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PAAB

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket Nos. 2020-082-00074C
Parcel No. 721933001

Cargill, Inc.,

Appellant,

vs.

Scott County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 14, 2021. Tax Representative Josh Malancuk represented Cargill, Inc. Scott County Assessor Tom McManus represented the Board of Review.

Cargill, Inc. (Cargill) owns an industrial property located at 1657 Front Street, Buffalo, Iowa. Its January 1, 2020 assessment was set at $4,957,380 allocated as $837,250 in land value and $4,120,130 in improvement value. (Ex. A).

Cargill petitioned the Board of Review contending that it is assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1)(b) (2020). The Board of Review denied the Petition. (Ex. B).

Cargill then appealed to PAAB re-asserting its claim.

Findings of Fact

The 20.98-acre site fronts the Mississippi River and is improved with a grain elevator and salt operation. The salt operation is located on the north side of the site and the grain operation is on the south. The improvements consist of multiple industrial buildings built between 1967 and 2017 listed in below-normal and normal condition with an 4+00 (average quality) grade, with 100,785 square feet of gross building area. There

is also a grain elevator with six silos and three grain bins with a total capacity of 944,744 bushels. There is 227,000 square feet of asphalt paving, 1,975 linear feet of rail, two truck scales, and a barge loadout. In addition to physical depreciation, the various improvements all receive obsolescence adjustments ranging from 5% to 25%. (Exs. A).

Timothy Bly has worked for Cargill for twenty-three or twenty-four years. He oversees many Cargill facilities including the subject property, but admitted he is not the plant manager at the facility. Additionally, he is not familiar with the salt operation. He described the subject property's land use as being split approximately 50/50 between the salt and grain operations. He asserts that as of the assessment date, the property was partially operational with a non-working grain dryer, a non-working barge loadout, and with only partially functional rail service.

Some of the improvements needed repair and/or had structural issues. Cargill submitted photographs of many of the improvements; several of which showed obvious signs of deferred maintenance. Bly reported a bid of $1.2 million to repair the barge loadout, but believed the actual cost would be closer to $1.5 million. He explained it would be $2 million to replace the entire tower at the dock. Historically, 90% of the grain has left the facility by barge, but because the barge loadout needed repair the last remaining grain was trucked to other nearby Cargill facilities. He explained shipping by barge is approximately ten cents per bushel cheaper than trucking or shipping by rail.

Cargill purchased an elevator in Bettendorf in 2019. As a result, Cargill ceased grain operations at the subject property in December 2020. The Bettendorf elevator was in superior condition and had superior access compared to the subject property. Cargill believed the company's grain handling operations could be handled by nearby facilities at Bettendorf and Muscatine. Cargill did not want to spend the money necessary for repairs to the subject property because it had been in decline for years.

Michael Olson, The Olson Group, Urbandale, Iowa, completed an appraisal of the subject property for Cargill and testified at hearing. (Ex. 3). He testified to find sales with a mixed-use grain elevator and salt facility is impossible. His search found no comparable sales that were similar enough to draw a comparison, and as a result, he asserts this approach could not be developed credibly. Therefore, he did not develop

the sales comparison approach. We note that his report only states, “A research of the market revealed no recent ‘arms-length’ sales of properties considered similar enough from which to draw a comparison.” (Ex. 2, p. 3). There is no discussion of his search criteria, what sales were found, or why they were rejected.

Additionally, he reported similar properties are owner-occupied and not rented. He explained no comparable leases were available to develop the approach with any degree of reliability. For these reasons, he believed the income approach was not applicable and it was not developed. In his opinion, the cost approach is the only approach applicable for this type of property.[1]

In the first step of his cost approach, he considered five land sales located in the area to develop his opinion of site value. These sales are summarized in the following table. (Ex. 3, pp. 18-32)

Address	Sale Price	Sale Date	Site Size (Acre)	SP/Acre	Adjusted SP/Acre
Subject			20.98		
1 – 2417 Grandview Ave, Muscatine	$305,000	6/2019	6.74	$45,252	$34,224
2 – Ayres Progress Dr, Wilton	$94,000	8/2020	4.80	$19,583	$16,746
3 – N 16th Ave, Eldridge	$429,327	5/2017	7.00	$61,332	$44,159
4 – 2805 Research Pkwy, Davenport	$524,250	12/2019	11.65	$45,000	$34,200
5 – SEC Harrison St/E 90th St, Davenport	$1,114,004	6/2017	36.86	$30,223	$26,596

Olson did not make any market (time) adjustments, and he considered all of the sales to be similar in utility/shape, topography, and zoning. (Ex. 1, p. 30). We note Olson used the wrong sale price per acre on Sale 1 to make his adjustments. The correct adjusted sale price per acre for Sale 1 is $36,654.

