

Evolution of Farmland Assessment in New Jersey

Background

The Farmland Assessment Act of 1964 (N.J.S.A. 54:4-23.1 et. seq.) is a cornerstone of New Jersey's agricultural retention and development efforts.

Farmland assessment allows for the taxation of land "actively devoted to agricultural or horticultural use" to be assessed on the basis of its use value in agriculture, as opposed to its full market valuation. It is a critical agricultural policy in New Jersey, and elsewhere, where urbanization influences continue to inflate farmland values. New Jersey's farmland values rank consistently among the highest in the Nation due to the advanced urbanization pressures existing throughout the state.

Background

The Farmland Assessment Act was passed at a time when farms and farmland resources were being lost at alarming rates in New Jersey. Through the 1940s and 1950s, population growth, postwar economic prosperity, federal transportation policies, and advanced personal mobility (e.g., automobiles) fueled a dispersion of the state's population away from urban centers. This resulted in unprecedented pressures on the state's historically rural areas and agricultural land base.

With the growth and decentralization of the state's population came increased demand for farmland for non-agricultural purposes. Rates of farmland loss climbed significantly. In the decade leading up to the passage of the Act in 1964, roughly 31,000 acres of farmland were being lost annually. Between 1950 and 1963 alone, New Jersey lost 13,600 farms (half of those existing in 1950) and 400,000 acres of farmland (23 percent of the farmland base).

Background

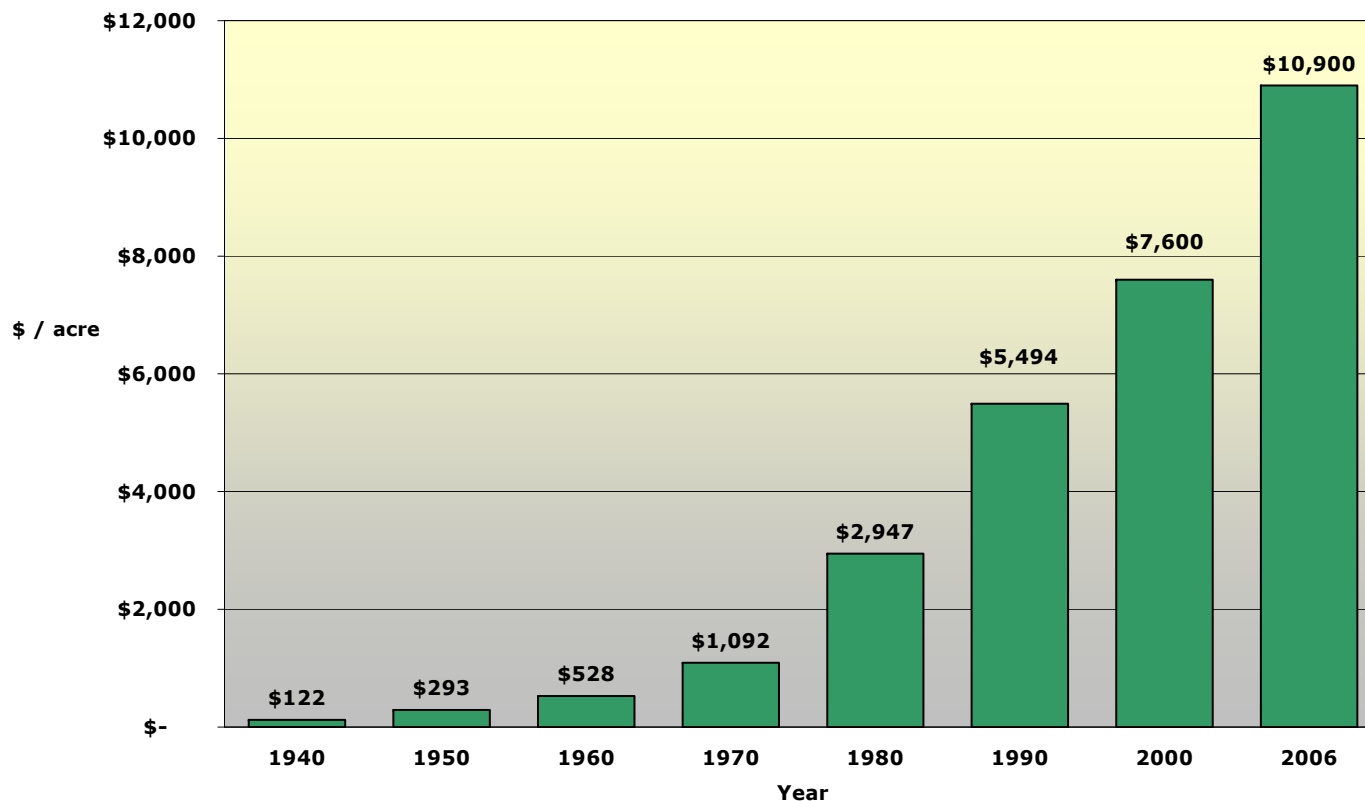
In addition to the loss of farmland, the farm sector also faced a rapid rise in farm real estate values and farm property taxes due to new development demand. Speculation of future “highest and best” uses of farmland compounded the issue, further adding to the appreciation of farmland values.

