

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

IN THE MATTER OF THE EQUALIZATION
APPEAL OF DIRKS, SHANNON S. FOR THE
YEAR 2023 IN BUTLER COUNTY, KANSAS

Docket No. 2023-7367-EQ

Parcel ID Number: 008-335-15-0-00-00-001.00-0

SUMMARY DECISION

Now the above-captioned matter comes on for consideration and decision by the Board of Tax Appeals of the State of Kansas. The Board conducted a hearing in this matter on April 18, 2024. The Taxpayer, Shannon S. Dirks, appeared on her own behalf and by Zach Hettenbach. Butler County appeared by Paula Self. The tax year in issue is 2023.

The subject property carries a mixed-use classification and is valued at a total of \$280,190. A banquet hall and guest cottage are contained within a 2007 metal barn. The first floor of the barn contains the 3,240 square foot banquet hall and a commercial kitchen. The second floor contains a 1,440 square foot guest cottage area with three bedrooms and two baths. The first-floor banquet hall, an outbuilding, and 2.2 acres are classified as commercial and valued at \$181,980. The second-floor guest cottage and 2.2 acres are classified as residential and valued at \$80,520. A farm utility storage shed and 91.2 acres are classified as agricultural and valued at \$17,690. The classification of the first-floor banquet hall and the land associated with it are at issue in this appeal.

The Taxpayers argued the portion of the property currently classified as commercial, the banquet hall on the first floor of the barn along with the parking lot, should be classified as residential. According to the Taxpayers, the use of the entire barn qualifies as a bed and breakfast (See Directive 19-039). The Taxpayers stated that the guest cottage on the second floor of the barn meets the definition of a bed and breakfast, and argued the first floor is also part of the bed and breakfast as guests are free to utilize the kitchen and other amenities located therein during their stay. The Taxpayers testified the subject property is an active Kansas Agritourism Ranch. As such, the Taxpayers alternately suggest that the subject property should be classified as agricultural pursuant to HB2254. Finally, the Taxpayer also disputed the wall height utilized by the County on the barn.

The County testified that it has classified the second floor of the metal barn as residential in consideration of its use as a lodging space. As to the first floor, however, the County noted the use is primarily as an event venue and argued it is classified appropriately as commercial.

Directive 19-039, issued by the Kansas Department of Revenue, Division of Property Valuation (PVD), advises county appraisers on the 2016 amendments to K.S.A. 79-1439(b)(1)(A). The amended statute provided that certain types of real property should be classified and assessed as follows:

Real property used for residential purposes...and real property used for bed and breakfast purposes at 11.5%. As used in this paragraph "bed and breakfast" means a property with five or fewer bedrooms available for overnight guests who stay for not more than 28 consecutive days for which there is compliance with all zoning or other applicable ordinances or laws which pertain to facilities which lodge and feed guests...

The Board notes there appears to be no dispute between the parties that the guest cottage on the second floor of the barn qualifies as a bed and breakfast. The County has accordingly classified this portion of the barn and its associated land as residential pursuant to K.S.A. 79-1439(b)(1)(A).

The Board finds that no additional portions of the barn or the land should be classified as residential. While guests of the bed and breakfast may have access to the kitchen area or other spaces on the first floor during their stay, the Board finds this use is incidental to the primary purpose of that space. The banquet hall's large size and open design, which accommodate large numbers of people, support the conclusion that the intended and actual use of the first floor is as an event space. The Board finds the County has appropriately classified this portion of the barn as commercial. Likewise, the parking lot is not used for residential or agricultural purposes, but services the commercial portion of the property and has been accurately classified as commercial.

The Board further finds that the evidence presented does not support a classification of agricultural for the subject property. The banquet hall on the first floor of the barn and associated land are not used for, or devoted to, agricultural production. The Taxpayers cited House Bill 2254 as support for classifying the entire property as agricultural as a Kansas Agritourism Ranch. This bill was enacted into law and amended portions of K.S.A. 79-1476 after the date of the hearing. Subsequently, the Board stayed the matter in order for the parties to address whether the bill impacted the outcome of the case. The Board held a status

conference on June 26, 2024, and both parties appeared through counsel. Counsel at the time indicated they would need additional time to discuss the matter. The Board set a second status conference, but before that conference could be held the Board received an email from Taxpayers' counsel. The email indicated the parties agreed that because Taxpayers did not become a registered agritourism location/operator until April 2023, HB2254 would not have governed the location or activity at the subject property on the date of appraisal. Consequently, the Board is proceeding to issue its decision as if the HB2254 amendments do not apply.

Lastly, the Taxpayers disputed the wall height utilized by the County on the barn. As support for their assertions regarding the wall height, the Taxpayers provided a copy of the building permit. The County provided sketches it created after inspecting the building. The Board finds the County's evidence to be persuasive. The Board notes the dimensions of the constructed building may vary from those listed in the permit. In contrast, the County has measured and recorded the existing building dimensions.

Based on all the evidence presented at the hearing, the Board concludes the County's classification and valuation of the subject property should be adopted.

IT IS THEREFORE ORDERED that the appraised value of the subject property for 2023 is:

Class	Land	Building	Total
C	\$16,800	\$165,180	\$181,980
R	\$7,200	\$73,320	\$80,520
A	\$15,660	\$2,030	<u>\$17,690</u>
TOTAL			\$280,190

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 14 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).

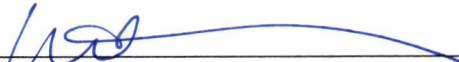
Rather than filing a petition for reconsideration or a request for a full and complete opinion, any Taxpayer has the right to appeal this order of the Board by filing a petition with the district court pursuant to K.S.A. 74-2426(c)(4)(B), and amendments thereto. Said petition for judicial review must 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.

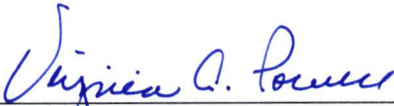
The address for the Secretary of the Board of Tax Appeals is Board of Tax Appeals, Eisenhower State Office Building, 700 SW Harrison St., Suite 1022, Topeka, KS 66603. A party filing any written request or petition shall also serve a complete copy of any written request or petition on all other parties. 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.

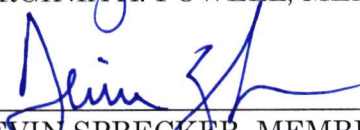
IT IS SO ORDERED

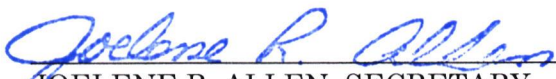
THE KANSAS BOARD OF TAX APPEALS




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 No. 2023-7367-EQ and any attachments thereto, was placed in the United States Mail, on this 14~~th~~ day of NOVEMBER, 2024, addressed to:

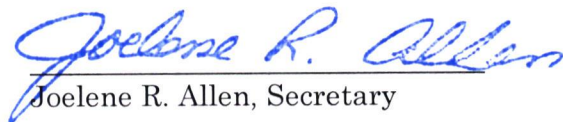
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IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.


Joeline R. Allen, Secretary