

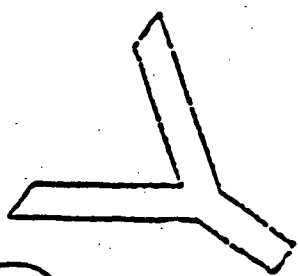


TYRONE C. FAHNER
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

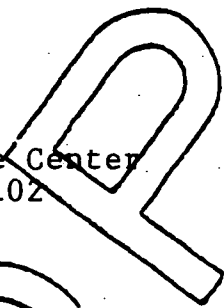
February 18, 1982

FILE NO. 82-004

REVENUE:
Assessment of Land for
Open Space Purposes



Honorable Ronald C. Dozier
State's Attorney
McLean County
McLean County Law and Justice Center
104 West Front Street, Room 102
Bloomington, Illinois 61701



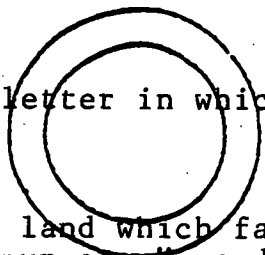
Dear Mr. Dozier:

I have your letter in which you ask the following
three questions:

(1) Is land which falls within the definition of "open space purposes" as defined in section 20g-1 of the Revenue Act of 1939 (Ill. Rev. Stat. 1979, ch. 120, par. 501g-1) to be assessed as if it were farmland, (as defined in section 20a-1 of the Act (Ill. Rev. Stat. 1979, ch. 120, par. 501a-1)?

(2) If land used for open space purposes is to be assessed as farmland, should improvements to the land be assessed in addition to the land itself?

(3) Does section 20g-1 of the Act prohibit land whose use falls within the definition of open space



Honorable Ronald C. Dozier - 2.

purposes from being valued as land suitable for development purposes?

For the reasons hereinafter stated, it is my opinion that land which falls within the definition of "open space purposes", as defined in section 20g-1 of the Act, should not be assessed as farmland under section 20a-1 of the Act nor should it be valued as land suitable for developmental purposes.

Section 20a-1 of the Act sets the valuation to be used when assessing land used for farming or agricultural purposes:

"In all counties, in addition to valuation pursuant to Section 20, upon the filing of an application under Section 20a-2 by the person liable for the taxes on that real property, real property which is used for farming or agricultural purposes and has been so used for the 3 years immediately preceding the year when the assessment is made shall be valued on the basis of 33 1/3% of its fair cash value, based upon the price it would bring at a fair, voluntary sale for use by the buyer for farming or agricultural purposes, but at a level not higher than that permitted by Section 4 of Article IX of the Constitution of the State of Illinois.

* * *

"

The term "used for farming or agricultural purposes" is defined as follows:

"

* * *

Real property is used for farming or agricultural purposes within the meaning of this Section if it is more than 10 acres in area and devoted primarily to the raising and harvesting of crops; to the feeding, breeding and management of livestock; to dairying, or to any other agricultural or horticultural use or combination thereof, with the intention of securing substantial income from those activities. Real property used for farming or agricultural purposes includes land devoted to and qualifying for payments or

Honorable Ronald C. Dozier - 3.

other compensation under a soil conservation program under an agreement with an agency of the federal government and also includes the construction and use of dwelling and other buildings customarily associated with farming and agricultural uses when associated with such uses."

Section 20g-1 of the Act sets the valuation for land used for open space purposes:

"Except in counties with a population of 200,000 or more which classify real property for the purpose of taxation, in addition to valuation as otherwise permitted by law, upon the filing of an application under Section 20g-2 by the person liable for the taxes on that land, land which is used for open space purposes and has been so used for the 3 years immediately preceding the year in which the assessment is made shall be valued on the basis of its fair cash value, estimated at the price it would bring at a fair, voluntary sale for use by the buyer for open space purposes.

* * *

"

Section 20g-1 defines the term "open space purposes" as follows:

"

* * *

Land is used for open space purposes within the meaning of this Section if it is more than 10 acres in area and is used actually and exclusively for maintaining or enhancing natural or scenic resources, protects air or streams or water supplies, promotes conservation of soil, wetlands, beaches, or marshes, including ground cover or planted perennial grasses, trees and shrubs and other natural perennial growth trees and shrubs, and including any body of water, whether man-made or natural, conserves landscaped areas, such as public or private golf courses, enhances the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces, or preserves historic sites. Land is not used for open space purposes within the meaning of this Section if it is used primarily for residential purposes."

Honorable Ronald C. Dozier - 4.

The provisions of sections 20a-1 and 20g-1 of the Act are clear. The only land to be assessed pursuant to section 20a-1 of the Act is land used for farming or agricultural purposes. Land which is used for open space purposes, on the other hand, is to be assessed pursuant to section 20g-1 of the Act. Where a statute is plain and unambiguous, it is not open to construction since the legislature should be considered to have intended to mean what it plainly expressed. Bovinette v. City of Mascoutah (1973), 55 Ill. 2d 129, 133.

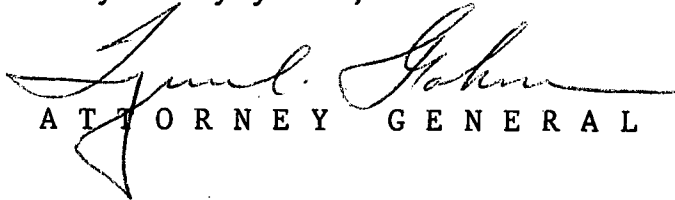
Since land used for open space purposes pursuant to section 20g-1 of the Act is not to be assessed as farmland pursuant to section 20a-1 of the Act, the issues raised by your second question need not be addressed.

Section 20g-1 of the Act clearly states the method of assessment for land used for open space purposes. There are no provisions in section 20g-1 of the Act to assess such land as land suitable for development purposes. It is a general rule of statutory construction that the expression of one thing impliedly excludes all others. (Sawyer Realty Group, Inc. v. Jarvis Corp. (1980), 91 Ill. App. 3d 1134, 1137.) Since there are no provisions in either section 20g-1 or the remainder of the Act allowing land used for open space purposes to be assessed as land suitable for development purposes, none will be inferred.

Honorable Ronald C. Dozier - 5.

Therefore, it is my opinion that land which falls within the definition of the term "open space purposes", as contained in section 20g-1 of the Act, should not be assessed as farmland under section 20a-1 of the Act, nor should it be valued as land suitable for developmental purposes.

Very truly yours,


A T T O R N E Y G E N E R A L