

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

IN THE MATTER OF THE EQUALIZATION
APPEALS OF RANDALL, KIRK B. &
GEORJANN K. FOR THE YEAR 2023 IN
MIAMI COUNTY, KANSAS

Docket Nos. 2023-6681-EQ
& 2023-6836-EQ

FULL AND COMPLETE OPINION

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 January 12, 2024. The Taxpayers, Kirk B. and Georjann K. Randall, appeared by Kirk B. Randall, *pro se*. The County of Miami appeared by Stuart Phelps, Appraiser. County Exhibit 1 was admitted in Docket Number 2023-6681-EQ, and County Exhibit 2 was admitted in Docket Number 2023-6836-EQ. Taxpayer Exhibit 1 was admitted collectively in both docket numbers under appeal here. The tax year in issue is 2023, and the effective date of valuation is January 1, 2023.

The Board has jurisdiction of the subject matters and the parties, as equalization appeals have been properly and timely filed pursuant to K.S.A. 79-1609.

The subject matters of these tax appeals are described as follows:

Docket Number 2023-6681-EQ

Real estate and improvements commonly known as 24321
Harmony Road, Paola, Miami County, Kansas, also known as
Parcel Identification Number 061-083-05-0-00-00-002.01-0;
and,

Docket Number 2023-6836-EQ

Real estate located in the 24300 block of Harmony Road,
Paola, Miami County, Kansas, also known as Parcel
Identification Number 061-082-04-0-00-00-015.01-0.

The subject properties are two adjoining parcels of land classified and appraised as follows:

Docket Number	Classification	Land Value	Improvement Value	Total Appraised Value
2023-6681-EQ	Farmstead	\$84,800	\$211,200	\$296,000
	Agricultural	\$80	---	\$80
2023-6836-EQ	Vacant	\$8,450	---	\$8,450
	Agricultural	\$420	---	\$420

The parcel in Docket Number 2023-6681-EQ contains the Taxpayers' residence, which Taxpayers contend was overvalued. Randall agreed that the County's exterior measurements of the house at 1,396 square feet (129.7 m²) were accurate, but argued that 58.3 square feet (5.4 m²)

occupied by the stairs in the unfinished basement should not be included in the house's total living area. The Board notes that the stairs have utility by providing access from one level of the house to another, regardless of the level of finish of the basement. The Board finds the stairs should be included as living area, just as hallways, closets, and stairs in other areas of a home would be. The Board does not find any basis to adjust the value of the residence on the square footage of the stairs.

The Board does find, however, that adjustments to the value of the home should be made. The evidence presented showed that the house has only one bedroom. While it may be adequate for the Taxpayers, the Board finds that a single bedroom indicates some functional obsolescence, and that the County's evidence does not show that this issue was adequately considered in its valuation. The Board notes that the condition, desirability, and utility (C.D.U.) rating of the home is already less than the five comparable sales and adjustment of this factor may not address the stark difference between a home with one bedroom and homes with two or more bedrooms. In the absence of a reliable comparable sales approach, the Board finds the most competent, reliable evidence of the home's market value was the County's cost approach and rules that the value of the house should be reduced from \$211,200 to the cost approach value of \$190,960.

The land in Docket Number 2023-6681-EQ comprises 5.54 acres (2.24 ha) with 0.64 acres (0.26 ha) contiguous to the tame grass area of Docket Number 2023-6836-EQ. These 0.64 acres are classified as "Agricultural." A larger portion of this parcel is timbered and classified as "Farmstead," a residential classification. The Taxpayers did not contest the market values assigned to the land, but requested that both the tame grass and timbered portions be classified and valued as "Agricultural." The Board considers the issue of the classification of this land in tandem with the classification of the land in Docket Number 2023-6836-EQ.

The land-only parcel in Docket Number 2023-6836-EQ is landlocked and partially timbered. In that parcel, 3.31 acres (1.34 ha) are tame grass classified as "Agricultural." The remaining 1.2 acre (0.49 ha) is heavily timbered, and the County classified it as "Vacant" because it did not find any agricultural production on that portion of the property. As with the prior parcel, Taxpayers did not contest the market value of the property but requested that the entire parcel be reclassified as "Agricultural." The County's market land values for both parcels were based on recent vacant land sales in the subject properties' appraisal neighborhood and two other similar neighborhoods.

Taxpayers relied upon a May 15, 2013, Memorandum from David Harper, Director of the Kansas Department of Revenue, Division of Property Valuation (P.V.D.) concerning the classification of non-productive land within a single agricultural operation. Taxpayers interpret the Memorandum to direct that areas devoted to conservation, which are adjacent to other agricultural use parcels should be considered land devoted to agricultural use. Randall testified the land parcels at issue here are both part of a critical watershed area for nearby Hillsdale Lake.

