



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

APPELLANT: Robert & Sylvia Eschmann
DOCKET NO.: 20-08768.001-F-1
PARCEL NO.: 04-27-400-024-000

The parties of record before the Property Tax Appeal Board are Robert & Sylvia Eschmann, the appellants, and the Monroe 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 **Monroe** County Board of Review is warranted. The correct assessed valuation of the property is:

F/Land:	\$ 304
Homesite:	\$ 6,310
Residence:	\$71,540
Outbuildings:	\$ 5,270
TOTAL:	\$83,424

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Monroe County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2020 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 5.72-acre site improved with a one-story dwelling along with an attached two-car garage and a pole building containing approximately 1,500 square feet of building area. The parcel is located in Columbia, Monroe County.

For tax year 2020, the assessing officials assessed the entire parcel as residential land with a single non-farm improvement assessment. This parcel has been the subject matter of appeals before the Property Tax Appeal Board in multiple prior years. (86 Ill.Admin.Code §1910.90(i)) In Docket No. 16-07222.001-F-1, the Property Tax Appeal Board issued a decision reducing the subject's assessment based on the evidence and testimony taken at hearing along with the stipulation offered by the board of review which provided for the proper classification of the subject parcel including a farmland assessment based on the parcel's use along with a homesite,

residence and farm outbuilding assessment. In both Docket Nos. 17-06701.001-F-1 and 18-05725.001-F-1, the parties agreed to an assessment of the subject parcel akin to the 2016 tax year decision with farmland, homesite, residence and outbuilding classifications.

For the instant 2020 tax year, the appellants appeared before the Property Tax Appeal Board contesting the land classification of most of the subject property due to the lack of any farmland and any farm outbuilding assessment on the parcel given its current and historical use. As to the land, the appellants contend that portions of the subject parcel are entitled to a farmland classification along with a portion of the parcel that should be assessed as homesite. At the commencement of the hearing, the Administrative Law Judge (ALJ) clarified with the appellants that there was no issue as to the assessments placed on the improvements situated on the property, namely, the residence and the pole barn. The appellants affirmed that their dispute with the improvement assessment concerns only how each of the improvements have been classified. It is the appellants' contention that the improvements should be separately assessed as a residential improvement (house) and an outbuilding improvement (farm building).

As part of the Farm Appeal petition, the appellants reported the parcel consists of approximately 1-acre of tillable land, 1.1-acres of permanent pasture, 1-acre of woodlands, 1.7-acres of wasteland and a .9-acre homesite. When questioned by the ALJ as to these acreages, the appellants acknowledged that they really did not know the respective sizes of the areas and would rely on the assessing officials' determination based on aerial maps.

The appellants testified that an approximately 1-acre area of subject parcel is being cropped, rotating between corn and soybeans, and other portions are qualified as other farmland (wasteland). During the hearing, the appellants provided the ALJ and the board of review with a color aerial photograph of the subject parcel. The board of review had no objection to the submission of this document which was marked and admitted into the record as Appellants' Hearing Exhibit #1. At the request of the ALJ, Mr. Eschmann, using a black marker, outlined the area on Exhibit #1 on which the crops are grown and identified that area with a "C." He similarly outlined the area around the residence which is mowed and maintained as the lawn or yard to the residence. This area was marked with an "H" to identify the homesite area of the property including the appellants' home. Lastly, Mr. Eschmann identified the area on the opposite side of the residential lawn which the appellants had indicated was "wild grass"; this remainder of the parcel was marked as "other" on Exhibit #1 to indicate other farmland including the woods and creek along with the wild grass area.

The appellants testified that the cropped portion of the subject parcel has been farmed for more than the previous 50 years and has remained in crops since the appellants purchased the property from the farmer who was the previous owner. The appellants' documentation filed with this appeal includes FSA (U.S. Department of Agriculture, Farm Service Agency) paperwork related to the 2020 corn production of .96 acres as produced by Wilbur Gummersheimer Inc. and which was depicted as owned by Sylvia M. and Robert A. Eschmann. As depicted in the FSA documentation, Mr. Eschmann testified that approximately 1-acre of the subject property was cropped for corn in calendar year 2020. Also submitted with the appeal was a signed statement by Merl Gummersheimer, President, of Wilbur G. Gummersheimer Inc. in which he stated, "My family has farmed this ground since it was sold to Robert and Sylvia Eschmann in 1994." The appellants did not bring Mr. Gummersheimer to the hearing for testimony.

The appellants both testified that another portion of the subject property is in "wild grass" – they noted this was not lawn grass and is also not adjacent to the area where crops are grown; this wild grass area is on the opposite side of the subject residence from where the crop area is located. (See Exhibit #1) While the appellants testified that they consulted with the FSA office to determine if the wild grass portion of the parcel was eligible for any kind of program or conservancy, the appellants were told this area did not qualify for any such program.

