



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

APPELLANT: US BANK, A/T/U/T # 8331 (Douglas C. Hancock, Beneficiary)  
DOCKET NO.: 16-04207.001-F-1  
PARCEL NO.: 09-23-100-008

The parties of record before the Property Tax Appeal Board are US BANK, A/T/U/T # 8331 (Douglas C. Hancock, Beneficiary), the appellant, by Douglas C. Hancock, Attorney at Law, in Geneva, and the Kane County Board of Review.

On April 21, 2020, the Property Tax Appeal Board rendered a decision reclassifying the subject property from residential to farm in accordance with relevant provisions of the Property Tax Code. The Kane County Board of Review was ordered to compute a farmland assessment and certify said assessment to the Property Tax Appeal Board. The revised assessment was received on June 19, 2020.

After reviewing the board of review's revised assessment, the Property Tax Appeal Board finds that it is proper. Said decision issued on April 21, 2020 by the Property Tax Appeal Board is hereby adopted and incorporated in full as if set forth in this decision.

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

<b>F/Land:</b>	\$ 43
<b>Homesite:</b>	\$ 0
<b>Improvement:</b>	\$ 170
<b>Outbuildings:</b>	\$ 0
<b>TOTAL:</b>	\$ 213

Subject only to the State multiplier as applicable.

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



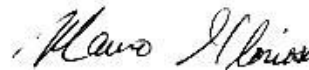
Member

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: July 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

AGENCY

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

APPELLANT

US BANK, A/T/U/T # 8331 (Douglas C. Hancock, Beneficiary), by attorney:  
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Geneva, IL 61234

COUNTY

Kane County Board of Review  
Kane County Government Center  
719 Batavia Ave., Bldg. C, 3rd Fl.  
Geneva, IL 60134



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The parties of record before the Property Tax Appeal Board are US BANK, A/T/U/T # 8331 (Douglas C. Hancock, Beneficiary), the appellant, by Douglas C. Hancock, Attorney at Law, in Geneva, and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

<b>F/Land:</b>	\$TBC*
<b>Homesite:</b>	\$ 0
<b>Improvement:</b>	\$ 170
<b>Outbuildings:</b>	\$ 0
<b>TOTAL:</b>	\$TBC*

\*TO BE CERTIFIED

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal pursuant to Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) challenging the assessment for the 2016 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 of approximately 3.99 acres which is improved with an 80 square foot shed. The property is located in Wayne, St. Charles Township, Kane County.

The appellant in this appeal contends the entire subject parcel should be assessed under the preferential farmland assessment provisions of the Property Tax Code. The appellant did not contest the 2.03 acres that have been afforded a farmland assessment nor was the appellant contesting the assessment applied to the shed located on the subject parcel. The only dispute raised by the appellant in this appeal concerns the classification of 1.96 acres which were not afforded a preferential farmland assessment and instead were assessed as "extra land, incidental

to the adjacent homesite parcel." Based upon the harvesting of seeds for native grasses and forbs/flowers, the appellant argued in his brief that the disputed acreage was entitled to a cropland assessment.

In a detailed brief filed with the appeal, the appellant reported from 2010 through 2013 the subject parcel was cleared of all invasive species such as buckthorn, bush honeysuckle, and multiflora rose. The appellant also removed approximately 500 to 600 soft wood trees, leaving oaks, hickories, walnuts and large sugar maple trees. The brief reported the object of the clearing was to open the canopy and allow enough sunshine to reach the ground to grow grasses, native grasses, forbs and native flowers. The clearing was also required to prepare the parcel for horse pasture. The appellant also reported that two beehives have been maintained on the subject parcel since 2013.

