

IN THE IOWA DISTRICT COURT FOR GUTHRIE COUNTY

<p>GUTHRIE COUNTY BOARD OF REVIEW,</p> <p>Plaintiff,</p> <p>vs.</p> <p>IOWA PROPERTY ASSESSMENT APPEAL BOARD and CARE INIATIVES,</p> <p>Defendant.</p>	<p>Case No. CVCV082885</p> <p>RULING ON PETITION FOR JUDICIAL REVIEW</p>
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Care Initiatives owns a nursing home at 805 E. Main Street, Panora, Iowa. For the 2017 assessment the property was classified as multiresidential and valued at \$2,653,400. Care Initiatives timely protested the assessment to the Guthrie County Board of Review (Guthrie County). Guthrie County denied the protest. Care Initiatives then appealed to the Property Assessment Appeal Board (PAAB). Both parties moved for summary judgments. PAAB heard oral arguments on January 27, 2018. On May 17, 2018, PAAB issued its Order on Motion for Summary Judgment, ruling in favor of Care Initiatives. PAAB concluded that Care Initiatives' property is classified as residential realty under Iowa Code section 421.21(11). Guthrie County appealed PAAB's ruling to the District Court.

The sole issue on appeal is whether PAAB erred as a matter of law in concluding that the subject property should be classified as residential realty under Iowa Code 421.21(11) and not multiresidential realty under Iowa Code 421.21(13). This ruling sets forth a brief statement of the facts as well as the Court's ruling on this matter.

I. SUMMARY OF FACTS

Care Initiatives owns a nursing home located at 805 E. Main Street, Panora, Iowa. For the 2017 assessment, the property was classified as multiresidential and valued at \$2,653,400. Care Initiatives' nursing home is non-profit and the entity has tax exempt status under Internal Revenue Code Section 501(c)(3). The property is primarily used for human habitation. In 2017, the Board of Review changed the property's classification from residential under Iowa Code section 441.21(11) to multiresidential under Iowa Code section 441.21(13). The importance of the classification is twofold: first, residential property presently receives a greater rollback when calculating property tax liability than multiresidential property.¹ Second, on or before the January 1, 2022 assessment, multiresidential property will receive the same rollback as residential property under Iowa Code section 441.21(13)(b). Thus, the classification of property of either residential or multiresidential will have important tax consequences for the next few assessment years.

The term "assisted living facility" is defined in Iowa Code section 441.21(13) to include a property "providing assisted living" as defined in Iowa Code section 231C2, or a "health care facility" as defined in Iowa Code section 135C1. Guthrie County argues that because the subject property is a nursing home, it is either an "assisted living facility" as defined by Iowa Code section 231C2, or a residential care facility or a nursing facility as defined in Iowa Code section 135C1. Thus, Guthrie County asks this court to conclude that the subject property falls within the multiresidential classification under Iowa Code section 441.21(13).

¹ For the January 1, 2017 assessment, multiresidential property receives a rollback to 78.75% while residential property receives a rollback to 55.6209%. *See Order Certifying Percentages for Assessment Limitations*, Iowa Dep't of Revenue (Oct. 20, 2017), <https://tax.iowa.gov/sites/files/idr/documents/2017AssmtLmtOrder.pdf>.

Conversely, Care Initiatives argues that Iowa Code section 441.21(11) is an exception to the general rule that nursing homes, or assisted living facilities, fall under the multiresidential provision in section 441.21(13). Specifically, they argue that because they are a recognized 501(c)(3) nonprofit entity, their facility falls under the nonprofit residential exception in section 441.21(11). Care Initiatives contends that if this is not the case, and the subject property were to be classified as multiresidential under section 441.21(13), then section 441.21(11) would be all but superfluous.

In its decision, PAAB made additional findings of fact. Care Initiatives submitted a June 12, 2013 article from the Quad City Times entitled, “Governor, lawmakers tout largest tax cut in Iowa history.”² The article discusses the bill signing of Senate File 295 (SF 295), which is described as a “wide-ranging bill that provides tax relief to all classes of Iowa property – agricultural, residential, commercial, and industrial.”³ Care Initiatives also submitted a set of “Questions and Answers about 2013 Property Tax Reform” from the Iowa Department of Revenue (Department).⁴ In their answers, the Department stated, “Nursing homes that are currently classified as residential because they meet the statutory requirements under 441.21 Subdivision 11 will remain residential.” Further, the Department noted, “Nursing homes qualify for multiresidential classification unless otherwise classified as residential.” On November 21, 2016, the Department issued an informal opinion on the classification issue as it related to property taxes for nursing homes.⁵ The Department concluded that: “Nursing homes that fit the definition of “assisted living facility” under Iowa Code § 441.21(13) or “health care facility”

² See Exhibit 7.