Olson adjusted the sales for differences in location and size. Location adjustments considered “visibility of the property, access to the site, major thoroughfares and highways, and surrounding development.” (Ex. 1, p. 31). Olson acknowledged that none of the sales have rail or river access like the subject property.

[1] We note Cargill’s appeal to PAAB stated, “Scott County based their assessment solely on the cost approach and we believe this approach does not represent a fair and reasonable assessment based on our market evidence. In addition, we intend on providing an appraisal as additional evidence in support of a revised assessment.” Ultimately, Cargill presented no market evidence and relied solely on the cost approach.

The subject's rail and river access was not an apparent factor in Olson's adjustments despite Bly testifying to the importance of barge shipping and Olson's own testimony that the subject had good rail access.

Olson considered Sale 2's location similar to the subject property and it was unadjusted. The remaining sales were all considered superior: Sale 1 was adjusted downward 10% and Sales 3, 4, and 5 were adjusted downward 20%. We again note, none of the comparable sales have river or rail access like the subject property. We find the explanation for the adjustments lacking.

Olson recognized that smaller parcels sell for more per unit (acre) than larger parcels[2], and adjusted the sales accordingly. Sales 1 and 3 were adjusted downward 10%; Sale 2 and 4 were adjusted downward 15% and 5% respectively. Sale 5 was adjusted upward 10% for size.

Based on this analysis, Olson concluded an opinion of site value for the subject property of $32,500 per acre; or, $680,0000 rounded. (Ex. 3, p. 32). It is unclear whether Olson might have reconciled to a different value if he was aware of the error in calculations on Sale 1.

The Board of Review was critical of Olson's land sales and asserted Sale 1 was a foreclosure sale. Olson's report states the grantor was Community Bank & Trust Company. (Ex. 3, p. 19). The Board of Review believed the City of Wilton was involved in Sale 2. The Wilton Development Corporation is identified as the grantee. (Ex. 3, p. 21). Sale 3 was nearly three years old and received no market condition adjustments. Sale 4 was zoned light industrial and the subject's use would not be permitted in that zoning district and Sale 5 was zoned agricultural.

Olson described the subject improvements as being constructed between 1967 through 1998 with several support structures built from 1972 through 2006. He describes the rail and rail scale as being abandoned and inoperable therefore concluding they have no contributory value. (Ex. 3, pp. 13-14). He reports a hoop warehouse was constructed in 2006. He does not include hoop warehouses B15 and

[2] PAAB recognizes this as the Law of Decreasing Returns. *See* THE APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 26-27 (15th ed. 2020).

B16, which were built in 2017, in his valuation. Cargill asserts these two structures are personal property regardless of being attached to the site. They sit on a cement pad and are bolted into the ground. (Ex. 4, p. 22, 23).

Olson developed a replacement cost new (RCN) for the subject property and relied on MARSHALL AND SWIFT, a national cost estimator service. (Ex. 3, pp. 33-39).

Olson listed the main improvements and calculated a total GBA for buildings, bushel capacity for bins, and tonnage for scales. (Ex. 3, pp. 33-34). He made a lump sum adjustment for site improvements, which he identified as paving, rail, scales, and minimal landscaping. (Ex. 3, p. 38).

Olson blended the costs from Class "D" and Class "S" to estimate his base costs for Buildings B1 and B2. He utilized low cost Class "C" to estimate the costs for Buildings B3 and B7.

The Board of Review was critical of Olson's cost approach. It believes a wall height multiplier should have been applied to Building B1. It was also critical of the lack of specifics and Olson's lumping together of many of the improvements.

