

CASE NO. A10-1089

State of Minnesota
In Supreme Court

Frederick Farms Inc.,

Relator,

vs.

County of Olmsted,

Respondent.

RESPONDENT'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

Where an individual person owns two parcels of land containing a residence which are classified as Agricultural -Homestead, and a family farm corporation currently owned by that individual owns 3 adjacent parcels which do not contain a residence and no one resides on those parcels, are the latter parcels properly classified for tax purposes as Agricultural-Non-Homestead?

This is a tax assessment appeal brought pursuant to Minn. Stat. § 278.01. See A. 1-2.

Because the parties stipulated the facts were essentially undisputed, Relator brought a motion for summary judgment to place the issue before the Tax Court. See A. 3 – A. 14. Respondent filed a memorandum of law in opposition to Relator's motion for summary judgment which included an Affidavit of Julie Hackman, Manager of Assessment Services for Olmsted County Property Records and Licensing, an opinion from Stephanie L. Nyhus, Principal Appraiser with the Minnesota Department of Revenue, and an Affidavit from Stephen Hacken, Winona County Assessor in support of Respondent's position. See A. 15 - 25.

The Tax Court denied the motion for summary judgment. It held Mr. Frederick already had a homestead in his individual capacity and so he was not entitled to claim Agricultural Homestead status on the family farm corporation

owned parcels. However, it set the matter on for trial because the County had not brought its own motion for summary judgment. Ad. 1 – Ad. 7. The parties agreed to enter into a Stipulation and Order for Judgment and Judgment (Ad. 9 – Ad. 10) to make the matter appealable since there were no material facts in dispute, and the Tax Court then entered judgment in favor of Respondent. (Ad. 8).

Relator then filed this appeal, through a Petition for Writ of Certiorari (A. 34 – A. 40).

STATEMENT OF FACTS

1. Relator Frederick Farms, Inc. owns 300 acres in Section 13, Township 107 North, Range 11 West, Olmsted County, Minnesota which are the subject of this tax appeal and they can be identified by the following tax parcel ID numbers: R71.13.21.047603, R71.13.14.041422 and R71.13.31.055919. These parcels contain four large grain bins and one smaller one and no property improvements. These parcels are currently classified as “Agricultural – Non-Homestead” by Olmsted County Property Records and Licensing and they are used for farming operations.

2. James Frederick, a natural person, is currently the sole owner and shareholder of Frederick Farms, Inc., though Respondent is not aware of any restrictions which would prevent Mr. Frederick from selling shares in the

corporation to other family members pursuant to Minn. Stat. Section 500.24, Subd. 2(c).

3. James M. Frederick and Rae L. Frederick own two 40 acre parcels in Section 13, Township 107 North, Range 11 West, in Olmsted County, Minnesota which can be identified by the following tax parcel ID numbers: 71.13.33.055214 and 71.13.34.055920. These parcels contain a residence and storage and equipment repair space. These parcels are currently classified as “Agricultural – Homestead” by Olmsted County Property Records and Licensing and they are also used for farming operations. These parcels are contiguous to the parcels owned by Frederick Farms Inc.

4. Olmsted County Property Records and Licensing had previously classified the parcels owned by Frederick Farms Inc. as “Agricultural – Homestead” until the valuation assessed in 2008 for taxes payable in 2009. Upon a review of the statutes pertaining to this matter, Olmsted County determined it was appropriate to change the classification for these parcels to “Agricultural – Non-Homestead”. Olmsted County sought clarification of its interpretation of the law as it applied to this case from the Minnesota Department of Revenue. The Department confirmed in a letter to the County that it considered this classification of the property to be correct. The Winona County Assessor has also asserted that

this analysis is correct. Relator did not agree with this reclassification which led to the filing of the current appeal.

ARGUMENT

The classification of properties for homestead purposes is set forth in Minn. Stat. Section 273.124. Subd. 1 of that statute provides that “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”. There is no dispute between Petitioner and Respondent that the land on all of these parcels may be considered “agricultural land” for purposes of section 273.13, subdivision 23. The issue becomes then whether the land owned by Frederick Farms Inc. is “occupied and used as a homestead by its owner”.

Minn. Stat. Section 273.124, Subd. 14(g) addresses how to classify property owned by a family farm corporation for homestead purposes. It provides as follows:

(g) Agricultural property of a family farm corporation, joint family farm venture, family farm limited liability company, or partnership operating a family farm as described under subdivision 8 shall be classified homestead, to the same extent as other agricultural homestead property, if all of the following criteria are met:

- (1) the property consists of at least 40 acres including undivided government lots and correctional 40's;
- (2) a shareholder, member, or partner of that entity is actively farming the agricultural property;
- (3) that shareholder, member, or partner who is actively farming the agricultural property is a Minnesota resident;
- (4) neither that shareholder, member, or partner, nor the spouse of that shareholder, member, or partner claims another agricultural homestead in Minnesota; and**
- (5) that shareholder, member, or partner does not live farther than four townships or cities, or a combination of four townships or cities, from the agricultural property.

