



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

APPELLANT: John Kantor
DOCKET NO.: 19-48631.001-F-1 through 19-48631.003-F-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are John Kantor, the appellant; and the Cook County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **A Reduction in Part and a No Change in Part** 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
19-48631.001-F-1	03-08-303-060-0000	0	19,585	66,146	0	\$85,731
19-48631.002-F-1	03-08-321-012-0000	0	3,713	0	0	\$3,713
19-48631.003-F-1	03-08-303-059-0000	0	9,596	26,307	0	\$35,903

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 2019 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 three separate parcels with Property Index Numbers (PINs) ending in: -012; -059; and -060. The subject property with PIN ending in -060 consists of a 24-year-old, two-story, four-bedroom dwelling of masonry construction with 6,961 square feet of living area. The property has a full basement, central air conditioning, two fireplaces, and a 3.5-car garage. The dwelling is situated on a 97,928 square foot site located in Wheeling Township, Cook County. The subject is classified as a class 2-09 property under the Cook County Real Property Assessment Classification Ordinance.

The subject property with PIN ending in -059 consists of a 64-year-old, one-story, frame and masonry construction dwelling with 1,993 square feet of living area. The subject has a full basement, central air conditioning, and a two-car garage. The dwelling is located on a 27,419 square foot size located in Wheeling Township, Cook County. The subject is classified as a class 2-04 property under the Cook County Real Property Assessment Classification Ordinance.

The subject property with PIN ending in -012 consists of a 74,269 square foot vacant parcel. The subject is classified as a class 1 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends assessment inequity and contention of law as the bases of the appeal. In support of the contention of law, the appellant submitted a brief, limited photographic evidence, a cost of pollination inquiry from 2015, and an Agricultural Resource Management Survey Cost and Returns Report from 2015. The appellant submitted four aerial photographs and five photographs of apple trees. In his brief, the appellant argued that the subject parcels should be assessed as class 2-39 farm property.

The appellant argued that Cook County requires the parcel to be over 5 acres. Combined, the appellant argued, his three parcels are 5.1 acres with 4.176 acres used for farm/orchard and the rest being used for residential purposes. The appellant provided no evidence to support his claim that the subject is larger than recorded. The appellant argued that 100% of the parcel with PIN ending in -012 is used for the orchard, 80.5% of the PIN ending in -060 is used for the orchard, and 55.4% of the PIN ending in -059 is used for residential purposes. The appellant provided no evidence to support his use distribution argument. The appellant argued that in 2019 the farm/orchard generated approximately 110,269 pounds of apples, which resulted in income over \$275,000. The appellant provided no business record to support his claim that the orchard is an income producing operation. The appellant also argued that the farm/orchard requires 6 people regularly working throughout the year with many other workers during the harvest season. The appellant provided no record to support this claim. The appellant also argued that under Section 10-110 of the Property Tax Code land that is used for farming purposes over 2 years qualifies for farmland classification.

The appellant argued that the subject property located on the lot with PIN ending in -059 has a below grade garage which suffers from frequent flooding. The appellant argued that multiple attempts at remediation were attempted with no success. The appellant provided no evidence of flooding or remediation to the subject property. Due to the flooding, the appellant argues no tenant is willing to pay more than the discounted rate of \$1,500 per month, which is half of what the property should be able to generate. The appellant submitted no evidence or expert testimony in support of this proposition.

In support of the inequity argument, the appellant submitted information on three equity comparables classified 2-04 and six suggested farmland comparables classified 2-39. The 2-04 suggested comparable properties range: in size from 3,052 to 3,765 square feet of living area; in age from 24 to 82-years-old; and in improvement assessment from \$11.32 to \$13.50 per square foot of living area. The six 2-39 suggested comparables are all located in the village of Wheeling, have an assessment of \$.005 per square foot of land, and range in size from 16,718 to 1,138,223 square feet of land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing only the total assessment for the subject with PIN ending in -060 of \$85,731. This subject property has an improvement assessment of \$66,146 or \$9.50 per square foot of living area. In support of its contention of the correct assessment the board of review submitted information on one equity comparable. This comparable property can be described as a 25-year-old, two-story, seven-bedroom dwelling of frame and masonry construction with 6,442 square feet of living area. This comparable has a full basement, central air conditioning, two fireplaces, and a four-car garage. The board of review's suggested equity comparable has an improvement of \$95,813 or \$14.87 per square foot of living area.

