

NO. A10-1089

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State of Minnesota  
*In Supreme Court*

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Frederick Farms, Inc.,

*Relator,*

vs.

County of Olmsted,

*Respondent.*

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RELATOR'S BRIEF AND APPENDIX

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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2).

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## LEGAL ISSUE

**Are contiguous parcels of farm land, farmed as a single farm, properly classified for tax purposes as agricultural-homestead, even though part of the land is owned by an individual and the rest is owned by his family farm corporation?**

This is a tax assessment appeal pursuant to Minn. Stat. § 278.01. See A. 1.

The case was presented to the Tax Court under what the parties believed to be undisputed facts, on a motion for summary judgment brought by the Relator. See A. 3 – A. 14.

The Tax Court denied the motion on grounds that a shareholder of the family farm corporation already had a homestead in Minnesota, but set the matter on for trial because the County had not brought its own motion. Ad. 1 – Ad. 7. Upon the parties' stipulation (Ad. 9 – Ad. 10) to make the matter appealable (no material facts in dispute), judgment was entered in favor of the County (Ad. 8).

This appeal, through Petition for Writ of Certiorari, followed (A. 34 – A. 40).

## STATEMENT OF FACTS

1. James Michael Frederick is the sole shareholder of Frederick Farms, Inc., a Minnesota family farm corporation, which owns the property with Property IDs: (1) R71.13.21.047603, (2) R71.13.14.041422, and (3) R71.13.31.055919.

Those are the properties subject to this tax assessment appeal.

2. The properties consist of 300 acres of farm land, all contiguous, and without any building improvements, except for parcel (3), which has four large grain bins and one small one.

3. 220 acres of the lands in question were bought in 1991 when he and his wife lived in Illinois. The land was not homesteaded and was titled in his name only, not in any corporate form. In 1991, he bought another 80 acres, which was titled in his name only. Those 80 acres, however, are not included in this tax assessment appeal. Those 80 acres, owned by him individually, include a building site, with storage and equipment repair space.

4. In approximately April, 1997, he formed the Minnesota family farm corporation, and the corporation bought the 220 acres from him. He and his wife moved to Minnesota in 1998.

5. He applied for the classification of "agricultural-homestead" in 1998 for all of the property, the 220 acres owned by the corporation and the 80 owned

by him individually. As a result, all of the property was classified as “agricultural-homestead” for taxes payable in 1999.

6. An additional contiguous 80 acres of farm land were purchased in 2004. That land was titled to the corporation. The land was also classified as “agricultural-homestead.”

7. He farmed all the land as one farm, whether titled to him individually (80 acres), or to the family farm corporation (300 acres). Each entity owns some of the equipment used to farm the property, although the corporation owns most of it, and he provides all the labor needed to farm all the properties and hires day labor as needed.

8. All the land remained classified as “agricultural-homestead” until taxes payable in 2009, when the classification of parcels (1), (2), and (3), described above, were changed to “agricultural-nonhomestead.”

9. The 80 acres owned individually remained classified as “homestead-agricultural.”

10. That change in classification regarding the corporate-owned land provoked the filing of the PETITION TO DETERMINE VALIDITY OF PROPERTY TAX dated April 23, 2009, and Relator seeks to change the classification back to “homestead-agricultural” for taxes payable in 2009 and later.

## ARGUMENT

**The farming of 380 acres of contiguous farm land, owned in part by an individual farmer and in part by his family farm corporation, constitutes farming by a joint family farm venture where all the land is farmed as one farm and the equipment used is owned partly by the individual and partly by his family farm corporation and labor is shared. As a consequence, the joint family farm venture is entitled to homestead treatment on all lands constituting the farm.**

Minn. Stat. § 273.124 sets forth “special rules” for homestead determination and homestead treatment, which, of course, results in lower tax rates on homestead property than on nonhomestead property. Subd. 1(a) of that statute provides the general rule (in relevant part): “agricultural land, as defined in section 273.13, subdivision 23, that is occupied and used as a homestead by its owner, who must be a Minnesota resident, is an agricultural homestead.” Minn. Stat. § 273.13, subdivision 23 (a), states: “An agricultural homestead consists of class 2a agricultural land that is homesteaded... .” Subdivision 23 (b) states: “Class 2a agricultural land consists of parcels of property, or portions thereof, that are agricultural land and buildings.” Frederick’s property, 380 acres in total (80 held individually, and 300 by a family farm corporation of which he is the sole shareholder) is all farmable land that is actively farmed as a single farm with a

building site and some grain bins. There can be no doubt that all of Frederick's land, whether owned individually or by the family farm corporation, is of a type suitable for treatment as an agricultural homestead.