Next, the appellants contend the 1,500 square foot pole barn built in 1996 is used for the farming operation and should be properly classified and assessed as a farm outbuilding due to its use with the farming operation. Mr. Eschmann acknowledged that the farmer does not keep his equipment in the building. Rather, the building contains farm tractors used by Mr. Eschmann to maintain the creek banks from washouts which he does without financial support although he has inquired about such assistance through the FSA. In a letter submitted with the appeal, the appellants stated that the creek, which lies on two sides of the parcel, has constant erosion and drains 100+ acres of water of nearby land and accounts for very little of the drainage of the subject parcel. The building also contains the equipment used to maintain the remainder of the property identified in Exhibit #1 as other area. In further support, the appellants' appeal petition includes photographs of wooded area, a large tractor with a scoop on the front end depicted within the entrance to the pole barn and several photographs identified as creek, woods, wasteland and two creek photographs labeled "with erosion."

Based on this evidence, the appellants requested the subject's total assessment be reduced to \$80,150.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total 2020 assessment for the subject property of \$87,520, consisting of a (non-farm) land assessment of \$10,710 and a (non-farm) improvement assessment of \$76,810.

Appearing at the hearing on behalf of the board of review was Chairman Mark Altadonna. He recognized that the appellants are appearing for a reclassification of the subject parcel. In the written submission by the board of review, the subject property was described as a 5.72-acre parcel, including a homesite, clear land, and woods. Less than one acre is used in crop production. The board of review submission further reported that there were no fences established on the tract to delineate pasture land and there is no livestock production on the parcel. The statement from the board of review, signed by Altadonna, further asserted in pertinent part, "The subject clearly does not qualify as farmland under the legal definition." In addition, the Chairman asserted that "Monroe County rules require a minimum of 7.5 acres for farmland classification and a minimum of 2.5 acres for a homesite."

Thus, Mr. Altadonna testified that given the county minimums, the homesite would be 2.5-acres and would leave only 3.22-acres for farming which also does not meet the county minimum. The ALJ asked Mr. Altadonna what provision of the Illinois Property Tax Code mandates a 2.5-acre homesite minimum. He acknowledged there is no such statutory provision, but it has been a county practice for a minimum homesite.

Furthermore, Mr. Altadonna argued that the assessor's office utilizes a rule which was established by the Monroe County Board that the minimum acreage for a farm tract is 7.5-acres. Mr. Altadonna also stated that this rule of the county board has not been codified anywhere. He also acknowledged to the ALJ that there is no provision of the Illinois Property Tax Code that requires a minimum of 7.5-acres in order to obtain a farmland assessment. As to the stipulations previously made on this property, Mr. Altadonna stated that at the time of those prior appeals before the Property Tax Appeal Board, the Monroe County Board of Review was unaware of the foregoing minimums and the applied practices of the assessor.

Mr. Altadonna testified that he has visited the property and agreed with the delineation by the appellants on Exhibit #1 of the area used for crops. He further testified that there are no fences on the parcel indicating an area delineated for livestock production. Given the testimony of the appellants that there is less than an acre in crop production, Mr. Altadonna contended that the subject parcel does not comply with the legal definition of farm that is set forth in the Property Tax Code, 32 ILCS 200/1-60, as the property is not "used solely" for the growing and harvesting of crops etc. and does not meet the primary use provision of the statute in that "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown on the property incidental to its primary use.

Based upon the foregoing assertions and in the absence of evidence warranting a reclassification to farmland, the board of review asserted that the subject's assessment should be confirmed because, by law, the burden of proof lies with the Appellant, absent any evidence to the contrary.

Upon an Order of the Property Tax Appeal Board issued at the close of hearing, the Monroe County Board of Review subsequently submitted assessment data delineating a farmland, homesite, residence and farm building assessment for the subject parcel as of January 1, 2020.

Conclusion of Law

The appellants' argument is founded on the proper classification of the subject property as farmland and a farm outbuilding along with a residence and associated homesite. The appellants contend that the subject property should receive a farmland assessment based on its use along with the appropriate assessment for a farm outbuilding used in the farming operation.

The appellants contend the subject property is entitled to a farmland assessment. There is a less than one-acre portion of the subject property that both parties agree annually produces either corn or soybeans. The Property Tax Code (35 ILCS 200/10-125) is the guiding principle defining the four types of farmland. Further guidance is found in Publication 122, Instructions for Farmland Assessments, published by the Illinois Department of Revenue, which sets forth further detail as to the four types of farmland as cropland, permanent pasture, other farmland and wasteland.¹ In response to the appellants' appeal, the Monroe County Board of Review contends that a county policy or practice established by the Monroe County Board, and applied by the

¹ From Publication 122, other farmland is defined as "woodland pasture; woodland, including woodlots, timber tracts, cutover, and deforested land; and farm building lots other than homesites." Wasteland is defined as "that portion of a qualified farm tract that is not put into cropland, permanent pasture, or other farmland as the result of soil limitations and not as the result of a management decision."

assessor, mandates a minimum of 7.5-acres for a farm and a minimum 2.5-acres for a homesite. Since the subject parcel of 5.72-acres cannot meet both the farm size mandate of 7.5-acres and the 2.5-acre homesite requirement, the entire subject parcel is not entitled to any preferential farmland assessment. In addition, the board of review raised an issue as to the "primary use" of the subject parcel.

