the subject property to that of non-farmland and assess the subject parcel at 1/3 of fair market value.

In order to receive a preferential farmland assessment, the property at issue must meet the statutory definition of a "farm" as defined in 35 ILCS 200/1-60 of the Illinois Property Tax Code which provides:

> …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…. [Emphasis added.]

35 ILCS 200/1-60. The Property Tax Appeal Board historically and in accordance with case precedent has found as a general rule that portions of a parcel may be classified as farmland for tax purposes, provided those portions of property so classified are used solely for the growing **and harvesting** of crops and/or the raising of livestock. Senachwine Club v. Putnam County Board of Review, 362 Ill. App. 3d 566 (3rd Dist. 2005), *Citing* Kankakee County Board of Review, 305 Ill. App. 3d 799 at 802 (3rd Dist. 1999). Based on the evidence presented, the Property Tax Appeal Board finds that the appellant did not prove by preponderance of the evidence that the subject parcel qualifies for farmland classification and assessment.

The main issue is whether the subject parcel's primary use in the 2015 assessment year conforms to the requirements of Section 1-60 of the Property Tax Code. In Senachwine Club v. Putnam County Board of Review, 362 Ill. App. 3d 566 (3rd Dist. 2005), the Illinois Appellate Court, in affirming the finding of the Property Tax Appeal Board, held that the primary purpose of the subject parcel was for hunting ducks; the planting of cover crops in the Senachwine case was incidental to this purpose as the objective of planting the crops was to attract ducks and facilitate the hunting of ducks, not the "growing and harvesting of crops." The court in Senachwine held that the portion of the parcel which was planted with cover crops may only be classified as farmland provided that those portions of the property so classified are used solely for agricultural purposes, even if the farm is part of a parcel that has other uses. *Citing* Kankakee County Board of Review, 305 Ill. App. 3d 799 at 802 (3rd Dist. 1999). Additionally, multiple uses of a parcel may be made so long as the uses are not inconsistent with and are incidental to the primary purpose. McLean County Board of Review v. PTAB, 286 Ill.App.3d 1076, 1078, 222 Ill.Dec. 701, 678 N.E.2d 313 (1997).

Initially, as to the two-acre lot in question, the Property Tax Appeal Board finds that the two-acre area that the appellant cleared and planted with various cover crops does not meet the definition of "farm" contained in Section 1-60 of the Code as it was not "**used solely for the growing and harvesting of crops**." Bramlet's testimony is that he planted cover crops for the purpose of "enriching the soil and preventing erosion." The appellant further testified on cross examination

that the primary purpose of the subject parcel as a whole is for "farming". The Board finds that the appellant's own stated primary purpose for the subject parcel amounts to mere legal conclusions rather than a persuasive explanation as to how the parcel is being used and harvested for agricultural purposes as required by Section 1-60 of the Property Tax Code and thus the claim fails for lack of substantive evidence. The Board recognizes the appellant's attempt to satisfy the Code by planting cover crops and corn, however, the appellant failed to harvest any crops, which is a requirement of the Code and case law.[2] Bramlett's acknowledgement that he has not done anything with the crops nor does he have any plans to use the enriched soil or the crops grown therefrom detracts from his argument that the subject parcel is a farm. Therefore, the Board finds that the appellant did not **use or harvest the crops** in any meaningful manner for any agricultural purpose within Section 1-60 of the Property Tax Code.

The next question is whether the appellant's entire 52-acre parcel is used primarily for agricultural purposes. The uncontested fact in evidence is that the subject parcel was timbered several years prior to the appellant's purchase of the parcel; moreover, the appellant intends to timber the trees again in the future when the trees mature. The Board finds that it is the present (not anticipated) use of the parcel that determines whether it receives agricultural or non-agricultural assessment. Santa Fe Land Improvement Co. v. PTAB, 113 Ill.App.3d 872,875,69 Ill.Dec. 708, 448 N.E.2d 3 (1983). Although the appellant testified to mowing some paths which were used for logging or timbering before he purchased the property, there is no evidence in this record that the appellant himself timbered any trees, maintained the trees, pruned them, obtained any logging contracts, sawmill contracts, estimates of value for the size and type of trees, etc., which diminishes the appellant's contention that the trees will be timbered in the future. Therefore, the Board finds that the appellant has not proved by a preponderance of the evidence that the subject property meets the statutory criteria for a "farm" and thus a farmland assessment is not warranted.

As to the board of review's comparable land sales, the Board gave little weight to comparables #1 and #4 due to their sale dates in 2007 and 2009 being dated when compared to the subject's January 1, 2015 assessment date and thus less likely to be reflective of fair market value as of January 1, 2015. The remaining two comparable land sales sold in August and October 2014 which is more proximate in time to the to the subject's assessment date. These two comparable land sales sold for prices of $57,575 and $83,000 or for $3,500 and $5,903 per acre of land. The subject's assessment reflects a market value of $109,988 or approximately $2,115 per acre of land area which is markedly lower than the best comparable sales in this record on a per acre of land basis. After considering adjustments to the two comparables for characteristics such as the size of the parcel and location, the Board finds that the subject's assessment is supported.

In conclusion, the Property Tax Appeal Board finds that the subject property is not entitled to a farmland classification and furthermore no change in the subject's assessment is justified on this record. Therefore, the Property Tax Appeal Board finds the subject property's assessment as

[2] In support of his claim, the appellant cited IDOR Publication 122, however, as expressly stated on the first page of said publication, "[t]he contents of this publication are informational only and do not take the place of statures, rules or court decisions." (*Publication 122, Instructions for Farmland Assessments,* Illinois Department of Revenue, January 2019, p.1)

established by the board of review is correct and no reduction in assessment or change in classification is warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code. 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: January 21, 2020

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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