S T A T E O F T E N N E S S E E
OFFICE OF THE
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Opinion No. 09-171

Valuation of Farm Property

QUESTIONS

Whether the State Board of Equalization can value farm property as development property for reappraisal purposes when it is impossible to develop the property due to inadequate access needed for development purposes or due to restrictions placed upon the property by will limiting the property to farm use only and specifically prohibiting residential or commercial development.

OPINIONS

Section 67-5-601 of the property tax code requires assessors to value all property within their respective jurisdictions based upon "evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values, and when appropriate, subject to the provisions of the Agricultural, Forest and Open Space Land Act of 1976." If property has immediate value as development property, assessors may consider this factor in arriving at an appropriate valuation. If a property owner believes that physical or other restrictions limit a property's potential for development and, hence, its value, the owner may raise these issues with the assessor and, if necessary, pursue an appeal to the appropriate board of equalization.

A property owner who wishes to ensure that his property is valued in accordance with its use as farm property, regardless of its potential for development or other uses, may avail himself of the Agricultural, Forest and Open Space Land Act of 1976, otherwise known as the Greenbelt Law. If the property qualifies for Greenbelt status, it will be valued according to its use as farm property. This restriction voluntarily assumed by the owner will result in its being valued at its fair market value for farm purposes, free from any value attributed to its possible use for development.

ANALYSIS

As a general rule, Tenn. Code Ann. § 67-5-601 requires assessors to value property based upon "evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values." If property has immediate value as development property, an assessor may consider this factor in arriving at the

property's valuation. As a practical matter, this potential for development increases the property's value for purposes of sale, regardless of the property's present actual use.

Factors that limit a property's potential for development, such as those described in your request, should be brought to the attention of the local assessor valuing the property. In some cases, it may be necessary for a property owner who feels that his farm has been overvalued to pursue an appeal to the appropriate board of equalization, beginning with the county board. *See* Tenn. Code Ann. § 67-5-1407. These decisions should be made on a case-by-case basis, and without more information regarding each property, this Office cannot opine upon the proper valuation of any particular piece of property. In any event, this is the function of the local assessors, local boards of equalization and, if necessary, the State Board.

Section 67-5-601 recognizes that this valuation process is "subject to the provisions of the Agricultural, Forest and Open Space Land Act of 1976," the Greenbelt Law. If a property owner wants to ensure that his farm property is valued according to its use as farm property, rather than its potential for other uses, the owner may apply for Greenbelt status under Tenn. Code Ann. § 67-5-1001 *et seq*. When a parcel of land qualifies for Greenbelt status, assessors must base their assessment upon the property's current use for agricultural purposes rather than on some other use. The resulting valuation and assessment are based upon the premise that the current use as farm property "is its immediate most suitable economic use." Tenn. Code Ann. § 67-5-1008(a).

In upholding the foregoing valuation scheme against a challenge that it violated Article II, Section 28, of the Tennessee Constitution, the Court of Appeals explained that

> [w]hen the two statutes [Tenn. Code Ann. §§ 67-5-601 and 67-5-1008] are examined closely we think the value arrived at under either would be the same. It seems to us that in enacting this legislation, the legislature has issued an invitation to property owners to voluntarily restrict the use of their property for agricultural, forest, or open space purposes. Once assumed, that restriction affects the property's value. If it can only be used for farm purposes for instance, then it would be free from any artificial value attributed to its possible use for development. It should have the same value as any similar property that is as productive and accessible as it is. *See* [Tenn. Code Ann.] § 67-5-1008(a)(2). It results that the property is being valued at its fair market value for agricultural purposes. The same is true of forest or open space land. Therefore, in passing the act in question the legislature did not violate [Article II, Section 28, of the Tennessee Constitution.]

Marion County v. State Board of Equalization, 710 S.W.2d 521, 523 (Tenn. Ct. App. 1986). Accordingly, recognition of Greenbelt status will protect some properties from valuation based on potential use.

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