Olson used an age-life method of depreciation to arrive at his conclusion of depreciation.[3] (Ex. 3, p. 37 & 38). He testified his estimation of depreciation was based on his observations and also reflected the subject's use. Olson asserts the subject's salt use would shorten its life. Given the other evidence and testimony in the record about the condition of the improvements, it is particularly notable that Olson's appraisal report does not describe their condition. We find this to be a significant omission.

Olson depreciated the buildings, grain elevator, grain bins, and site improvements in groups. He estimated an economic life new of 40 years and effective age for the buildings of 25 years. This resulted in depreciated replacement cost of $1,509,588.44. (Ex. 37). He followed a similar procedure for the grain elevator, grain bins, and site improvements; with different estimations of economic life new and effective age.

[3] Although the simplest way to estimate depreciation, we note this is a method of straight-line depreciation that operates under the questionable assumption that depreciation occurs at a constant rate. THE APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 565-66, 572 (15th ed. 2020).

Olson concluded a depreciated value of the improvements of $2,843,809. Olson determined that he could not extract functional or external obsolescence from the market and therefore it was not applied. After adding the site value, he reconciled to a final value opinion, rounded, for the property of $3,525,000.

Olson's report references a Kansas Grain Elevator Appraisal Guide in support of his conclusion. (Ex. 3, p. 39; Ex. 6). The guide includes data on 35 Kansas elevator sales that occurred between 2010 and 2020, which were used to estimate depreciation and evaluate sale prices per bushel. (Ex. 6, pp. 31, 41). Given the number of sales identified by the Kansas guide, we again question Olson's lack of discussion of the sales comparison approach.

Regardless, Olson points out he arrived at a value conclusion of $1.28 per bushel for the subject while the Kansas sales averaged $1.09 per bushel. (Ex. 3, p. 39; Ex. 6, p. 42). What Olson fails to recognize is that the Kansas guide removed land value from the sales and thus the sales range represents improvements only. (Ex. 6, p. 41) Conversely, Olson's $1.28 per bushel figure includes his land value allocation. (; Ex. 3, p. 39). Removing his land allocation results in a per bushel figure of $1.00, and below the average indicated by the guide.[4]

Lastly, we note a difference in the manner in which the assessment and Olson apply physical depreciation. The assessment specifically identifies improvements and separately depreciates them. Conversely, Olson grouped improvements together and then determined a depreciation percentage to apply to the entire group.

Josh Malancuk is the president of JM Tax Advocates, LLC. As previously stated, he serves as Cargill's tax representative and filed the appeal on behalf of Cargill. He is a certified general appraiser in the state of Indiana, and also a CPA. He testified on behalf of Cargill, and created the spreadsheet on Exhibit 2. He explained the spreadsheet is based on his 28 years of experience reviewing tax valuations and records. Malancuk relied on the same Kansas guide as Olson. (Ex. 6). The additional depreciation shown on Exhibit 2 is based on the Kansas guide, as well as reflecting the

[4] (711,480+230,000)/944,774 = 0.9965

condition of parts of the subject property. (Ex. 2). He explains that parts of the subject property were not functional as of the assessment date and believes functional obsolescence or additional depreciation should be included in the assessment as a result. Only a third of the spur line was functional and Cargill reports it had not been in use for at least five years. The grain dryer was not functional and had not operated for approximately ten years. He does not believe the depreciation or lack of function occurred overnight and even if the grain facility was shut down after the assessment date, the depreciation and or obsolescence was present as of the assessment date. He believes its condition and functional appeal played a role in the decision to close the grain operation. Based on his calculations, Malancuk asserts the correct assessment for January 1, 2020 is $3,374,640. (Ex. 2, p. 4).

First, we note Malancuk depreciates a number of improvements by 90%, including an office, shop, warehouse, conveyor, tanks, grain dryers, scales, and lifts. (Ex. 2). He indicates the 90% figure is derived from the Kansas guide's use of a 10% depreciation floor for items at the end of their useful life. The Kansas guide, however, explicitly states the depreciation floor applies to "structures that are licensed and currently being used for grain storage." (Ex. 6, pp. 7, 73). Thus, the guide does not support Malancuk's use of 90% depreciation for items not used for grain storage. Therefore, we find his calculations unreliable. Aside from that, Malancuk's evidence does not comply with section 441.21 and is therefore not competent.