Minn. Stat. §273.124, Subd. 8, addresses the particular situation where the homestead is owned by or leased to a family farm corporation, joint farm venture, limited liability company, or partnership. In relevant part, Subd. 8 (a) states: "Joint family farm venture' means a cooperative agreement among two or more farm enterprises authorized to operate a family farm under section 500.24." That section merely states what business organizations are entitled to farm in Minnesota. A family farm is one of those entities. Mr. Frederick qualifies individually. A family farm corporation is another. Frederick Farms, Inc. qualifies. It is clear that the combination of the individual and his family farm corporation together constitute a joint family farm venture. The significance of this is that Minn. Stat. § 273.124, Subd. 8 (a) provides in relevant part that "...each joint family farm venture...is entitled to class 2a assessment for one homestead occupied by a...member...thereof who is residing on the land and actively engaged in farming of the land... ."

It is apparent that the joint venture is entitled to the homestead classification on all the land.

The Respondent County argued in its brief to the Tax Court at A. 17 that Relator does not meet the requirement of Minn. Stat § 273.124, Subd. 14(g)(4): “neither that shareholder, member, or partner, nor the spouse of that shareholder, member, or partner claims another agricultural homestead in Minnesota.” See A.17. The Tax Court apparently agreed. See Ad. 4 – Ad. 6.

This is an absurd interpretation of the statute. The obvious intent of the provision is to prevent the accumulation of multiple homesteaded properties. As noted above, however, the joint family farm venture is entitled to one homesteaded farm. In this case, that would be the 380 acres farmed in Olmsted County, which are farmed as a single farm. The record does not show any other homestead claimed by Mr. Frederick or his wife elsewhere in Minnesota. The mythical “other” homestead is created by ignoring the joint family farm venture and focusing only on its component parts as separate entities. Respondent County concludes that Mr. Frederick, individually, has a homestead right for his 80 acres; therefore, the family farm corporation cannot have a second. But what happened to the 380-acre homestead held by the joint family farm venture? And what happened to the joint venture’s rights to have one under Minn. Stat. § 273.123, Subd. 8 (a) and (b)? Neither the Respondent County nor the Tax Court offers an answer.

In fact, the County's argument (and the Tax Court's apparent adoption of it) leaves unexplained how a joint family farm venture acquires the rights granted it under Minn. Stat. Sec. 273.124, Subd. 8, providing for homestead classification for joint family farm venture class 2a agricultural land. Because a joint family farm venture by definition includes "two or more farm enterprises authorized to operate a family farm, it appears that the Respondent's argument assigns no meaning to the term "joint family farm venture." The Respondent's argument assumes that if one "enterprise" in the joint venture can get the homestead classification on land it owns, land owned by the other "enterprise" is out of luck. This is nonsense and is contrary to Minn. Stat. Sec. 645.17<sup>1</sup>: **"PRESUMPTIONS IN ASCERTAINING LEGISLATIVE INTENT** (1) The legislature does not intend a result that is absurd, impossible of execution, or unreasonable; (2) The legislature intends the entire statute to be effective and certain... ." By statute, land farmed by a joint family farm venture is entitled to homestead classification if it is at least 40 acres in size, actively farmed by a shareholder, member or partner who is a Minnesota resident and does not live four townships or cities from the agricultural property. See Minn. Stat. § 273.124, Subd. 14(g)(1)-(3). The proper interpretation of Subd.

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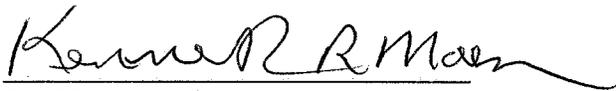
<sup>1</sup> The Tax Court held the statute inapplicable because the language in Minn. Stat. § 500.24 is unambiguous. Relator was not finding ambiguity in that statute. It found ambiguity in Minn. Stat. § 273.124, Subd. 14(g)(4). Specifically, what does "another" homestead mean in the context of a statutory scheme where a joint family farm venture may claim an agricultural homestead and each of its component parts might also if considered separately?

14(g)(4) is that as a condition of having one joint family farm venture homestead classification, neither that joint family farm venture, nor any of its constituent enterprises, shareholders, members, partner, or spouses may claim an additional homestead classification on other properties in Minnesota. To say that a joint family farm venture cannot claim one homestead classification under these circumstances renders the words “joint family farm venture” meaningless in the statute. The Tax Court must be reversed.

## CONCLUSION

For the above-stated reasons, the Tax Court should be reversed and judgment entered determining the proper tax classification for Relator's 300 acres (tax parcels (1) R71.13.21.047603, (2) R71.13.14.041422, and (3) R71.13.31.055919) is "agricultural-homestead" for taxes payable in 2009 and thereafter.

Respectfully submitted,  
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