³ *Id.*

⁴ See Exhibit 9.

⁵ See Exhibit 8.

under Iowa Code § 135C.1 should be classified as Multiresidential for property tax, unless they are organized as a horizontal property regime under Iowa Code chapter 499B.”

After holding a hearing, PAAB issued an Order on May 17, 2018. PAAB granted Care Initiatives’ Motion for Summary Judgment and concluded that the subject property is residential realty under Iowa Code section 421.21(11). Guthrie County appealed to the District Court.

II. STANDARD OF REVIEW

Chapter 17A of the Iowa Code governs judicial review of administrative agency action. The district court acts in an appellate capacity to correct errors of law on the part of the agency. *Meyer v. IBP, Inc.*, 710 N.W.2d 213, 219 (Iowa 2006). The Court “may grant relief if the agency action has prejudiced the substantial rights of the petitioner, and the agency action meets one of the enumerated criteria contained in section 17A.19(10)(a) through (n).” *Burton v. Hilltop Care Cntr.*, 813 N.W.2d 250, 256 (Iowa 2012) (quoting *Evercom Sys., Inc. v. Iowa Utilities Bd.*, 805 N.W.2d 758, 762 (Iowa 2011)). Where an agency has been “clearly vested” with a fact-finding function, the appropriate “standard of review [on appeal] depends on the aspect of the agency’s decision that forms the basis of the petition for judicial review”—that is, whether it involves an issue of 1) findings of fact, 2) interpretation of law, or 3) application of law to fact. *Burton*, 813 N.W.2d at 256.

“If the claim of error lies with the agency’s findings of fact, the proper question on review is whether substantial evidence supports those findings of fact.” *Meyer*, 710 N.W.2d at 219. “[A] reviewing court can only disturb those factual findings if they are ‘not supported by substantial evidence in the record before the court when that record is reviewed as a whole.’” *Burton*, 813 N.W.2d at 256 (quoting Iowa Code § 17A.19(10)(f)). A district court’s review “is limited to the findings that were actually made by the agency and not other findings that the agency could have

made.” *Id.* However, “[i]n reviewing an agency's finding of fact for substantial evidence, courts must engage in a ‘fairly intensive review of the record to ensure that the fact finding is itself reasonable.’” *Neal v. Annett Holdings, Inc.*, 814 N.W.2d 512, 518 (Iowa 2012) (quoting *Wal-Mart Stores, Inc. v. Caselman*, 657 N.W.2d 493, 499 (Iowa 2003)). “Substantial evidence means the quantity and quality of evidence that would be deemed sufficient by a neutral, detached, and reasonable person, to establish the fact at issue when the consequences resulting from the establishment of that fact are understood to be serious and of great importance.” Iowa Code § 17A.19(10)(f)(1). If “the claim of error lies with the agency's interpretation of the law, the question on review is whether the agency’s interpretation was erroneous, and we may substitute our interpretation for the agency’s.” *Meyer*, 710 N.W.2d at 219.

The Court must also grant appropriate relief from agency action if such action was “[b]ased upon an erroneous interpretation of a provision of law whose interpretation has not clearly been vested by a provision of law in the discretion of the agency.” Iowa Code § 17A.19(10)(c). With respect to such provisions of law, the Court is not required to defer to the agency’s interpretation. *Id.* § 17A.19(11)(b). Additionally, the Court must grant relief from agency action that is “[b]ased upon an irrational, illogical, or wholly unjustifiable interpretation of a provision of law,” based upon a misapplication of law to the facts, or “[o]therwise unreasonable, arbitrary, capricious, or an abuse of discretion.” *Id.* § 17A.19(10)(l–n). The term “arbitrary” means the action complained of “was without regard to the law or consideration of the facts of the case.” *Norland v. Iowa Dep’t of Job Service*, 412, N.W.2d 904, 912 (Iowa 1987) (quoting *Churchill Truck Lines v. Transp. Regulation Bd.*, 274 N.W.2d 295, 300 (Iowa 1979)). Arbitrary and capricious are basically synonymous. *Id.* The term unreasonable means actions

despite “evidence as to which there is no room for difference of opinion among reasonable minds or not based on substantial evidence.” *Id.*

