FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Scott & April Kirkley
DOCKET NO.: 20-08775.001-F-1
PARCEL NO.: 07-22-200-004-000

The parties of record before the Property Tax Appeal Board are Scott & April Kirkley, 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:	$1,405
Homesite:	$0
Residence:	$0
Outbuildings:	$0
TOTAL:	$1,405

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 30-acre vacant site which consists of 2.071-acres of tillable land that is being farmed along with 27.929-acres of woodland/timber tract (see Appellants' Attachment C and letter of the board of review). The parcel is located in Waterloo, Monroe County.

For tax year 2020, the assessing officials reassessed the entire subject parcel as residential land from its previous classification of farmland. In a four-page brief with supporting attachments, the appellants explained that the use of the subject parcel has not changed from being used solely for the growing and harvesting of crops. The board of review contends that the subject parcel does not qualify as farmland since it is less than 7.5-acres and also does not qualify under the

woodland transition law and thus has been assessed at one-third of market value using the recent sales price of the parcel.

As part of their submission, the appellants reported that the subject property was purchased in April 2019. The appellants contend that approximately two-acres of the parcel is farmed, and the remainder qualifies as other farmland under the Property Tax Code provisions and applicable guidelines. Prior to the purchase by the appellants, the subject parcel was farmed by Joel Schultz and was classified by the assessing officials as farmland. The appellants report that the parcel has continued to be registered with the U.S. Department of Agriculture (USDA) Farm Service Agency both before and after the purchase. Additionally, since the time of purchase, the appellants testified that Schultz has continued to farm the parcel as he had previously under a verbal agreement. This information is further set forth in a letter dated July 2021 and signed by Schultz that was submitted as part of the appeal (Attachment D). Schultz reports that he has continuously farmed the subject parcel for the prior four years, planting and harvesting grain crops. He further reported the acreage had a wheat crop in 2020 and a corn crop in 2021. This latter assertion was further supported with photographic evidence of the 2021 corn crop on the parcel (Attachment E). The appellants affirmatively testified that the subject parcel has been cropped for at least two years preceding the 2020 tax year at issue herein. Thus, the appellants contend that the only change in the subject property was in ownership, but the use has remained the same. The parcel has no buildings or structures, and no hunting occurs on the subject parcel.

As part of the appeal, the appellants also provided the statutory definition of farm from the Property Tax Code, 35 ILCS 200/1-60 (Attachment G), and the definition of other farmland which includes woodland pasture; woodland, including woodlots, timber tracts, cutover, and deforested land as found in Publication 122 from the Illinois Department of Revenue, Instructions for Farmland Assessments (Attachment H). Statutorily, other farmland is to be assessed at 1/6 of its debased productivity index equalized assessed value as cropland (35 ILCS 200/10-125(c)).

The appellants contend that based on the foregoing factual information concerning the use of the subject, the parcel is entitled to a preferential farmland assessment under the statutory definitions. The appellants further provided citations and copies of case law to support their claim as to the proper classification of the subject parcel in light of its use, including, KT Winneburg, LLC v. Roth, 2020 IL App (4th) 190274; Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill.App.3d 799 (3rd Dist. 1999); and Senachwine Club v. Putnam County Board of Review, 362 Ill.App.3d 566 (3rd Dist. 2005). In KT Winneburg, the appellants cited not only to the fact that the court found the property had ongoing farming activities, but also the court's finding that a court should not depart from the plain language in the statute by reading into it exceptions, limitations or conditions that conflict with the express legislative intent. Instead, the court found that the statute as written "unconditionally equates farming with the growing and harvesting of crops." Thus, in this regard, both cropland and timberland meet the statutory definition of farmland according to the court. The appellants also cited to Senachwine Club for the proposition that the subject property in that case was non-agricultural because its primary purpose was duck hunting along with the facts that the crops that were planted were not harvested. Thus, the court found that the primary purpose of the parcels in the Senachwine Club case were for the hunting of ducks.

