

BEFORE THE BOARD OF TAX APPEALS  
STATE OF KANSAS



BY:.....

IN THE MATTER OF THE PROTEST  
OF ANDRA, MICHAEL J. & TINA M. -  
TRUST FOR THE YEAR 2015 IN  
CHAUTAUQUA COUNTY, KANSAS

Docket No. 2016-196-PR

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 4, 2016. Michael J. Andra represented the Taxpayer. Chautauqua County, Kansas (the "County") appeared Jeremy Henderen, County Appraiser. The tax year in issue is 2015.

The subject property consists of a 233 acre parcel of agricultural land with agricultural buildings located in Chautauqua County, Kansas. For the 2015 tax year, the subject property has a total agricultural use value of \$17,210. The land is classified as native grass. The Taxpayer asserts that approximately 40 acres of the property consists of wooded areas and creeks that have no productive value that should be classified as waste.

As the controversy herein involves property classification, the Taxpayer has the burden of proof and persuasion. K.S.A. 2015 Supp. 79-2005.

This issue has been contemplated by the State of Kansas, Division of Property Valuation ("PVD") which, pursuant to K.S.A. 79-1401, 79-1402, and 79-1404, has general supervision over Kansas County Appraisers. PVD Memorandum *Identification of Waste Land Within the Agricultural Classification* (December 17, 2013) indicates that "[g]ullies, woodland/timber, creeks, or streams in non-irrigated or irrigated cropland" can be considered waste, and further that "[g]ullies, creeks, or streams in pasture or wasteland" is land that generally is not considered waste. *Id.*, pp. 1-2. (Emphasis original).

The PVD memorandum is not binding upon this Board, yet it is both instructive and generally consistent with K.S.A. 79-1476. As the subject property is agricultural use land sub-classified as natural grass and not cropland, the Board finds the County's determination that this land is not waste is justified and warranted. For the foregoing reasons, the Board concludes the subject property is properly valued at its agricultural use value of \$17,210.

IT IS THEREFORE ORDERED that, for the reasons stated above, the above findings and concludes be made orders of the Board and, further, that the agricultural use value of the subject property for tax year 2015 is \$17,210.

IT IS FURTHER ORDERED that the appropriate officials shall correct the county's records to comply with this Order, re-compute the taxes owed by the taxpayer and issue a refund for any overpayment.

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.

Rather than filing a petition for reconsideration or appealing this order, 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.

Unless an aggrieved party files a timely written request for a full and complete opinion or 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 petition shall also serve a complete copy of the petition on all other parties.

IT IS SO ORDERED

THE KANSAS BOARD OF TAX APPEALS



Ronald C. Mason  
RONALD C. MASON, CHAIR

Arden H. Siegfried  
ARLEN H. SIEGFREID, BOARD MEMBER

Devin Sprecker  
DEVIN SPRECKER, BOARD MEMBER

Joelene R. Allen  
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. 2016-196-PR and any attachments thereto, was placed in the United States Mail, on this 3<sup>rd</sup> day of May, 2016, addressed to:

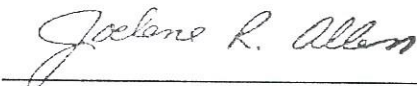
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Tina M Andra  
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Wichita, KS 67235

Jeremy Hendren, Chautauqua County Appraiser  
Chautauqua County Courthouse  
215 N Chautauqua  
Sedan, KS 67361

Ruth Ritthaler, Chautauqua County County Counselor  
Chautauqua County  
215 N Chautauqua  
Sedan, KS 67361

Amy Goode, Chautauqua County Treasurer  
Chautauqua County Courthouse  
215 N Chautauqua St Ste 11  
Sedan, KS 67361-1396

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

  
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Joeline R. Allen, Secretary