The Board finds that Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" in pertinent part as follows:

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 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. . .

In addition, section 10-110 of the Property Tax Code (35 ILCS 200/10-110) provides in part:

Farmland. 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. . . .

Section 10-110 of the Property Tax Code requires that in order to qualify for a farmland assessment the land needs to be used as a farm for the two preceding years. Furthermore, the present use of the land determines whether it is entitled to a farmland classification for assessment purposes. Bond County Board of Review v. Property Tax Appeal Board, 343 Ill.App.3d 289, 292 ((5th Dist. 2003). Additionally, a parcel of property may properly be classified as partially farmland, provided those portions of property so classified are used solely for the growing and harvesting of crops. Kankakee County Board of Review v. Property Tax Appeal Board, 305 Ill. App.3d 799, 802 (3rd Dist. 1999). The appellants provided testimony that approximately an acre was being planted either soybeans or corn prior to and during 2018 through 2020. At the hearing and in its written submission, the board of review representative conceded that a this less than one-acre portion of the property was being cropped.

Nothing within the preferential farm assessment provisions of the Property Tax Code establishes either a minimum farm acreage requirement or a minimum homesite acreage requirement. The Property Tax Code does not enumerate a minimum of 7.5-acres in order to qualify for farmland classification. The farmland policy outlined by the Monroe County Board of Review as purportedly established by the Monroe County Board and applied by the supervisor of assessments is not supported by the actual statutory provisions of the Property Tax Code. To the extent that the argument is implied, the Property Tax Appeal Board further finds that issues of preemption prohibit the Monroe County Board from enacting and/or enforcing mandates under law which run contrary to the statutory provisions enacted by the Illinois legislature as found in the Property Tax Code, 35 ILCS 200/1, et seq. Commonwealth Edison Co. v. City of Warrenville, 288 Ill.App.3d 373 (2nd Dist. 1997). Based on the evidence presented and not refuted in this appeal, the Property Tax Appeal Board finds all but the homesite of the subject

parcel is entitled to a farmland classification and assessment with appropriate assessments separated for the barn and dwelling.

The Board also takes judicial notice from Publication 122, the Department of Revenue with guidance on "Assessment of Farm Homesites and Rural Residential Land":

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. (Publication 122, p. 37)

The Board finds that nothing within this guidance from the Department of Revenue sets forth a minimum homesite size or acreage nor is there any such guidance in the Property Tax Code concerning farm dwellings in Section 10-145 (35 ILCS 200/10-145).

Finally, the board of review disputes that the subject 5.72-acre parcel has a primary use as farm and infers that the primary use of the subject property is actually residential. Thus, the issue being raised by the board of review is whether the subject parcel is used primarily for agricultural purposes as required by Section 1-60 of the Property Tax Code. The Property Tax Appeal Board finds that the courts have clearly addressed this question in Senachwine Club v. Putnam County Board of Review, 362 Ill. App. 3d 566 (3rd Dist. 2005). In Senachwine Club, 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 (3rd Dist. 1999). A parcel of property may properly be classified as partially farmland, provided those portions of property so classified are used solely for the growing and harvesting of crops. Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill. App. 3d 872, 875, 448 N.E.2d 3, 6 (3rd Dist. 1983). In this regard, the Property Tax Appeal Board acknowledges that in order to receive a preferential farmland assessment, the property at issue must first meet the statutory definition of a "farm" as defined in the Property Tax Code and meet the two-year requirement. Furthermore, based on the long-established case precedent, the Property Tax Appeal Board further finds 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. On this record, there is no dispute that the .96-acre portion of the subject parcel is used solely for the growing and harvesting of crops on an annual basis. There is also no evidence in this record that the Monroe County assessing officials engaged in any type of analysis outlined in Publication 122 for purposes of making a determination of primary use for the subject parcel which contains both farm and residential uses. See KT Winneburg, LLC v. Roth, 2020 IL App (4th) 190274, ¶ 54. Based on the evidence presented and not refuted, the Property Tax Appeal Board finds a portion of the subject parcel is entitled to a farmland classification and assessment to account for the area upon which crops are undisputedly grown annually.

Besides seeking to have both a residence and an outbuilding assessment, the appellants did not challenge the assessment attributable to the house and the farm building. Therefore, the Board finds the pole barn on this record is entitled to an outbuilding classification and assessment,

separate and apart from the residential dwelling, based on the values indicated on the original assessment notice.

Based on this record and applicable case law, the Property Tax Appeal Board finds a reduction in the subject's assessment equivalent to the assessment breakdown presented by the board of review is appropriate.

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:

November 22, 2022



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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