



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

APPELLANT: John Kantor
DOCKET NO.: 20-28773.001-F-1 through 20-28773.003-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 **No Change** 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
20-28773.001-F-1	03-08-303-060-0000	0	19,585	57,572	0	\$77,157
20-28773.002-F-1	03-08-303-059-0000	0	9,596	30,282	0	\$39,878
20-28773.003-F-1	03-08-321-012-0000	0	3,713	0	0	\$3,713

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 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 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 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 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 vacant, landlocked parcel of land. 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 argument, the appellant argued that 84.8% or 4.176 acres of the total land area has been used for farming purposes for well over two years. Therefore, the appellant argues that the subject meets the definition of a farm under 35 ILCS 200/1-60. In support of the intensive farming on the subject property, the appellant claims that the orchard has produced approximately 110,269 pounds of apples in 2019 and generated over \$275,000 in income. The appellant submitted no evidence of produce, amount thereof, or income. Appellant's brief cited Bond County Board of Review v. Property Tax Appeal Board, for the proposition 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. 343 Ill.App.3d 289, 292 (5th Dist. 2003). The appellant also cited McLean County Board of Review v. The Property Tax Appeal Board for the proposition that the definition of "farm" under Section 1-60 of the Code is very broad. 286 Ill.App.3d 1076, 1081 (4th Dist. 1997)

In support of the assessment argument for the subject parcel ending in -059, the appellant submitted information on five suggested equity comparables. Those properties are all single-family residential dwellings of frame, frame and masonry, or masonry construction located in Arlington Heights and Mount Prospect and range: in age from 24 to 83-years-old; in size from 2,402 to 3,765 square feet of living area; in distance from the subject from adjacent to 6.5 miles away; in improvement assessment from \$10.02 to \$13.16 per square foot of living area.

In support of his equity argument, the appellant also submitted five suggested farm comparables located in the Village of Wheeling, Illinois. Those properties are all classified as farmland, assessed at a rate of \$.005 per square foot of land, and range in size from 16,718 to 1,111,978 square feet of land. Finally, the appellant submitted 12 suggested equity comparables in support of his argument that the land assessment of his parcel ending in -060 is excessive.

Appellant's brief argued that the assessment for the subject located on the lot with PIN ending in -059 should be reduced based on the frequent flooding. The appellant argues that the property is currently rented for about 50% of what it could generate solely because of the frequent flooding issues. The appellant argues the flooding is so frequent that the insurance has declined to cover any more flood damages. The appellant provided no evidence in support of any of these propositions.

In the alternative, appellant's brief argues that all three parcels are partially or completely in the same floodway as designated by FEMA and all should be assessed at the rate of \$0.050. Specifically, the appellant argues that 69% of parcel with PIN ending in -060, and 56% of the parcel with PIN ending in -059, are located in the floodway. The appellant argues that no more permanent improvements can be built on the subject parcels and their economic and other usefulness is extremely diminished. The appellant provided no evidence that local code restrictions

would allow additional improvements regardless of the flood zone. The appellant also provided no expert testimony in support of the proposition that the economic usefulness of the subject improvement is extremely diminished. In support of the floodway argument, the appellant submitted aerial photographs, a printout from a FEMA website with handwritten notes and lines drawn over the map, a larger scale version of FEMA flood map with hand drawn markings on it, photographs showing flooding in the orchard, maps with hand drawn lines delineating which portions of the subject parcels are used for farming activity and which are not.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$39,878 and \$77,157 for PINs ending in -059 and -060, respectively. The subject has an improvement assessment of \$30,282 and \$57,572 for PINs ending in -059 and -060, respectively. The subject's assessment reflects a market value of \$398,780 and \$771,570, respectively, including land, when applying the 2020 level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 10%.

In support of its contention of the correct assessment the board of review submitted information on four suggested equity comparables for PINs ending in -059 and -060. The board of review's comparables for the subject improvement on PIN ending in -059 are single-story, single-family residential dwellings of frame, masonry, or frame and masonry construction and range: in age from 34 to 81-years-old; in size from 1,827 to 1,930 square feet of living area; and in improvement assessment from \$16.43 to \$18.87 per square foot of living area. The board of review's comparables for the subject improvement on PIN ending in -060 are all two-story, single-family residential dwellings of masonry or frame and masonry construction that range: in age from 13 to 25-years-old; in size from 5,054 to 6,442 per square foot of living area; and in improvement assessment from \$12.94 to \$13.55 per square foot of living area.