Homestead treatment applies under this paragraph for property leased to a family farm corporation, joint farm venture, limited liability company, or partnership operating a family farm if legal title to the property is in the name of an individual who is a member, shareholder, or partner in the entity. (emphasis added)

Note that all of these elements must be met in order for Relator to qualify for homestead treatment on parcels owned by Frederick Farms, Inc. However, as noted above, Frederick Farms Inc. cannot show that it meets Element 4 because the

sole “shareholder” of Frederick Farms Inc., James Frederick, claims “another agricultural homestead in Minnesota”. James Frederick has an agricultural homestead on separately described properties owned in his name individually at 4448 190th Ave. N.E., St. Charles, MN 55972. James Frederick is married to Rae L. Frederick who continues to have a marital interest in this agricultural homestead. The first 40 acre parcel contains land valued by the assessor at \$167,300.00, buildings including a home and outbuildings valued at \$249,800.00 for total valuation of \$417,100.00. Aff. of J. Frederick at A.4. Mr. and Ms. Frederick reside in the home on this parcel. Aff. of J. Hackman at A. 20. The second 40 acre parcel which has the same street address contains land only with a valuation of \$104,700.00. Id.

In contrast, the parcels owned by Frederick Farms Inc. have a different listed owner than the parcels owned by James and Rae Frederick. Id. While Mr. Frederick is apparently the sole corporate shareholder currently, the corporation remains free to transfer shares of stock at any time to bring in additional or substitute family members as owners under Minn. Stat. Section 500.24, Subd. 2(c). Thus, there is no guarantee that ownership of the shares solely by Mr. Frederick will continue in the future.

In addition, these parcels have no assigned street address. Two of the three parcels contain no buildings and are valued at \$294,400.00, and \$509,000.00, respectively. The third parcel contains land valued at \$247,900.00, a building of \$53,300.00 for a total valuation of \$301,200.00. There is no residence on any of these parcels and neither Mr. and Ms. Frederick, nor any extended family members, physically reside on any of these parcels. Aff. of J. Hackman at A.20. Because of this, Mr. Frederick, a shareholder of Frederick Farms Inc., claims another agricultural homestead for purposes of Minn. Stat. Section 273.124, Subd. 14(g). Therefore, he is not entitled to claim the Frederick Farms Inc. owned parcels as Agricultural Homestead also. This determination is consistent with the ruling reached by the Tax Court and with the analysis offered by Stephanie Nyhus, Principal Appraiser with the Minnesota Department of Revenue, by Stephen Hacken, Winona County Assessor, and by Julie Hackman, Manager of Assessment Services for Olmsted County Property Records and Licensing. See Aff. of J. Hackman at A.21, Letter from Stephanie Nyhus at A.23, Aff. of Stephen Hacken at A. 25.

This conclusion is also consistent with the definition of “homestead” used in Minn. Stat. Section 273.124. Subd. 1. The Tax Court has previously defined the term “homestead” for property tax purposes. “A good workable definition of

“homestead” for property tax purposes is found in the Property Tax Refund Act, Chapter 290A. Minn. Stat. Section 290A.03, Subd. 6, defines homestead as: “Homestead means the dwelling occupied by a claimant as a place of residence...” Dill v. County of Hennepin, 1985 WL 3173, (Minn. Tax Ct. 1985). See also Thompson v. County of Ramsey, 1983 WL 1089 (Minn. Tax Ct. 1983) “Homestead” is defined in Minn. Stat. Section 510.01. That definition reads “The house owned and occupied by a debtor as his dwelling place, together with the land upon which it is situated to the amount hereinafter limited and defined, shall constitute the homestead of such debtor and his family. . .” (Emphasis added); Bergstrom v. County of Hennepin, 1995 WL 221591 (Minn. Tax Ct. 1995) “In order to qualify as a homestead, property must be occupied and used as a homestead by the owner who must be a Minnesota *resident*. Minn.Stat. § 273.124, subd. 1.”

The key here is that the property owner must occupy a dwelling on the property as a place of residence. Frederick Farms Inc. does not “reside” on the parcels in question which contain no improvements other than some grain bins. In contrast, as noted above, James and Rae Frederick have a home on the two separate 40 acre parcels they own in the their individual capacities, and it is undisputed that they in fact reside there and are therefore deserving of Agricultural

Homestead status on those parcels. If Mr. Frederick receives homestead classification on one agricultural homestead, he is precluded from receiving it on other parcels as noted above.