Consequently, farm real estate taxes inflated total farm expenses in excess of any increases in farm incomes, creating economic hardship for many farmers. New Jersey farm real estate taxes rose to levels that were significantly higher than those paid by agricultural producers in other states.

Background

As shown below, the market values of farmland rose dramatically in response to increased demand for non-agricultural development in the mid-1900s, and continue to increase. According to the National Agricultural Statistics Service, the average market value of New Jersey farmland was \$10,900 per acre in 2006.

Average Market Value of New Jersey Farm Real Estate (1940-2006).



Background

Public hearings on the “farmer problem” and farmland loss held in the 1950s and 1960s consistently pointed to the rapid and disproportionate increases in farm property tax bills, their impact on the economic viability of farms, and the need for relief.

Dramatic farmland losses and steep increases in operating costs caused some agricultural leaders to question the future viability of the state’s farming industry.

Background

These challenges of the farming industry in the postwar years were well-recognized and reflected in assessors' treatment of farmland. Even prior to a formal farmland assessment law, local assessors in New Jersey often treated agricultural lands preferentially. Farmland was commonly assessed for tax purposes based on its use value in agriculture only, without consideration of its potential for development and other non-agricultural uses.

This practice was largely predicated on the goals of (1) promoting the economic viability of farming and slowing farmland loss by lowering taxes on qualified farm properties to be more in line with the underlying agricultural productivity of the land, and (2) achieving property tax equity by bringing greater parity between farms' consumption of local services and payment of such taxes.

Background

Despite its common practice, the differential assessment of agricultural lands stood in violation of the New Jersey State Constitution, which contained a “uniformity clause.” Added in 1875 and amended in 1947, the uniformity clause (Article VIII, Section 1, Paragraph 1(a)) required that all real property within a given district must be assessed according to the same standard of value and taxed at the same general tax rate.

It was on this basis that a Monmouth County resident legally challenged the differential assessment of farmland. In *Switz v. Middletown Township*, the court decided in favor of the plaintiff, declaring the practice to be unconstitutional in 1957. The State Supreme Court upheld this decision.

Background

The repercussions of the *Switz v. Middletown* decision were immediately felt by farmers as revaluations of property based on full market value drove farm property taxes upward. Fearing the economic implications for farming in the state, the New Jersey Legislature passed a law in 1960 (Section 23, Ch. 51, Laws of 1960) authorizing the differential assessment of farmland, allowing its taxable value to be determined according to its use value in agriculture only.

The plaintiff in *Switz v. Middletown Twp.* again took exception to the preferential treatment of farmland and filed a lawsuit challenging the constitutionality of the law. In 1962, the New Jersey Supreme Court ruled in *Switz v. Kingsley* that the provisions of the 1960 law enabling use value assessment of farmland violated the State Constitution.

Background

With this decision, Governor Richard J. Hughes appointed a committee to examine the issue of farm valuation and taxation and its consequences for the state's agricultural industry and land base, and recommend appropriate actions for amending the State Constitution.