In further support of the farming activity, the appellant reported an additional objective of harvesting seeds from native grasses and forbs. The appellant reported spending in excess of \$3,000 on native seeds (Group Exhibit A depicting purchases of seeds in 2013 and 2014)

Upon receipt of the 2016 tax year reassessment notice, the appellant was informed the subject parcel was reassessed as a class 0040 Residential Improved Lot. After inquiring with the township assessor, the appellant was advised the farmland assessment was revoked since the parcel was not fenced. The assessor indicated the "lot must be fenced at least 51% of it." Therefore, the appellant subsequently had approximately 53% of the subject parcel fenced. As a consequence, the appellant was issued a revised reassessment notice reducing the assessment from \$47,525 to \$23,418. Upon further inquiry with the township assessor, the appellant was advised the reduction was based upon the percent of the lot which was fenced. The appellant contends in the brief that he was never advised that partial fencing would only result in a partial reduction of the assessment (Group Exhibit B attached).

In support of the contention that the subject native seeds are a valuable and marketable crop, the appellant referenced Group Exhibit C purportedly consisting of pages from Prairie Moon Nursery in Winona, Minnesota, depicting retail prices for native seeds. No such exhibit was provided with the appeal.

Based on the foregoing evidence and argument, the appellant seeks to obtain a farmland assessment for the disputed 1.96 acres of the subject parcel which have been assessed as residential land.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject parcel of \$23,418 was disclosed. The subject has a farmland assessment of \$35 for 2.03 acres and the remaining 1.96 acres have a land assessment of \$23,213 which were assessed as "extra land, incidental to the adjacent homesite parcel." The parcel also has an improvement assessment of \$170 for the shed.

In a memorandum prepared by the St. Charles Township Assessor's Office,<sup>1</sup> the assessor noted the subject parcel was purchased by the appellant in 2008 for \$550,000. At the time of purchase, the parcel was improved with a residence. In 2009, the appellant demolished the residence leaving the only remaining structure on the parcel, an 80 square foot shed. The appellant is also the owner of a parcel adjacent to the subject; the adjacent parcel is improved with a residence, a stable, a barn and a shed. The adjacent parcel consists of 5.65 acres of which 4.04 acres have been assessed under the preferential farmland assessment provisions as pasture.

For tax years 2012, 2014 and 2015, the subject parcel was assessed under the preferential farmland assessment provisions of the Property Tax Code. The assessing officials now contend the previous preferential farmland assessment of the subject parcel was erroneous since the property did not meet the guidelines set forth for the Township. For tax year 2016, the assessor revalued the subject parcel "taking into consideration the guidelines used throughout St. Charles Township that property is not considered for pasture land assessment unless it is fenced in for the horses and is at least 51% of the property."

As to the appellant's assertion that in tax year 2016, the subject parcel was used to grow wildflowers, the board of review through the township assessor contended this "is not a harvested crop." The memorandum further stated:

Per the Illinois Department of Revenue at least 51% of the property must be used for farm in order to qualify for a Farmland Assessment.

The assessor's memorandum next acknowledged that the appellant installed a fence on 51% of the property in September 2016. Thus, the assessor classified 2.03 acres of land as woodland pasture for tax year 2016.

In further support of this interpretation of the farmland assessment provisions of the Property Tax Code, in the memorandum the assessor cited to Publication 122, Instructions for Farmland Assessment prepared by the Illinois Department of Revenue (page 3) stating:

A farm homesite is the part of the farm parcel used for residential purposes and includes the lawn and land on which the residence and garage are situated. Areas in gardens, non-commercial orchards, and similar uses of land are also included.

Based on the foregoing argument and evidence, the board of review requested confirmation of the subject's current assessment classifications.

By a letter dated March 15, 2018, the appellant was afforded 30 days to file rebuttal. (86 Ill.Admin.Code §1910.66). On May 8, 2018, the appellant filed a rebuttal brief with a cover letter requesting "this evidence be accepted at this date." No request for an extension of the rebuttal deadline was filed seeking additional time to file rebuttal evidence. On this record, the appellant's rebuttal filing is untimely and shall not be considered on its merits.

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<sup>1</sup> The memorandum is dated October 18, 2016 and was filed in this matter both by the appellant and by the board of review.

### Conclusion of Law

The appellant contends the 1.96 acres of the subject parcel have been incorrectly assessed as residential land. The appellant contends, based upon the use of the land for bees, harvesting of seeds for native grasses, native flowers and forbs, the disputed acreage based upon its present use should properly be classified as farmland under the Property Tax Code.

Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" in part as:

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.]

In order to qualify for an agriculture assessment, the parcel must be farmed at least two years preceding the date of assessment (35 ILCS 200/10-110). Based on the appellant's unrefuted submissions, the Property Tax Appeal Board finds credible evidence the property has been used for agriculture purposes for at least two years prior to January 1, 2016.

Here, the primary issue is whether the disputed acreage of the subject parcel is used primarily for agricultural purposes as required by Section 1-60 of the Property Tax Code. In Senachwine Club v. Putnam County Board of Review, 362 Ill. App. 3d 566 (3<sup>rd</sup> Dist. 2005), the court stated that a parcel of land may 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 (3<sup>rd</sup> Dist. 1999).

The appellant's evidence, without any contradictory evidence from the board of review, shows that the disputed 1.96 acres of the subject parcel has been consistently used for cropland for the two years preceding the assessment date. Evidence on this record indicated that two beehives have been maintained on the subject parcel since 2013. Additionally, the appellant expended more than \$3,000 on native seeds and has since grown grasses, native grasses, forbs and native flowers on the parcel. Based on this record, the Board finds that the appellant established deliberate and ongoing farming activity was being performed in the disputed area.

The Property Tax Appeal Board gives little weight to the board of review/township assessor's contention that the subject parcel should be assessed as additional "lawn" or land acreage to the appellant's adjacent parcel which contains his dwelling and other improvements. In Santa Fe Land Improvement Co. v. Property Tax Appeal Board, 113 Ill.App.3d 872 (3<sup>rd</sup> Dist. 1983), the court held "it is the use of real property which determines whether it is to be assessed at an agricultural valuation" and that "the present use of land determines whether it receives an agricultural or nonagricultural valuation." The Board finds the "present use" controls the classification of farmland under the Property Tax Code and has been codified several times



under Illinois case law. See Oakridge Development Co. v. Property Tax Appeal Board, 405 Ill.App.3d 1011 (2<sup>nd</sup> Dist. 2010); Senachwine Club v. Putnam County Board of Review, 362 Ill.App.3d 556, 568 (2005); Bond County Board of Review v. Property Tax Appeal Board, 343 Ill.App.3d 289, 292 (5<sup>th</sup> Dist. 2003); Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill.App.3d 799 (3<sup>rd</sup> Dist. 1999); Du Page Bank & Trust Co. v. Property Tax Appeal Board, 151 Ill.App.3d 624, 627 (2<sup>nd</sup> Dist. 1986). The Property Tax Appeal Board further finds no support in the Property Tax Code for the board of review/township assessor's determination to treat the subject parcel and the appellant's adjacent residential parcel as 'combined' or 'related' for purposes of assessment. The Property Tax Appeal Board finds the actual use of land is the determining factor in its correct classification and assessment. Property that is used solely for the growing and harvesting of crops/horticulture or the raising of bees is properly classified as farmland, even if the farmland is part of a parcel that has other uses. Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill.App.3d at 872 (3<sup>rd</sup> Dist.1983).

Based on the evidence presented, the subject disputed acreage of 1.96 acres is entitled to a farmland classification as cropland. Therefore, the Property Tax Appeal Board finds the entire 2.99 acres of the subject parcel are entitled to appropriate farmland classification(s). See also McLean County Board of Review v. Property Tax Appeal Board, 286 Ill.App.3d 1076 (4<sup>th</sup> Dist. 1997).

In conclusion, the Property Tax Appeal Board finds the board of review's assessment of the disputed 1.96 acres of the subject parcel is incorrect and a reduction is warranted. The Board hereby **ORDERS** the Kane County Board of Review to compute a farmland assessment for the disputed 1.96 acres of the subject parcel in accordance with this decision along with the existing farmland assessment of the remaining 2.03 acres of the subject parcel. The board of review is to submit the revised assessment(s) reflecting appropriate farmland assessments for both the 2.03 acres and the 1.96 acres of this parcel to the Springfield Office of the Property Tax Appeal Board **within 30 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(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



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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: April 21, 2020



Clerk of the Property Tax Appeal Board

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