

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

Small Claims and Expedited Hearings Division

IN THE MATTER OF THE
EQUALIZATION APPEAL OF DUBACH,
MATTHEW L. & AMY K. FOR THE YEAR
2024 IN SHAWNEE COUNTY, KANSAS

Docket No. 2024-2791-EQSC

2024 Shawnee

ID Number: 089-129-30-0-40-01-006.00-0

NOTIFICATION OF DECISION OF HEARING OFFICER

A Small Claims hearing was held on July 17, 2024 in reference to the above property. Following is the decision of the Hearing Officer assigned:

DECISION OF HEARING OFFICER:

The subject is 14.41 acres of land located in Berryton, Kansas that has a 2024 total value of \$119,600 consisting of a farmstead value of \$119,500 and a \$100 agricultural use value. 13.41 acres of land is classified as residential use land, and one (1) acre of land is classified and valued as agricultural use land.

The Taxpayer purchased the property in May of 2023 and commenced construction of a home on the property in April of 2024.

The Taxpayer requested that the subject land be classified as agricultural use property. The Taxpayer submitted that as of the January 1, 2024, assessment date there was no building permit, nor residence, nor start of a residence, and the parcel was used exclusively for beekeeping and for the production of bee products.

The Taxpayer submitted that the subject land has been registered with the USDA Farm Services and for many years the property was classified as agricultural use land in the CRP program due to the highly erosive nature of the ground. The Taxpayer submitted documentation indicating that honeybees can fly from 2 to 5 miles for food, resources, and pollination.

The phrase "land devoted to agricultural use" is defined in K.S.A. 79-1476 as follows:

"[L]and devoted to agricultural use" shall mean and include land, regardless of whether it is located in the unincorporated

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area of the county or within the corporate limits of a city, that 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; and nursery, floral, ornamental and greenhouse products...

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. (Emphasis added.)

It is a fundamental rule of statutory construction that the intent of the legislature governs if that intent can be ascertained. *In re Appeal of LaFarge Midwest/Martin Tractor Co., Inc.*, 293 Kan. 1039, 1045, 271 P.3d 732 (2012)(citation omitted). To determine legislative intent, a tribunal must first examine the language used in the statute, giving common words their ordinary meaning. *LaFarge*, 293 Kan. at 1045; *In re Appeal of Wedge Log-Tech, L.L.C.*, 48 Kan. App.2d 804, 812, 300 P.3d 1105, *rev. denied* (2013). "When the plain language of a statute is unambiguous, we are to give effect to that language without resorting to principles of statutory construction or legislative history." *In re Application of TransCanada Keystone Pipeline, L.P.*, 48 Kan. App. 2d 838, 843, 301 P.3d 335, *rev. denied* (2013).

K.S.A. 79-1476 is clear and unambiguous. "Land devoted to agricultural use" is land devoted to the production of plants, animals, or horticultural products. "Devote" is defined as "to give over or direct (as time, money, or effort) to a cause, enterprise, or activity." WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY 348 (1983).

The parties agree that there is agricultural use occurring at the property; the dispute herein is how much land is devoted to agricultural purposes. The Kansas Legislature specifically utilized the word "devoted" in the statute. Herein, as of January 1, 2024, the substantial credible evidence supports the finding that the one acre of land – the land where the beehives (stacks) are situated – is land "devoted" to agricultural. There has been no substantial credible evidence presented that is persuasive that the 13.31 acres of land that does not contain the beehives (stacks) – the land currently classified as residential use land – is land "**devoted**" to agricultural purposes. This land, similar to other land in the area not owned by the

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Taxpayer, may incidentally be visited by the Taxpayer's bees and, therefore, support the Taxpayer's bee keeping enterprise, yet, at best, such uses are only incidental to the Taxpayer's beekeeping enterprise. Based thereon, the subject's current appraised value and property classifications are supported.

FINAL VALUE:

F:	\$119,500
A:	<u>\$100</u>
Total:	\$119,600

Small Claims Hearing Officer: Stephen A. Bauchum

Any party to this appeal who is not satisfied with the final decision of the Hearing Officer may appeal this decision to the regular division of the Kansas Board of Tax Appeals. The appeal must be received within 30 days of the mail date using the enclosed form.

CERTIFICATE OF SERVICE

The above and foregoing Notice for Docket No. 2024-2791-EQSC, was served by depositing the same in the United States mail, postage pre-paid, on the 15th day of August, 2024 addressed to the following:

Matthew L Dubach
Amy K Dubach
2815 SE Lakeridge Ct
Topeka, KS 66604

Steve Bauman, Shawnee County Appraiser
Shawnee County Annex
1515 NW Saline St Ste 100
Topeka, KS 66618-2838

BOARD OF TAX APPEALS

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Kansas Board of Tax Appeals**

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