Relator has argued that Minn. Stat. Section 273.124, Subd. 8 compels a different conclusion. That statute provides in pertinent part as follows:

Subd. 8. Homestead owned by or leased to family farm corporation, joint farm venture, limited liability company, or partnership.

(a) Each family farm corporation; each joint family farm venture; ... which operates a family farm; is entitled to class 1b under section 273.12, subdivision 22, paragraph (b), or class 2a assessment for one homestead occupied by a shareholder, member, or partner thereof who is residing on the land, and actively engaged in farming of the land owned by the family farm corporation, joint family farm venture... Homestead treatment applies even if legal title to the property is in the name of the family farm corporation, joint family farm venture, limited liability company, or partnership, and not in the name of the person residing on it... "Joint family farm venture" means a cooperative agreement among two or more farm enterprises authorized to operate a family farm under section 500.24.

For clarification, Class 1b property in this statute refers to Agricultural - Homestead classification; Class 2a refers to Residential Homestead classification.

Relator argues that the words “each joint family farm venture” in this statute means that the 3 Frederick Farms Inc. corporate owned parcels, as one part of a two part joint family farm venture where the other part is the individual parcels owned by James Frederick, are entitled to agricultural homestead classification. This conclusion is despite the fact that James Frederick, has already received agricultural homestead classification for the 2 individually owned parcels containing the residence.

The phrase “farm enterprises” which make up a “joint family farm venture” is not defined in the statute. However, it seems evident from the background of this statute that Relator’s interpretation is contrary to the spirit, if not the letter of the law. The statutes governing Minnesota family farms appear to have been structured so that extended family members, fathers, sons, mothers, daughters, brothers, sisters, cousins, aunts, uncles, niece, nephews etc., could pool their capital and their labor and keep operating farms which had been in their families for generations. Minn. Stat. Section 500.24 states that one of the goals of providing specified corporate structures for family farms is “...to enhance and promote the stability and well-being of rural society in Minnesota and the nuclear family”. This interpretation is supported in part by the definition of a “family farm

corporation” found in Minn. Stat. Section 500.24, Subd. 2c which provides in part as follows:

Subd. 2. Definitions. The definitions in this subdivision apply to this section.

(c) “Family farm corporation” means a corporation founded for the purpose of farming and the ownership of agricultural land **in which the majority of the stock is held by and the majority of the stockholders are persons, the spouses of persons, or current beneficiaries of one or more family farm trusts in which the trustee holds stock in a family farm corporation, related to each other within the third degree of kindred according to the rules of the civil law**, and at least one of the related persons is residing on or actively operating the farm, and none of whose stockholders are corporations; provided that a family farm corporation shall not cease to qualify as such hereunder by reason of any:

(1) **transfer of shares of stock to a person or the spouse of a person related within the third degree of kindred according to the rules of civil law to the person making the transfer**, or to a family farm trust of which the shareholder, spouse, or related person is a current beneficiary; or

(2) distribution from a family farm trust of shares of stock to a beneficiary related within the third degree of kindred according to the rules of civil law to a majority

of the current beneficiaries of the trust, or to a family farm trust of which the shareholder, spouse, or related person is a current beneficiary. (emphasis added)

It's clear from this statute that "family farm corporations" were intended to benefit extended families who wanted to farm together. The homestead statute Minn. Stat. Section 273.124 was designed to support this arrangement so that extended family members who moved off the family farm into their own residences but wanted to continue to farm together, could get agricultural homestead classification on their individual residences, even though the family farm may have needed to be placed into ownership by a family farm corporation or a joint family farm venture for liability purposes. Neither Mr. Frederick, nor Frederick Farms Inc. is an extended "family" in the traditional sense of the word. As noted above, Frederick Farms Inc. does not "reside" on its parcels as its parcels do not contain a residence. The rationale in the statute to provide homestead classification for the separate residences of extended family members who wished to continue to work together to run the "family farm" is absent here. According Frederick Farms Inc. agricultural homestead status for its 3 parcels would violate the language in the statute which gives that classification only where there is "... one homestead occupied by a shareholder, member, or partner thereof who is residing on the land..." as this classification has already been provided to Mr.

Frederick for the parcels containing his residence which he owns individually. For these reasons, the decision of the Tax Court supporting the conclusion of the Minnesota Department of Revenue and two different counties on this issue is not an “absurd interpretation of the statute” as asserted by Relator and its argument that the Tax Court’s decision was in error must fail.

CONCLUSION

For the above-stated reasons, the ruling by the Tax Court should be upheld and judgment should be 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-non homestead” for taxes payable in 2009 and thereafter.

Respectfully submitted,

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