

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

IN THE MATTER OF THE PROTEST OF
SWAIM, RONALD L. & LISA D. FOR
THE YEAR 2014 IN LEAVENWORTH
COUNTY, KANSAS

Docket No. 2015-1651-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 July 17, 2015. The Taxpayer appeared Keyta D. Kelly, Attorney, and Ronald L. Swaim. The County of Leavenworth appeared by Roger Marrs, County Counselor, and Robert J. Weber, County Appraiser. Taxpayer Exhibit 1 and County Exhibit 1 were admitted into evidence. The tax year in issue is 2014.

After considering all of the evidence and arguments presented, the Board finds and concludes as follows:

The Board has jurisdiction of the subject matter and the parties, as a tax protest has been properly and timely filed pursuant to K.S.A. 2014 Supp. 79-2005.

The subject matter of this tax protest is as follows:

Real estate and improvements known as 21750 227th Street,
Leavenworth County, Kansas, also known as Parcel
Identification Number 052-144-20-0-00-00-004.04-0.

The subject property is a 33.23 acre tract of land that is currently classified as "Residential" and assessed at 11½% of its fair market value. The Taxpayer requests agricultural classification on a significant portion of the subject property due to his apiary activities.

The subject property is currently appraised at \$352,710. No issue was made of the subject property's fair market value. The classification is the only issue here.

The Board finds that upon review of the evidence, the Taxpayer has not shown that the portion of the subject property that he wishes to be classified as agricultural is "devoted to agricultural use." While bees and apiary products are a qualifying agricultural pursuit, the land must still be devoted to such use for the classification to be "Agricultural."

In this case, the apiaric use of the subject property is more recreational, or hobby, than agricultural. The Taxpayer is not commercially dealing in honey or beeswax. Instead, he has a loose arrangement with a neighbor concerning these products.

Therefore, based on the evidence presented, the Board finds that the current classification and valuation of the subject property shall be sustained.

IT IS THEREFORE ORDERED that the appraised value of the subject property for 2014 is \$352,710 and that the classification shall remain entirely "Residential."

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.

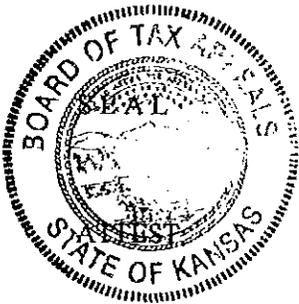
If both parties are aggrieved by this order, and one party timely appeals this order to the district court (which necessitates a trial de novo pursuant to K.S.A. 74-2426(c)(4)(A)) and amendments thereto, then this order will be deemed final and will render moot any pending petition for reconsideration or request for a full and complete opinion 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 or request for a full and complete opinion, then this order will be deemed non-final and the Board will proceed to render an order regarding reconsideration or a full and complete opinion, as applicable.

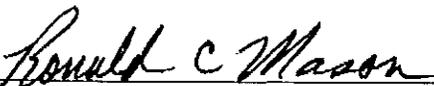
Unless an aggrieved party files a timely written request for a full and complete opinion or a timely petition for reconsideration as set forth herein, this order will be appealable by that party only by timely appeal to the district court or the court of appeals as set forth above.

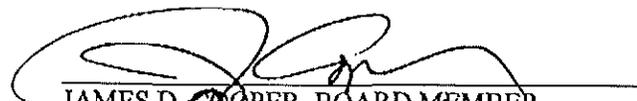
The address for the Secretary of the Board of Tax Appeals is Board of Tax Appeals, Eisenhower State Office Building, 700 SW Harrison St., Suite 1022, Topeka, KS 66603. A party filing any written request or petition shall also serve a complete copy of any written request or petition on all other parties.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

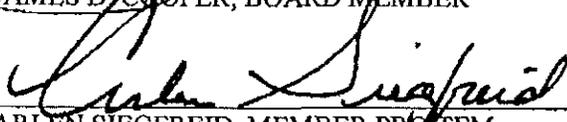
IT IS SO ORDERED

THE KANSAS BOARD OF TAX APPEALS




RONALD C. MASON, BOARD MEMBER


JAMES D. COOPER, BOARD MEMBER


ARLEN SIEGFREID, MEMBER PRO TEM


JOELENE R. ALLEN, SECRETARY

CERTIFICATION

I, Joelene 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. 2015-1651-PR and any attachments thereto, was placed in the United States Mail, on this 31st day of July, 2015, addressed to:

Ronald L. & Lisa D. Swaim
21750 227th Street
Tonganoxie, Kansas 66086-4470

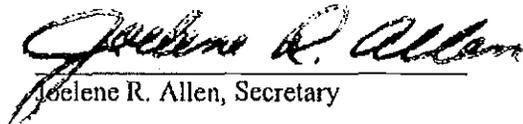
Keyta D. Kelly, Attorney
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Janice Van Parys, Leavenworth County Treasurer
Leavenworth County Courthouse
300 Walnut Street
Leavenworth, Kansas 66048

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


Joelene R. Allen, Secretary