The Memorandum, when read in its entirety, discusses classification of smaller, non-productive areas of land that are adjacent to larger agricultural operations. The evidence here did not show any harvesting or active cultivation of timber products taking place on the treed portions of the property, nor did the evidence establish any larger, agricultural operation on other portions of the property. While there was some testimony concerning a lease of the land for

grazing goats, that testimony was inconclusive as to the exact areas of the land being leased for such use, the effective date(s) of the lease, or any actual use being made of the land for that purpose. Taxpayers' testimony regarding the "conservation" use of the land concerned reduction of pollution and maintenance of wetlands associated with the nearby lake. Therefore, to the extent that any active agricultural production is on other portions of these parcels, the evidence and testimony did not show the areas of timber were necessary for soil conservation relative to any agricultural production. There is no indication that either Kansas law or P.V.D.'s Memorandum intended the term "conservation" in the specific context of classification for ad valorem taxation to extend beyond soil conservation and other practices associated with maintenance of an active agricultural operation.

Classification for ad valorem taxation purposes is based on the actual use of the property, not the zoning. *See* K.S.A. 79-1439 (b); *Board of Douglas County Comm'rs v. Cashatt*, 23 Kan. App. 2d 532, 933 P.2d 167 (1997). In this case, the subject properties are rural residential acreage with a home site. Pursuant to K.S.A. 79-1476, the county appraiser should determine the amount of the parcels used for agricultural purposes and value and assess those portions accordingly. The evidence does not show that the timbered area on either parcel is used for agricultural purposes. A parcel that is not devoted to agricultural use cannot be classified as "Agricultural." *See also In re Jones*, 367 P.3d 306 (Kan. App. 2016) (noting that suburban residential acreages or rural home sites primarily used for residential purposes are excluded from agricultural classification). The Board concludes, then, that the County acted appropriately when it did not classify the timbered portions of either parcel as "Agricultural." The Board notes that if the County had elected to classify the timbered portion of Docket Number 2023-6681-EQ as "Vacant" rather than "Residential," it would have increased the assessment percentage as to that particular acreage. The evidence here supports the County's decision to classify the timbered areas in Docket Number 2023-6681-EQ as "Residential" because the primary purpose of that acreage are residential or recreational uses in support of the home site. In contrast, the timbered acreage in Docket Number 2023-6836-EQ was properly classified as "Vacant" because it was not devoted to agricultural production and is not supportive of the home site.

The evidentiary burden was on the County. Based on the evidence presented at the hearing, duly weighing such evidence, the Board rules that the farmstead improvement value should be reduced to \$190,960. The remainder of the appraised values and classifications of the subject properties for tax year 2023 are sustained.

IT IS THEREFORE ORDERED that the appraised values of the subject properties for 2023 shall be adjusted as set forth below:

Docket Number	Classification	Land Value	Improvement Value	Total Value
2023-6681-EQ	Farmstead	\$84,800	\$190,960	\$275,760
	Agricultural	\$80	---	\$80
2023-6871-EQ	Vacant	\$8,450	---	\$8,450
	Agricultural	\$420	---	\$420

This order is a full and complete opinion 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 amendments thereto. *See* 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 days for mailing pursuant to statute).

Rather than filing a petition for reconsideration, any aggrieved person has the right to appeal this order of the Board by filing a petition with the court of appeals or the district court pursuant to K.S.A. 74-2426(c)(4)(A), and amendments thereto. Any person choosing to petition for judicial review of this order must file the petition with the appropriate court within 30 days from the date of certification of this order. *See* K.S.A. 77-613(b) and (c) 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.

If both parties are aggrieved by this order, and one party timely appeals this order to the district court (which necessitates a trial de novo pursuant to K.S.A. 74-2426(c)(4)(A)), then this order will be deemed final and will render moot any pending petition for reconsideration filed by the other party. If both parties are aggrieved by this order, one party timely appeals this order to the court of appeals (which would involve appellate review under the Kansas judicial review act), and the other party timely files a petition for reconsideration, then this order will be deemed non-final and the Board will proceed to render an order regarding reconsideration.

Unless an aggrieved party files a timely petition for reconsideration as set forth herein, this order will be appealable by that party only by timely appeal to the district court or the court of appeals as set forth above.

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




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. 2023-6681-EQ and 2023-6836-EQ and any attachments thereto, was placed in the United States Mail, on this 5th day of JUNE, 2024, addressed to:

Kirk B. & Georgjann K. Randall
24321 Harmony Road
Paola, Kansas 66071

Sandra Lucas, Miami County Appraiser
Miami County Courthouse
Suite 100
201 South Pearl Street
Paola, Kansas 66071-1793

Tricia Lee, Miami County Treasurer
Miami County Courthouse
Suite 103
201 South Pearl Street
Paola, Kansas 66071-1776

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


Joeline R. Allen, Secretary