Lastly, the appellants provided data on four suggested equity comparables in Section VI of the Farm Appeal petition. The appellants reported these parcels were selected as properties located in Monroe County which have both a field and woodland/timber tract or solely consist of a woodland/timber tract. The comparables are located from 1.64 to 4.63 miles from the subject property and range in size from 14.57 to 157.101-acres of land area. As part of the appellants' brief based on the applicable property record cards, the appellants further detailed that these four parcels have 14.57-acres of other farmland; 19.999 acres of other farmland; 7.221-acres of tillable soil and 149.880-acres of other farmland; and 19.635-acres of other farmland, respectively. These four parcels reportedly have land assessments ranging from $302 to $4,167.

Based on this evidence and argument, the appellants requested that the subject's total assessment be reduced to $1,405 based upon a farmland classification of the entire parcel, part as cropland and part as other farmland.

On cross-examination, the board of review confirmed with the appellants that approximately two-acres of the subject parcel are cropped, and the remaining acreage of the parcel is wooded.

On redirect, the appellants clarified that the subject parcel is part of a larger area of farmland. As part of the appeal petition, the appellants provided Attachment B which was specifically marked at hearing as Appellant's Hearing Exhibit #1. In testimony, the appellants testified the land area to the right of the subject parcel is a 16-acre tract that is not in dispute. Furthermore, this adjacent tract depicted in Exhibit #1 is likewise owned by the appellants and receives a farmland assessment. Thus, the appellants argue that these two tracts, totaling 46 acres, should all qualify for a preferential farmland assessments.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total 2020 assessment for the subject property of $32,000, consisting of a (non-farm) land assessment.

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 to a farmland assessment along with some assessment equity evidence.

In response to the appeal, the board of review in a 3-page letter signed by Altadonna along with supporting documentation contended that the subject property is not entitled to a preferential assessment for wooded acreage as detailed in the Illinois Property Tax Code and Publication 135 of the Illinois Department of Revenue entitled Preferential Assessments for Wooded Acreage dated January 2019. The statutory provision cited by the board of review known as "Wooded Acreage Assessment Transition Law" or WAAT enacted on October 1, 2007 mandates, in pertinent part, that the acreage must have been owned by the taxpayer on October 1, 2007. (35 ILCS 200/10-505) Both since the appellants did not own the subject parcel as of October 1, 2007 and since the property did not qualify for a Transition Percentage Assessment (TPA) as set forth in the same WAAT statutory provisions, it was the opinion of the Monroe County Board of Review that the subject property did not qualify for another preferential assessment, and thus the parcel must be assessed at 1/3 of fair market value since it was purchased after October 1, 2007. The board of review further contended that the only relief available to the appellants from a fair market value assessment would be either use of the Conservation Stewardship Law or a Forestry Management Plan.

As part of Altadonna's letter, he acknowledged that the appellants purchased the subject parcel in 2019. He further described the parcel as consisting of approximately 2-acres of farmland that is in crop production and approximately 28 acres of wooded land. At hearing, Altadonna stated that the board of review does not believe that the 28-acres of woodland "supports" the approximately two-acres of cropland. Altadonna further asserted that "Monroe County has a minimum requirement of 7.5 acres to classify a parcel as farmland." He further noted that the subject property is subject to neither the Conservation Stewardship Law nor a Forestry Management Plan.

As to the cases referenced by the appellants, the board of review addressed each individually. As to KT Winneburg, LLC v. Roth, 2020 IL App (4th) 190274, the board of review noted issues in the case involved a settlement agreement and there was no consideration or discussion of WAAT and Publication 135. The board of review further distinguished the KT Winneburg case from the instant appeal by arguing that the referenced property in the case contained mostly farmland under production and little wooded acreage. Thus, it was the opinion of the board of review that the assessing officials must assess the subject woodland at fair market value since title was transferred in 2019.

Next, as to both the Kankakee and Senachwine Club cases, the board of review opined that these cases from 1999 and 2005, respectively, were again not applicable to this appeal "as the Preferential Assessment treatment [law] had not yet been enacted" as of the time of these cases.

