



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

DEC 19 2013
OPINION 13-0211

Mr. Bobby W. Edmiston
Bossier Parish Assessor
P.O. Box 325
Benton, Louisiana 71006-0325

129 TAXATION – Levy & Assessment (*ad valorem* taxes)
La. Const. art. VII, §18; La. R.S. 47:2302; La. R.S. 47:2303; La. R.S.
47:2305

All of the requirements of La. R.S. 47:2302 and La. R.S. 47:2303 must be met in order for land to qualify for use value assessment for *ad valorem* tax purposes. Also, proximity to commercial and residential properties is largely irrelevant when determining whether land that has not been recently sold qualifies for use valuation.

Dear Mr. Edmiston:

Your request for an Attorney General's opinion has been assigned to me for research and reply. You ask for guidance as to whether a certain tract of land, located in an area that also contains commercial and residential properties, qualifies for use valuation for *ad valorem* tax purposes.

In your letter, you specifically indicate as follows:

The piece of property in question is in a part of town that at one time was all farming land, but over the past couple of decades it has experienced tremendous growth. Thus, there are commercial and residential properties intermingled with agricultural properties.

The piece of property in question was once "land hooked" to other surrounding properties that had "use value." The property was originally a 3.22 acre tract, meets and bounds description, surrounded by commercial properties. In 2012 the property was platted into two subdivision lots, thus breaking the "land hook." Lot 2 containing .908 acres was sold for commercial construction. This left lot 1, a 2.308 acre tract, which is the property in question.

First, we note that this office is not a finder-of fact; therefore, we cannot opine as to whether a certain tract of land actually qualifies for use valuation. Nevertheless, we can provide the constitutional and statutory authority to guide you in making that determination.

Under La. Const. art. VII, §18(C), "[b]ona fide agricultural, horticultural, marsh, and timber lands, as defined by general law, shall be assessed for tax purposes at ten

percent of use value rather than fair market value." Use value of bona fide agricultural, horticultural and timber lands is the highest value of such land when used by a prudent agricultural, horticultural or timber operator for the sole purpose of continuing the operation, as a commercial agricultural, horticultural or timber enterprise, of an existing bona fide agricultural, horticultural or timber use.¹

The lands that can qualify for use valuation are defined in La. R.S. 47:2302, which provides the following:

A. Bona fide agricultural land is land devoted to the production for sale, in reasonable commercial quantities, of plants and animals, or their products, useful to man, and agricultural land under a contract with a state or federal agency restricting its use for agricultural production.

B. Bona fide horticultural land is land devoted to the production for sale, in reasonable commercial quantities, of fruits, vegetables, flowers or ornamental plants, and horticultural land under a contract with a state or federal agency restricting its use for horticultural production.

C. Bona fide marsh land is wetland other than bona fide agricultural, horticultural or timber land.

D. Bona fide timberland is land stocked by forest trees of any size and specie, or formerly having such tree cover within the last three years and not currently developed or being used for nonforest purposes, and devoted to the production, in reasonable commercial quantities, of timber and timber products, and timberland under a contract with a state or federal agency restricting its use for timber production.

Further, La. R.S. 47:2303 provides as follows:

In order to be classified as bona fide agricultural, horticultural, marsh or timber land and assessed at its use value under the provisions of Article VII, Section 18(C) of the Louisiana Constitution of 1974, it must meet the definition of bona fide agricultural, horticultural, marsh or timber land as described in R.S. 47:2302 and, in the case of bona fide agricultural, horticultural, or timber land:

A. Be at least three acres in size, or have produced an average gross annual income of at least two thousand dollars in one or more of the designated classifications for the four preceding years, and

¹ La. R.S. 47:2301.

B. The landowner has signed an agreement that the land will be devoted to one or more of the designated uses as defined in R.S. 47:2302.

Thus, all of the requirements of La. R.S. 47:2302 and La. R.S. 47:2303 must be met in order for land to qualify to be assessed at its use value. Here, because the land is less than three acres in size, it must have produced an average gross annual income of at least two thousand dollars in one or more of the designated classifications for the four preceding years. Further, the landowner must have signed an agreement that the land will be devoted to one or more of the designated uses as defined in R.S. 47:2302. Nevertheless, neither of those two statutes contains a requirement that the land in question be located solely near other agricultural properties.

Moreover, La. R.S. 47:2305(B) governs loss of eligibility for use value classification and provides the following:

B. (1) If land having a use value assessment is sold for a price four times greater than its use value, the land shall be presumed to be no longer eligible to be classified as bona fide agricultural, horticultural, marsh, or timber land. Upon application as provided in R.S. 47:2304, the purchaser shall be given the opportunity to demonstrate to the full satisfaction of the assessor:

(a) That the sales price paid includes things of value which are susceptible of appraisal including, but not by way of limitation, standing crops or timber, improvements, equipment, etc.; or

(b) That the land is actually in bona fide agricultural, horticultural, marsh, or timber land use and meets the requirements of R.S. 47:2302 and R.S. 47:2303. Such demonstration of bona fide operations may include the preparation and implementation of farm or forestry plans or programs within two years following the purchase.

(2) Upon such demonstration, the landowner shall be entitled to a use value classification.

Here, the tract of land in question has not been sold; therefore, La. R.S. 47:2305(B) does not apply. Nevertheless, the statute illustrates that land can remain qualified for use value assessment during times of rising fair market values if it continues to meet the requirements of La. R.S. 47:2302 and La. R.S. 47:2303.

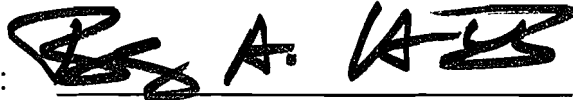
In conclusion, it is the opinion of this office that all of the requirements of La. R.S. 47:2302 and La. R.S. 47:2303 must be met in order for land to qualify for use value assessment. Also, proximity to commercial and residential properties is largely irrelevant when determining whether land that has not been recently sold qualifies for use valuation.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
Attorney General

By:

A handwritten signature in black ink, appearing to read "B. A. Huxen II", written over a horizontal line.

BENJAMIN A. HUXEN II
Assistant Attorney General

JDC/BAH II