The Board of Review believes Olson's appraisal is flawed. It asserts other river terminal properties have sold in the past couple of years and the sales comparison approach should have been developed. It questions the reliability of the appraisal and asserts Olson's report lacks support and specifics. It believes Olson's land valuation relied on sales which were not comparable to the subject and would not be alternative properties to the subject site because of a lack of river frontage and rail service. Lastly, the Board of Review asserts it was Cargill's responsibility to notify the assessor's office of condition and use changes on the property. It believes the value of the property should be changed for the 2022 assessment, reflecting the changes that have been noted since the office was notified by Cargill.

Analysis & Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id*. PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty*., 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted). When the taxpayer "offers competent evidence that the market value of the property is different than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation." Iowa Code § 441.21(3). To be competent evidence, it must "comply with the statutory scheme for property valuation for tax assessment purposes." *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 782 (Iowa 2009) (citations omitted).

Cargill contends the subject property is over assessed as provided under Iowa Code section 441.37(1)(a)(1)(b).

To establish that its property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), Cargill must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer*, 759 N.W.2d at 780 (citation omitted). In determining market value, "[s]ales prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at market value." *Id*. Using the sales price of the property, or sales of comparable properties, is the preferred method of valuing real

property in Iowa. *Id*.; *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779 n. 2; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990).

If sales cannot readily establish market value, "then the assessor may determine the value of the property using the other uniform and recognized appraisal methods," such as income and/or cost. § 441.21(2). "A party cannot move to other-factors valuation unless a showing is made that the market value of the property cannot be readily established through market transactions." *Wellmark, Inc. v. Polk Cnty. Bd. of Review*, 875 N.W.2d 677, 682 (Iowa 2016). "In a tax assessment appeal, the party relying on the "other factors' approach has the burden of persuading the fact finder that the fair market value of the property cannot be readily established by the comparable sales approach." *Carlon Co. v. Bd. of Review of City of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997) (citing *Bartlett & Co. Grain v. Bd. of Review*, 253 N.W.2d 86, 89 (Iowa 1977)). Where PAAB is convinced comparable sales do not exist or cannot readily determine market value, then other factors may be used. § 441.21(2); *Compiano*, 771 N.W.2d at 398 (citing *Soifer*, 759 N.W.2d at 782).

In this case, Cargill submitted an appraisal that suggested the sales comparison approach could not be developed and moved directly to the cost approach. The Board of Review disagreed that the sales comparison approach could not be developed.

We find Cargill has not offered sufficiently persuasive evidence that the property's fair market value could not be readily established by the sales comparison approach. Therefore, we conclude Olson's appraisal is not competent and the assessment should be affirmed.

We come to this conclusion, in part, because Olson's appraisal and testimony lacked any meaningful discussion of his attempts to research sales. There is no explanation of his search criteria. His appraisal merely states "[a] research of the market revealed no recent 'arms-length' sales of properties considered similar enough to draw a comparison." (Ex. 3 p. 3). From this evidence, we do not know whether he unreasonably limited the area of his sales search. In another case involving a grain elevator like the subject, the Iowa Supreme Court rejected the Board of Review's argument that sales located some distance from the subject should not be considered.

Bartlett, 253 N.W.2d at 93. It concluded the elevator's value could be determined by the sales approach and that sales from the Midwest grain area could be used. *Id*. In light of that holding, it is notable the Kansas Guide that Olson refers to includes a significant number of sales of grain elevators in that state from 2010 to 2020.[5] There is also no explanation as to what sales may have been found in his search and Olson's rationale for rejecting them. Rather, his report and testimony included short, conclusory statements without substance. Separate from Olson's report, Cargill made no other efforts to show that comparable sales were unavailable or could not readily establish value. Thus, we find Cargill did not meet its burden of persuasion to move to the cost approach.[6]

Even if we were to consider Olson's cost approach, we could not find it reliable. PAAB takes particular note, and concern, of the brevity of Olson's cost analysis when this is the only approach to value he developed.

In his opinion of site value, Olson relied on site sales lacking access to rail or river transportation despite testimony indicating this is integral to the grain facility. *Soifer*, 759 N.W.2d at 783 ("When sales of other properties are admitted, the market value of the assessed property must be adjusted to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments.").