Therefore, based on the analysis performed by the Monroe County Board of Review, the board was of the opinion that the subject property is not entitled to a farmland assessment and/or classification and, furthermore, the subject property is not entitled to preferential treatment in accordance with WAAT and the applicable rules set forth in Publication 135 since the parcel was purchased by the appellants in 2019.

As to the appellants' assessment equity data contained in Section VI of the Farm Appeal petition, the board of review reports that comparables #1, #2 and #4, each had the last change of ownership/title prior to October 1, 2007. Appellants' equity comparable #3 concerns a parcel which was enrolled in a Forestry Management Plan for the 2020 tax year and thus has been assessed at 1/6 of its productivity index equalized assessed value as cropland in accordance with 35 ILCS 200/10-150. (A copy of the Forestry Management Plan Certification for comparable #3 was also submitted).

Finally, the board of review supplied a copy of the county assessor's regression analysis of land sales from which the board of review argued that a much higher fair market value was supported for the subject parcel than its current assessment. In this regard, the board of review noted that the subject's 2020 assessment was reduced by the board based upon its sale price of $3,200 per acre.

In light of the foregoing evidence and arguments, the board of review requested confirmation of the subject's assessment.

On cross-examination, the appellants inquired of Altadonna whether one of the appellants' equity comparables was being assessed with a preferential farmland assessment given its Forestry Management Plan. He indicated that he believed that was the case. While Altadonna agrees that a portion of the subject parcel does have crops grown on it, he stated that the change in ownership resulted in the new market value assessment of the subject parcel. The appellants further questioned Altadonna as to why the subject parcel's timber area would not qualify as "other farmland" under the preferential farmland assessment provisions of the Property Tax Code given the approximately two-acres of cropland that was also part of this parcel. In response, Altadonna noted that there is no forestry management plan or similar program applicable to the timber portion of the subject tract. When pressed as to why the timber portion of the subject property does not qualify as other farmland without any consideration given to the WAAT law, Altadonna responded he did not believe you could take out the WAAT law. When pressed further he responded that there was no forestry management plan, there was no crop production and there was no livestock [on the timber portion of the parcel].

Upon questioning by the Administrative Law Judge (ALJ), Altadonna conceded that to his knowledge the approximately two-acres of the subject parcel is annually in crop production. Next, Altadonna agreed with the ALJ that under Publication 122, Instructions for Farmland Assessments, the Illinois Department of Revenue outlines the four types of farmland: cropland, permanent pasture, other farmland and wasteland. After the ALJ stated the definition of other farmland from Publication 122, Altadonna affirmatively stated that the subject's 28-acres of timber did not qualify as other farmland because there was no pasture, there was no forestry plan and there was no crop production.

In rebuttal, the appellants contend that the WAAT law cited by the Monroe County Board of Review is not applicable to the subject parcel. Instead, the subject parcel on its own qualifies as other farmland and, as such, cannot qualify under the WAAT law. Thus, the appellants reiterate their contention in this appeal that the subject property has not been properly classified by the assessing officials for a preferential farmland assessment in light of its use. Furthermore, to the extent that the board of review asserted that in order to qualify as a farm within the county, the parcel must contain a minimum of 7.5-acres, the appellants argue in part that the board of review has failed to support this claim with a citation to any applicable law. Finally, the appellants argue in light of Appellants' Hearing Exhibit #1, the subject parcel is actually part of a larger farmland tract and that when due consideration is given to the adjacent farmland parcel that is also owned by the appellants, were the entire area owned by the appellants to be viewed as a whole rather than as two separate parcels, the appellants have a total of 7.866-acres of tillable land which would exceed the purported 7.5-acre minimum mandated farm size claimed by the Monroe County Board of Review.

In surrebuttal, the board of review reiterated its position that the WAAT law cannot apply to the subject parcel as the appellants did not own this tract as of October 1, 2007. The board of review continued to dispute the classification of the subject parcel as either farmland/other farmland and made reference to the fact the property cannot receive a preferential assessment since the appellants did not own the property as of October 1, 2007 pursuant to the WAAT law. As to the argument by the appellants that the adjacent tract they own has been afforded a preferential farmland assessment, the board of review responded that the appeal before the Property Tax Appeal Board did not concern that adjacent parcel and the board of review was "unaware of a

provision that allows taxpayers to combine parcels when filing complaints." At hearing, Altadonna also stated he did not know what would happen to the assessment of the subject parcel if the appellants were to legally combine the two separate parcels.

