

**BEFORE THE BOARD OF TAX APPEALS
STATE OF KANSAS**

IN THE MATTER OF THE PROTESTS
OF MTA PROP, L.L.C. FOR THE YEAR
2022 IN SUMNER COUNTY, KANSAS

Docket Nos. 2023-2725-PR
and 2023-2726-PR

Parcel ID #: 096-055-22-0-20-03-001.00-0

Parcel ID #: 096-055-22-0-20-01-014.00-0

SUMMARY DECISION

Now the above-captioned matters come on for consideration and decision by the Board of Tax Appeals of the State of Kansas. The Board conducted a hearing in these matters on June 3, 2024. The Taxpayer, MTA Prop, L.L.C., appeared by Michael Andra, Owner. Sumner County, Kansas (the “County”) appeared by John Potucek, Attorney; Lance Leis, Appraiser; and Tyler White, Appraiser. The tax year in issue is 2022.

The Board has jurisdiction of the subject matter and the parties, as equalization appeals have been properly and timely filed pursuant to K.S.A. 79-2005.

The subject property consists of two adjacent parcels of land located in a partially developed subdivision in Conway Springs, Kansas. The parcels collectively comprise a 10.8-acre drainage area at the center of the development. Docket No. 2023-2725-EQ, Parcel ID 096-055-22-0-20-03-001.00-0, referred to by the parties as “the north parcel”, is an 8.4-acre mixed use tract with a total value of \$46,070, consisting of 7.7 acres of vacant land appraised at \$45,920 and 0.70 acres of agricultural use land with a 2022 appraised value of \$150. There is a pond approximately 1 acre in size located at the center of the north parcel. In September 2023, the Taxpayer sold the north parcel, along with another parcel that is not at issue herein, for \$68,000.

Docket No. 2023-2726-EQ, Parcel ID 096-055-22-0-20-01-014.00-0, referred to by the parties as “the south parcel”, is a 2.4-acre mixed use tract with a total value of \$4,300 consisting of 1.4 acres of vacant land appraised at \$4,250, and 1 acre of agricultural use land with an agricultural use value of \$50.

The Taxpayer challenged the mixed-use classification assigned to both parcels, and argued that because both parcels produce native grass they should be classified entirely as agricultural use land. Mr. Andra appeared as a witness for the Taxpayer and testified regarding the use of the subject. Mr. Andra testified that no other neighboring landowners have the right to use the pond on the north parcel.

Mr. Andra owns several other parcels in the area that produce tame grass and testified that a neighbor harvests hay from all of his parcels and shares the proceeds with the Taxpayer. Mr. Andra testified that the south parcel was planted to tame grass during summer 2023, and a fescue/clover mix was planted in fall 2023 and spring 2024. He stated that prior to that time, the south parcel was entirely native grass. The entirety of the south parcel was classified as agricultural use land (tame grass) for the 2024 tax year.

Mr. Andra submitted that there were numerous similar parcels in the area that have non-productive areas that the County has classified entirely as agricultural use parcels. Mr. Andra referenced a May 15, 2013 memorandum on *Classification of Non-Productive Land within a Single Agricultural Operation* from the State of Kansas, Department of Property Valuation and argued that there is a presumption that non-productive areas within agricultural use parcels are similarly devoted to agricultural use.

Lance Leis, Appraiser, appeared as a witness for the County. Mr. Leis testified that the south parcel was classified entirely as agricultural use property for 2022 and 2024. After an inspection of the parcels, the County determined that the south parcel, in its entirety, was devoted to agricultural uses. Based upon the inspection, the County recommended that the south parcel be classified as agricultural use land that produces tame grass and have an agricultural use value of \$220 for the 2023 tax year.

In regard to the north parcel, Mr. Leis testified that he inspected the north parcel and observed only incidental agricultural use (0.7 acres of dry cropland) occurring immediately south of the pond. Mr. Leis concluded that the highest and best use of this parcel was residential use. Mr. Leis then determined that because the highest and best use of the parcel was residential use, and because he believed any agricultural use of the parcel was incidental to the residential use, the non-productive portions of the north parcel should be classified as vacant property.

The Taxpayer has challenged the classification of both parcels; therefore, the Board rules that the evidentiary burden is on the County. *See In re Equalization Appeal of Camp Timberlake, LLC*, 340 P.3d 1236 (Kan. App. 2015).

The parties agree that the south parcel is land devoted to agricultural use but disagree as to whether the parcel contains tame or native grass. The Board finds Mr. Andra's testimony credible and persuasive as to the nature of the crop grown on the land, and finds that tame grass was not planted on the south parcel until after the relevant date of valuation. The Board therefore concludes that the south parcel, Docket No. 2023-2726-EQ, Parcel ID 096-055-22-0-20-01-014.00-0, shall be classified and valued as agricultural use land with native grass for tax year 2022.

The Taxpayer has requested that the portion of the north parcel currently classified as vacant land be classified as “land devoted to agricultural use” – the second subclassification of real estate in Article 11, Section 1 of the Kansas Constitution. K.S.A. 79-1476 defines “land devoted to agricultural use” as follows:

“[L]and devoted to agricultural use” shall mean and include land, regardless of whether it is located in the unincorporated area of the county or within the corporate limits of a city, which is devoted to the production of plants, animals or horticultural products, including but not limited to: Forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products. Land devoted to agricultural use shall include land established as a controlled shooting area pursuant to K.S.A. 32-943, and amendments thereto, which shall be deemed to be land devoted to agricultural use. ...