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[5] As stated in the Findings, Olson misused the Guide in an attempt to support his cost approach.

[6] With two certified real estate appraisers on the board, PAAB understands that a specific appraisal assignment might favor the use of a certain valuation approach. For instance, it is quite common for appraisers valuing an income-producing property like a hotel to believe the income approach is the best valuation method. See *La Posada Group LLC v. Pottawattamie Cnty. Bd. of Review,* 2021 WL 5913614 *8-9 (Iowa Ct. App. 2021). Similarly we can understand that when appraising a dual-use facility built over decades like the subject, an appraiser's professional opinion might be that the cost approach is the best method. It is also likely the case that not considering sales and moving directly to income or cost approaches might be acceptable given a certain appraisal assignment, such as for bank financing purposes or internal reporting.

While our professional opinion about the best valuation approach for a given property might be the same as an expert appearing before PAAB, we are nonetheless required to apply the provisions of Iowa law. Within the context of a tax assessment appeal proceeding, an appraiser's professional opinion about the best valuation approach does not take precedence over section 441.21. When an appraisal is completed for tax assessment appeal purposes, other approaches to value do not become competent evidence without a showing the sales comparison approach cannot readily establish value. *Id*.

Given the importance of this feature, we believe his opinion of site value may be understated.

Further, the Board of Review noted two of the sales may not have been normal sales and some had zoning which would not allow the subject improvements or use. Yet these factors were not identified by Olson or adjusted for in his analysis. Moreover, he made an error in his calculations and it is unknown whether that impacted his conclusions.

Olson's report included nominal descriptions of the subject property and improvements, and an unreasonable lack of detail on the only approach developed. We note significant issues with Olson's cost analysis. While he provides an overview of the improvements, he offers no commentary or opinion of the condition of the improvements anywhere in his report. Without identifying the condition of the improvements, we find it difficult to rely on his determination of physical depreciation. He lumps the improvements into groups. Then he determines an effective age and economic life new for that group to depreciate the assets. Lumping improvements together for depreciation purposes could over- or under- estimate depreciation. We think this approach is less precise than the method employed in the assessment, which separately depreciated most items.

Additionally, Olson omitted two hoop structures that he considers to be personal property regardless of being anchored to the site. We find Olson and Cargill's assertion the two hoop buildings are personal property is not supported. The buildings are attached to the land. Under Iowa Code section 427A.1(1)(c), they are subject to assessment and taxation. While they could be exempted from taxation under the provisions of section 427A.1(3), we find Cargill has not made a showing these are the "kind of property which would ordinarily be removed when the owner of the property moves to another location." Further, we note Cargill has not made an exemption claim to PAAB.[7] Although these items have a minimal value in the assessment, Olson's decision to entirely exclude them may render his final value conclusion low. As such, we

[7] Its sole claim is that the property is assessed for more than the value authorized by law. Section 441.37 includes a separate claim for exemption, which Cargill has not made.

find the Olson appraisal undervalued both the site and the improvements; and subsequently the final value.

We previously found Malancuk's evidence not competent. He did not complete or attempt to complete the preferred sales approach. Moreover, for the reasons previously described and because he also excluded the hoop buildings, we find his calculations are unreliable.

Considering all of these facts, we conclude Olson's analysis failed to adequately consider factors that affect the subject's site value, all of the existing improvements on the site, the use of the improvements as of the assessment date limiting the reliability of his analysis. Therefore, even if we would consider Olson's cost approach, we find it unreliable.

In conclusion, we find Cargill's evidence, including Olson's appraisal, does not comply with the statutory scheme because it moved directly to the cost approach without a sufficient showing that sales cannot readily establish the subject's value. We find Cargill has not offered competent or persuasive evidence that the subject's assessment is excessive. Therefore, the assessment should be affirmed.

Order

PAAB HEREBY AFFIRMS the Scott County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2021).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.

Dennis Loll, Board Member

Elizabeth Goodman, Board Member

Karen Oberman, Board Member

Copies to:

Josh Malancuk for Cargill by eFile

Robert Cusack for Scott County Board of Review by eFile