In written rebuttal, the appellant submitted a brief arguing that the board of review's evidence is inadequate to justify the current assessment and irrelevant as to the issue of classification. The appellant also distinguished the board of review's only comparable based on the number of bedrooms and the garage size. The appellant argued that "a critical portion" of the subject located on the parcel with PIN ending in -060 is used in the orchard operation, for storage of supplies, equipment, apples and so on. The appellant provided no evidence of this proposition. Finally, the appellant argued that he is not appealing the current improvement assessment for the parcel with PIN ending in -060, rather he is appealing only the land classification.

At hearing, the appellant reiterated his classification argument. The appellant argued that he has been operating a farm for profit since 2007. He argued that the business from his property has grown to over a quarter of a million dollars. The appellant also argued that the land for intensive farm purposes covers 85% of the total land of the subject's three PINs.

When questioned regarding any evidence to support his claims, the appellant stated that he was not aware that he must submit any. The appellant did not submit in the record any receipts or documents of the apple sales, apple growing expenses, apple distribution contracts, employee or contractor payment, income statements, business filings, or any other documents showing the business operation or income generated from the appellant's property.

The appellant further testified that the subject property has two improvements with the larger residential improvement, at which he resides, located on the parcel with PIN ending in -060. The second improvement is located on the parcel with PIN ending in -059 located at the eastern most part of the subject. And the third parcel with PIN ending in -012 with no improvements located between the other two lots.

The appellant testified that the smaller in size improvement located on the parcel with PIN ending in -059 is occupied by a tenant. He testified that the tenant and two of his relatives, who reside at the subject property, are all involved in the farming of the subject property. The appellant provided no testimony from the employees/tenants and no lease, employment, or contractor agreement to support his claims.

The appellant also testified that he filed for a certificate of error regarding the subject's classification and was denied numerous times. The appellant stated that the latest filing was the year prior to the lien year at issue. He testified that field inspections were scheduled numerous

times but was doubtful that the inspectors went to the back of the property to inspect the orchard. He testified that he was never able to ascertain the reason for denial of the certificates of error.

The appellant also testified that the subject is located in Arlington Heights village which does not have a special use permit or any farm zoning. The appellant testified that there are no other farms in Arlington Heights and upon inquiry with the city, he was informed that there is nothing further for him to do. The appellant submitted no evidence in support of this proposition.

As to the orchard itself, the appellant testified that it has over 500 trees of 50 varieties along with many other trees in a nursery for subsequent sale. The appellant testified that the picking season involves up to 35 people and it goes from July to October due to the variety of apple trees. The appellant submitted a few blurry black and white partial aerial photos of the location of trees with handwriting or markings over them to show where the trees are located.

The board of review rested on the evidence submitted.

Conclusion of Law

The appellant has disputed the assessment of the subject property in part based upon a contention of law. 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's argument is based on Sections 1-60 of the Property Tax Code. 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, orchard, 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:

Improvements other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm dwellings 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. (35 ILCS 200/1-60)

After reviewing the record and considering the testimony and evidence, the Board finds that the subject property is primarily used for residential purposes and growing apple trees is an incidental use. Therefore, the Board finds that a reduction in subject's assessment based on the orchard/farm claim is not warranted.

The Board finds that the subject dwellings are residential houses located in a residential neighborhood. The Board finds that appellant's testimony is evasive, self-serving, and lacks specificity; therefore, it gives it no weight. The Board further finds that the lack of business records further supports the finding that the subject property's primary use is residential. Therefore, the Board finds the appellant failed to show that the subject is farmland and a reduction based on this contention of law argument is not justified.

The appellant 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 §1910.63(c).

The Board gives little weight to appellant's argument that the market value of the subject with PIN ending in -059 is affected by obsolete design or frequent flooding. The appellant provided no evidence of the flood damage, flooding remediations, appraisal report, advertisement of subject property, or any other evidence supporting the proposition that the market value of the subject is impacted. The appellant also failed to present any evidence or expert testimony that the design of the property impacted its value in any way.

The taxpayer also contends assessment inequity as the basis of the appeal as to the subject located at the lot with PIN ending in -059. 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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of assessment equity to be appellant's comparable #1, #2 and #3. These comparables had improvement assessments that ranged from \$11.32 to \$13.50 per square foot of living area. The subject's improvement assessment of \$17.42 per square foot of living area falls above the range established by the best comparables in this record. Based on this record, the Board finds the appellant did demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is justified as to the property with PIN ending in -059, only.

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The Board finds that the subject with PIN ending in -012 is already assessed at \$0.50 per square foot and does not warrant a further reduction.

Finally, the Board gives no weight to appellant's equity argument as to other farm properties because the subject is not a farm. Based on this record, the Board finds a reduction on this basis is not 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:

April 18, 2023



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

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