If a parcel has land devoted to agricultural purposes and land used for suburban residential acreages, rural home sites or farm home sites, the county appraiser shall determine the amount of the parcel used for agricultural purposes and value and assess it accordingly as land devoted to agricultural purposes. The county appraiser shall then determine the amount of the remaining land used for such other purposes and value and assess that land according to its use.

With respect to the County’s arguments in support of its classification, the Board finds that neither the parcel’s highest and best use nor its post January 1, 2022, sale price are relevant to a determination of agricultural use under K.S.A. 79-1476. The statute specifies that classification is determined by actual use, not on location or potential use. Here, Mr. Andra presented substantial, credible evidence and persuasive legal argument indicating the north parcel was “land devoted to agricultural use” as of the January 1, 2022 valuation date. In contrast, the County did not demonstrate either factually or legally that the north parcel’s non-productive areas should be classified as vacant. The Board concludes that the north parcel, Docket No. 2023-2725-EQ, Parcel ID 096-055-22-0-20-03-001.00-0, shall be classified and valued entirely as agricultural use land for tax year 2022.

IT IS THEREFORE ORDERED that, for the reasons stated above, the entirety of the south parcel, Docket No. 2023-2726-EQ, Parcel ID 096-055-22-0-20-01-014.00-0, shall be classified and valued as agricultural use land with native grass for the 2022 tax year.

IT IS FURTHER ORDERED that, for the reasons stated above, the entirety of the north parcel, Docket No. 2023-2725-EQ, Parcel ID 096-055-22-0-20-03-001.00-0, shall be classified and valued as agricultural use land for the 2022 tax year.

IT IS FURTHER ORDERED that the appropriate County officials shall correct their records to comply with this order, re-compute the taxes owed by the Taxpayer, and issue a refund for any overpayment. This *Summary Decision* is issued by the Board pursuant to K.S.A. 74-2426(a), and amendments thereto.

Any party who is aggrieved by this order may file a written petition for reconsideration with this Board as provided in K.S.A. 77-529 and K.S.A. 74-2426(b), and amendments thereto. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Board's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to the Secretary of the Board of Tax Appeals. The written petition must be received by the Board within 15 days of the certification date of this order (allowing an additional three (3) days for mailing pursuant to statute). The Parties should note that, pursuant to K.S.A. 74-2426(c)(4)(A), in regard to any petition for review of the Board's order filed in the Kansas Court of Appeals, for purposes of such an appeal, the Board's order shall become final only after the issuance of a full and complete opinion.

Rather than filing a petition for reconsideration, any aggrieved party may request, within 21 days of receiving this order, a full and complete opinion be issued by the Board pursuant to K.S.A. 74-2426(a), and amendments thereto (allowing an additional three (3) days for mailing pursuant to statute).

Rather than filing a petition for reconsideration or a request for a full and complete opinion, any Taxpayer has the right to appeal this order of the Board by filing a petition with the district court pursuant to K.S.A. 74-2426(c)(4)(B), and amendments thereto. Said petition for judicial review must be filed within 30 days from the date of certification of this order. See K.S.A. 77-613(b) and (c), and amendments thereto and K.S.A. 74-2426(c), and amendments thereto. Pursuant to K.S.A. 77-529(d), and amendments thereto, any party choosing to petition for judicial review of this order is hereby notified that the Secretary of the Board of Tax Appeals is to receive service of a copy of the petition for judicial review. Please note, however, that the Board would not be a party to any judicial review because the Board does not have the capacity or power to sue or be sued. See K.S.A. 74-2433(f), and amendments thereto.

The address for the Secretary of the Board of Tax Appeals is Board of Tax Appeals, Eisenhower State Office Building, 700 SW Harrison St., Suite 1022, Topeka, KS 66603. A party filing any written request or petition shall also serve a complete copy of any written request or petition on all other parties. Please be advised that the administrative appeal process is governed by statutes enacted by the legislature and no further appeal will be available beyond the statutory time frames.


IT IS SO ORDERED

THE KANSAS BOARD OF TAX APPEALS



SEAL

ATTEST:


KRISTEN D. WHEELER, CHAIR


VIRGINIA A. POWELL, MEMBER


DEVIN SPRECKER, MEMBER


JOELENE R. ALLEN, SECRETARY

CERTIFICATION

I, Joeline R. Allen, Secretary of the Board of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket Nos. 2023-2725-PR et al. and any attachments thereto, was placed in the United States Mail, on this 17th day of June, 2024, addressed to:

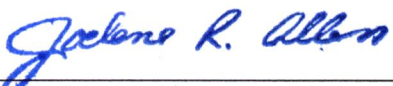
Michael Andra, Owner
MTA Prop LLC
110 S Forestview Ct
Wichita, KS 67235

Tyler White, Sumner County Appraiser
Sumner County Appraiser's Office
500 S Washington, Second Floor
Wellington, KS 67152-4064

John Potucek, Sumner County Counselor
601 N Washington
Wellington, KS 67152

Dannetta Cook, Sumner County Treasurer
Sumner County Courthouse
PO Box 190
Wellington, KS 67152-0190

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at
Topeka, Kansas.



Joeline R. Allen, Secretary