If “the claim of error lies with the ultimate conclusion reached, then the challenge is to the agency's application of the law to the facts, and the question on review is whether the agency abused its discretion by, for example, employing wholly irrational reasoning or ignoring important and relevant evidence.” *Meyer*, 710 N.W.2d at 219. In other words, the Court will only reverse the [agency’s] application of law to the facts if “it is ‘irrational, illogical, or wholly unjustifiable.’” *Neal*, 814 N.W.2d at 518 (quoting *Lakeside Casino v. Blue*, 743 N.W.2d 169, 173 (Iowa 2007); *see also Burton*, 813 N.W.2d at 256 (“When the application of law to fact has been clearly vested in the discretion of an agency, a reviewing court may only disturb the agency's application of the law to the facts of the particular case if that application is ‘irrational, illogical, or wholly unjustifiable.’”).

III. DISCUSSION

The sole issue in this case is whether PAAB erred as a matter of law in concluding that the subject property should be classified as residential realty under Iowa Code 421.21(11) and not multiresidential realty under Iowa Code 421.21(13). PAAB does not assert that it has been clearly vested with the authority to interpret Iowa Code sections 441.21(11) and 441.21(13). Thus, their decision is not entitled to any deference, and the Court must determine whether their interpretation of the two statutory provisions was erroneous. Additionally, because PAAB’s ruling is based entirely upon legislative interpretation, the Court’s ruling is essentially *de novo*.

A. Statutory Interpretation.

This case presents an interesting question of statutory interpretation. The Iowa Supreme Court has stated the “goal in interpreting a statute is to give effect to the intent of the legislature.” *State v. Sailer*, 587 N.W.2d 756, 759–760 (Iowa 1998) (citing *Lockhart v. Cedar Rapids*

Community Sch. Dist., 577 N.W.2d 845, 847 (Iowa 1998)). “A statute is ambiguous if reasonable persons could disagree as to its meaning.” *Id.* (citing *Carolán v. Hill*, 553 N.W.2d 882, 887 (Iowa 1996)). Ambiguity may arise “from the general scope and meaning of a statute when all its provisions are examined.” *Id.* Here, two subsections of Iowa Code section 441.21 create ambiguity. When two statutes appear to conflict, the court “must attempt to harmonize them in an effort to carry out the meaning and purpose of both statutes.” *Kelly v. State*, 525 N.W.2d 409, 411 (Iowa 1994). When a general provision of a statute conflicts with a specific provision, the more specific statute normally prevails. *Id.* at 411; *see also* Iowa Code section 4.7 (providing the specific provision prevails if the statute cannot be construed to give effect to both); *see also* *Christiansen v. Iowa Bd. of Educ. Exam'rs*, 831 N.W.2d 179, 189 (Iowa 2013) (“[T]he more specific provision controls over the general provision.”).

“When interpreting statutes, we look at the statute as a whole, rather than isolated words or phrases.” *State v. Young*, 686 N.W.2d 182, 184–85 (Iowa 2004). The court may “consider the legislative history of a statute, including prior enactments, when ascertaining legislative intent.” *JBS Swift & Co. v. Ochoa*, 888 N.W.2d 887, 896 (Iowa 2016). Additionally, it “may consider ‘the statute’s subject matter, the object sought to be accomplished, the purpose to be served, underlying policies, remedies provided, and the consequences of the various interpretations.’” *Id.* (quoting *Branstad v. State ex. Rel. Nat. Res. Comm’n*, 871 N.W.2d 291, 295 (Iowa 2015) (other citations omitted)).

Finally, absent clear evidence to the contrary, the legislature is presumed to be aware of the existing state of the law – including interpretations by the courts – when enacting new legislation. *Kragnes v. City of Des Moines*, 714 N.W.2d 632, 640 (Iowa 2006).

B. Care Initiative’s Nursing Home Property Falls Under the 501(c)(3) Exception in Iowa Code section 441.21(11) and Should Be Classified as Residential Realty.

The Court finds that Care Initiative's nursing home property falls under the 501(c)(3) exception enumerated in Iowa Code section 441.21(11). As a result, it should be taxed as a residential property under that provision, and not as a multiresidential property under Iowa Code section 441.21(13). The Court will first address the issue of conflicting Iowa Department of Revenue interpretations.

The Department's rules regarding classification of real property do not provide much clarity. Iowa Administrative Code Rule 701–71.1(4) states,

Buildings for human habitation that are used as commercial ventures, including but not limited to ... rest homes ... shall not be considered residential real estate. However, ...land and buildings owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) ... shall be considered residential real estate.