At the conclusion of the hearing, the ALJ ordered the Monroe County Board of Review to calculate a farmland assessment for the subject parcel should the Property Tax Appeal Board find in favor of the appellants. The board of review made that filing as ordered.

Conclusion of Law

The appellants' argument is founded on the proper classification of the subject property as farmland. The appellants contend that the subject property should receive a farmland assessment based on its use despite the county's farm size argument of 7.5-acres which is not a requirement in the Illinois Property Tax Code, 35 ILCS 200/1-60 and 10-110, et seq. and applicable case law interpreting the Property Tax Code regarding farmland assessments and use.

The appellants contend the subject property is entitled to a farmland assessment. There is approximately a two-acre portion of the subject property that both parties agree annually is used for crops. 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, and which is applied by the assessor, mandates a minimum of 7.5-acres for a farm. Since the subject parcel of approximately two-acres put into crop production does not meet the farm size mandate of 7.5-acres, the entire subject parcel is not entitled to any preferential farmland assessment according to the Monroe County Board of Review.

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 . . .

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. . . .

[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."

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 reported that approximately two-acres were being planted prior to and during 2018 through 2020. Furthermore, in its written submission and during the hearing, the board of review representative conceded that this approximately two-acre portion of the property was being cropped.

Nothing within the preferential farm assessment provisions of the Property Tax Code establishes a minimum farm 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 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 Monroe County 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).

The law is clear that 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 (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 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 approximately two-acre portion of the subject parcel is used solely for the growing and harvesting of crops on an annual basis. Based on the evidence presented and not refuted, the Property Tax Appeal Board finds the subject parcel is entitled to a farmland classification and assessment based upon the area upon which crops are undisputedly grown annually. Furthermore, the Board finds that the remaining non-cropped portion of the subject parcel must be examined under the remaining definitions of farm set forth in Publication 122 and the Property Tax Code. Having undertaken this analysis, the Board finds the remaining timber portion of the subject parcel is entitled to be assessed as "other farmland" under the Property Tax Code and guidelines issued by the Illinois Department of Revenue. Therefore, based on the evidence presented and not refuted in this appeal, the Property Tax Appeal Board finds that all of the subject parcel is entitled to a farmland classification and assessment for both cropland and other farmland.

The Board has given little consideration to the appellants' equity evidence. The basis of this appeal was primarily a classification issue contending that due to the use of the property, the

parcel was entitled to a farmland assessment. The appellants' presentation of purported farmland equity comparables does not establish that the subject parcel is entitled to a preferential farmland assessment. Moreover, equity evidence concerning farmland is not a meritorious claim since the assessment of farmland first is based upon use and then, once the preferential assessment is applicable, individual parcels are to be assessed based upon soil type, productivity and other factors concerning that particular parcel. Thus, equity evidence of nearby parcels fails to establish the correct assessment of the parcel on appeal when seeking a farmland assessment.

Finally, the Property Tax Appeal Board gives little consideration to the assertion by the Monroe County Board of Review that another provision of the Property Tax Code, WAAT law, was not applicable to the subject parcel since the appellants did not own this property as of October 1, 2007. Both parties to this appeal agree that the WAAT provisions of the Property Tax Code are not applicable to the subject property. As such, the Property Tax Appeal Board finds that the citations and references to the WAAT law raised by the Monroe County Board of Review were either a highly misplaced interpretation of the appellants' appeal or, alternatively, a mere strawman argument, which in either event lacks any merit or meaningful consideration given the facts presented in this appeal.

Based on this record and applicable case law, the Property Tax Appeal Board finds a reduction in the subject's assessment reflective of a farmland assessment as provided 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:

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: December 20, 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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