After extensive research and deliberation, Governor Hughes' Farmland Assessment Committee advanced a resolution proposing a constitutional amendment in March 1963. The proposed amendment required the enactment of laws allowing "land actively devoted to agricultural or horticultural uses be assessed at values on these uses only".

Background

The Committee also recommended certain qualification and administrative parameters, namely that:

- Land must be at least five acres in size to qualify.
- Land must have been “actively devoted” to agricultural or horticultural use for at least the two preceding years to qualify.
- A landowner must apply annually for differential assessment.
- A “recapture” provision be developed that allows municipalities to be protected against the effects of land speculation by charging a tax deferral payment at the time the use of qualified land changes which is equal to the difference in taxes paid under farmland assessment and those paid under the new use. Such payment would be calculated for two years prior to the change in use.

Background

Governor Hughes accepted the Committee's recommendations and Senate Concurrent Resolution (SCR-16) was introduced on March 18, 1963, which called for a public referendum to amend the State Constitution. A public hearing was held in April 1963. SCR-16 was unanimously passed in both the Senate and Assembly and signed into law.

The public referendum was held on November 5, 1963 and voters approved the proposed amendment to the Constitution by a wide margin. Senate bill S-303 was signed into law in 1964 (Chapter 48, Laws of 1964) allowing the preferential assessment of farmland beginning in 1965. The law is better known as the Farmland Assessment Act of 1964.

Eligibility for Farmland Assessment

Governor Hughes' Farmland Assessment Committee deliberated extensively over the appropriate qualification criteria for farmland assessment. The development of criteria for the determination of "actively devoted" was particularly challenging.

The original qualification criteria for farmland assessment included a minimum acreage requirement and a minimum revenue requirement.

Eligibility for Farmland Assessment Minimum Acreage Requirement

The constitutional amendment authorizing farmland assessment specifies that land must be at least five acres in size and actively devoted to agricultural or horticultural use for at least the two years immediately preceding the tax year in question.

Guidance for determining the area of land “actively devoted” is provided under N.J.S.A. 54:4-23.11. Included is land “under barns, sheds, seasonal farm markets selling predominantly agricultural products, seasonal agricultural labor housing, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities.” Land under and associated with the farmhouse is not considered “actively devoted.”

Eligibility for Farmland Assessment Minimum Revenue Requirement

The threshold for “actively devoted” is determined by a landowner’s ability to meet a minimum revenue requirement. Specifically, the farmland assessment statute requires that land must produce an average of \$500 annually, over the two years immediately preceding the tax year in question, from gross sales of agricultural products (defined in N.J.S.A. 54:4-23.3) or horticultural products (defined in N.J.S.A. 54:4-23.4), or clear evidence must exist that such revenue is anticipated within a reasonable period of time. Payments from government soil conservation programs may be used to meet the revenue requirement.

Amendments to Eligibility Criteria

The basic minimum acreage and revenue eligibility criteria have remained unchanged since 1964. However, additional eligibility criteria have since been added. Three substantive revisions to the Farmland Assessment Act include:

1973: An additional revenue requirement was added whereby land devoted to agricultural or horticultural use that is in excess of 5 acres is required to generate average revenue of \$5.00 per acre for at least the two years immediately preceding the tax year in question in order to be considered “actively devoted.” For woodland and wetland, the additional revenue requirement was set at \$0.50 per acre (See Chapter 99, Laws of 1973).

Amendments to Eligibility Criteria

1986: A provision was added requiring owners of land “devoted exclusively to the production for sale of tree and forest products” (today termed ‘non-appurtenant woodland’) to establish and comply with a woodland management plan conforming with the requirements of the Department of Environmental Protection’s Division of Parks and Forestry. Administrative procedures for compliance were specified in the revised language (See Chapter 201, Laws of 1986).

1995: The definition of agricultural use was expanded to include the boarding, raising, rehabilitating, and training of livestock animals. Previously, the statute only recognized the breeding and grazing of livestock as an agricultural use. The amendment also allowed for the calculation of “imputed grazing values” for lands used for livestock grazing, providing such lands were attached to property otherwise qualifying for farmland assessment. Dogs were also specifically excluded from the definition of livestock (See Chapter 276, Laws of 1995).