See also PAAB Ruling at 6.

Similarly, Rule 701–71.1(6) defining commercial real estate makes an exception to commercial classification for property,

regardless of the number of separate living quarters or any commercial use of the property [...] land and buildings used primarily for human habitation and owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A) shall be classified as residential real estate.

See PAAB Ruling at 6.

The Department has issued other informal guidance that is conflicting. For example, in one Question & Answer response to the 2013 property tax reform, they suggested that nursing homes that meet the requirements of subsection 11 should remain classified as residential property. Notably, the Department specifically mentioned Care Initiative's property at issue. Conversely, the Department's informal opinion concluded that nursing homes that meet the definition of an assisted living center shall be classified as multiresidential under subsection 13.

Because of conflicting Department interpretations, the Court turns to the canons of statutory interpretation described above in order to resolve the matter.

The Court finds that the subject property falls under the residential classification in Iowa Code section 441.21(11). Subsection 11 defines a very narrow category of real property; namely, properties used primarily for human habitation which land and buildings are owned and operated by organizations that have received tax-exempt status under section 501(c)(3) of the Internal Revenue Code. *See* Iowa Code § 441.21(11). Because Care Initiative's property enjoys 501(c)(3) status, the Court finds that it fits directly into the 441.21(11) exception. Moreover, ruling that the subject property is residential realty avoids subsection 13 from making subsection 11 obsolete. This is consistent with tools of statutory interpretation. Although all assisted living facilities should be classified as multiresidential under subsection 13, in accordance with the plain language of the statute, only a small portion thereof may qualify for residential classification under subsection 11. This interpretation continues to give weight to both sections of Iowa Code 441.21, and avoids rendering subsection 11 superfluous.

Senate File 295 amended Iowa Code section 441.21 by adding the multiresidential property classification in subsection 13. *See* 2013 Iowa Acts Ch. 123, p. 457. The bill also established a gradual increase in the rollback applicable to multiresidential property. *Id.* at 458–59. Additionally, the bill established a business property tax credit, reduced the allowable growth limit on assessed values from six to three percent, and provided for a rollback of commercial and industrial property valuations to ninety percent. *Id.* The only form of legislative history submitted by the parties was a Quad City Times article from June 12, 2013. While this article does describe SF 295 as the largest tax cut in Iowa history, the Court is weary of how much weight to give it when trying to determine the legislature's intent. A search of the Iowa

Legislative Archives on SF 295 provided no legislative history. Nonetheless, taking the purpose of SF 295 into account, coupled with the language in the relevant subsections, it is the Court's ruling that the subject property should be classified as residential. Before the enactment of SF 295, Care Initiatives' property was already receiving the residential classification in subsection 11 due to their 501(c)(3) nonprofit status. Given the purpose of the legislation, it would be counterintuitive to take Care Initiative's out of this exception and classify them as multiresidential under subsection 13 and raise their property taxes – especially given the fact that they still maintain their exempt status. This decision gives weight to both subsections 11 and 13 without rendering either superfluous, and is in accordance with settled canons of statutory interpretation. It is true that when a general provision of a statute, such as subsection 11, conflicts with a specific provision, like that of subsection 13, the more specific statute normally prevails. *See Kelly*, 525 N.W.2d at 411. However, this is not the case when the specific provision of the statute can be construed to give effect to both. *See Iowa Code section 4.7*. By interpreting subsection 13 to include all assisted living facilities and leaving a small carve out in subsection 11 to those assisted living facilities that enjoy 501(c)(3) nonprofit status, both statutes can be given an effect in the larger statutory scheme. The legislature is presumed to be aware of the existing state of law when enacting new legislation. *Kragnes*, 714 N.W.2d at 640. It is the Court's interpretation that by passing SF 295 and not amending the 501(c)(3) exception in subsection 11, it was the Iowa legislature's intent to tax properties like that of Care Initiatives as residential realty.

IV. RULING

For the foregoing reasons the decision of the Property Assessment Appeal Board is hereby **AFFIRMED**. Costs of this Action are assessed to the Petitioner.



State of Iowa Courts

Type: OTHER ORDER

Case Number CVCV082885
Case Title GUTHRIE COUNTY B/R V. PAAB ET AL

So Ordered

A handwritten signature in cursive script that reads "Michael Jacobsen".

Michael Jacobsen, District Court Judge
Fifth Judicial District of Iowa