The board of review submitted clear, colored, aerial photographs of the subject with PIN ending in -060 showing a land measurement of 1.18 acres that is utilized for the appellant's house, backyard patio, and tennis court. The board of review also submitted printouts from the Cook County Assessor's office showing that: the subject with PIN ending in -012 consists of a 74,269 square foot lot assessed for \$0.50 per square foot; the subject with PIN ending in -059 has 27,419 square feet assessed for \$0.35 per square foot of land; and the subject with PIN ending in -060 has 97,928 square feet assessed for \$0.20 per square foot of land area.

Finally, the board of review submitted a brief arguing that the appellant's complaint contains several inaccuracies. The board of review argues that the subject's total size does not meet the 5-acre threshold for farmland. Also, the board of review argues that a large portion of the PIN ending in -060 is taken up by residential uses. The board of review also argues that pursuant to section 35 ILCS 200/10-130, farmland's land unit price (LUP) is \$2,250 per acre and not \$217.80 per acre. Finally, the board of review argues that the lot with PIN ending in -012 is already assessed at the \$0.50 cent per square foot of land based on the floodplain issue, which is the same as farmland assessment.

In written rebuttal, the appellant submitted a brief arguing that the information submitted by the board of review regarding the subject's size is inaccurate. The appellant argued that the subject with PIN ending in -012 has 88,688 square feet of land, the subject with PIN ending in -059 has 31,003.32 square feet of land, and the subject with PIN ending in -060 has 102,506 square feet of

land. The appellant provided portions of an unlabeled survey and Sidwell maps of the subject lots with handwritten notes and calculations.

The appellant also argued that the board of review's claim that most of the parcel with PIN ending in -060 is used for residential purposes is erroneous. Based on appellant's calculations, this parcel is a total of 2.354 acres and the residential use claimed by the board of review is only 1.18 acres, or less than half. Furthermore, the appellant claims that the board of review is overestimating the residential use part of the parcel with PIN ending in -060. The appellant claims that the residential use for this parcel is only 0.458 acres and that over 80.5% of this parcel is tillable. The appellant provided no evidence in support of this proposition.

The appellant distinguished the board of review's suggested comparables based on location and distance from the subject property. The appellant argued that the board of review's suggested comparables are located between 4.4 and 5.6 miles from the subject. The appellant also argued that the board of review's comparables are in different cities than the subject. The appellant argued that the board of review's comparables are located in Mount Prospect and Prospect Heights, which are completely different markets than the subject's area. The appellant provided no expert testimony or evidence in support of this proposition.

The appellant further argued that a portion of the subject with PIN ending in -059 is used for the storage of equipment, supplies, and apples. The rest of this improvement, over 50%, is rented to a tenant. The appellant provided no photos of the storage area, machines, residential portion, lease agreement, or any other evidence in support of this proposition. Finally, the appellant argued that the subject on this PIN suffers from frequent flooding because the garage is below grade. The appellant argued that the insurance refuses to pay for flooding damages and that the current rent is nearly half of what the rate should be. The appellant presented no evidence to support any of those propositions.

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 and performed 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 patio and tennis court located on PIN ending in -060 and 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 no 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 Board also gives no weight to appellant's flood reduction argument. 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. The Board gives diminished weight to appellant's argument that the "economic and other usefulness is extremely diminished" for the parcels with PINs ending in -059 and -060. The appellant submitted no evidence that the subject improvement themselves are located within the flood zone or suffer any flooding whatsoever. The appellant also submitted no evidence that the local zoning allows him to build any more improvements than are already built or that he was denied additional improvements because of the flooding issue.

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the best evidence of assessment equity to be appellant's comparable #5, and the board of review's comparables #1, #2, #3, and #4. The Board finds that these comparables were most similar in size and in the same neighborhood code and had improvement assessments that ranged from \$13.16 to \$18.87 per square foot of living area. The subject's improvement assessment of \$15.19 per square foot of living area falls within the range established by the best comparables in this record. Based on this record, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

The appellant further contends land assessment inequity as the basis of the appeal as to the subject's land located at the lot with PIN ending in -060. 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 did not meet this burden of proof and a reduction in the subject's land assessment is not warranted.

The Board finds the best evidence of assessment equity to be all of the appellant's land comparable, and the board of review's land comparables #1, #2, #3, and #4. These comparables had land assessments that ranged from \$0.20 to \$0.35 per square foot of land. The subject's land assessment of \$0.35 per square foot of land falls within the range established by the best comparables in this record. Based on this record, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's land was inequitably assessed and a reduction in the subject's land assessment is not justified.

The Board finds that the subject with PIN ending in -012 is already assessed at the same level as farm assessment due to the flood area location. Therefore, no further reduction is warranted.

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

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