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PAAB

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

PAAB Docket No. 2021-082-00175R

Parcel No. 8414172032

Chad Miller,

Appellant,

v.

Scott County Board of Review,

Appellee.

I. Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on September 28, 2022. Chad Miller was self-represented. Scott County Assessor Tom McManus represented the Board of Review.

Chad Miller owns a residentially classified property at 4340 Tanglewood Road, Bettendorf, Iowa. The property's January 1, 2021 assessment was set at $800,000, allocated as $200,000 in land value and $600,000 in improvement value. (Ex. A). This assessment has been the same since adjudicated in 2017. (Ex. A).

Miller petitioned the Board of Review asserting all grounds of protest under Iowa Code section 441.37(1)(a)(1)(a-e). (Ex. C). The Board of Review denied the petition. (Ex. B).

Miller then appealed to PAAB reasserting all of his claims. Prior to hearing, Miller amended his claims before PAAB, specifically excluding his claim of misclassification, leaving the following grounds for this appeal: that the property's assessment is inequitable as compared with assessments of other like property in the taxing district; that the property is assessed or more than the value authorized by law; that the property is not assessable or is exempt from taxes; that there are errors in the assessment; and that there is fraud or misconduct in the assessment.

Chad Miller testified on his own behalf. Scott County Assessor Tom McManus testified on behalf of the Board of Review.

II. Assessment History

PAAB previously adjudicated assessments of Miller's property in 2013, 2015, and 2016. The property has undergone some changes over that time, but the improved dwelling remains substantially the same. It is a two-story home built in 2008, with the exception of the foundation which is older. The dwelling is listed for assessment as having 4947 square feet of above-grade finish. It also has 2100 square-feet of living-quarters quality basement finish, an open porch, deck, patio, and an attached garage. The 2021 assessment lists the dwelling in below normal condition with high-quality grade (2+5).[1] This results in 28% physical depreciation and 8% functional obsolescence in the assessment. There is also a 60-foot x 60-foot barn/utility building completed in 2016. The site is 10.22 acres. Additionally, 4.3 acres of the property receive an exemption, reducing the taxable value by $30,960. (Ex. A, p. 5). The property is classified residential. (Ex. A).

PAAB heard Miller's first arguments regarding the subject property's assessment in 2013. We ultimately affirmed the assessment of $867,150 and residential classification.[2] In 2015, PAAB again affirmed the property's assessment of $901,120, with a residential classification.[3] The Iowa Court of Appeals subsequently affirmed this ruling.[4] Miller also appealed in 2016. PAAB stayed consideration of that appeal until the appellate litigation concluded on the 2015 appeal. On June 16, 2021, PAAB issued its

[1] Testimony from McManus indicated the property was listed in below normal condition in an effort to arrive at the value set by the district court for the 2017 assessment.

[2] *Miller v. Scott Cnty. Bd. of Review*, PAAB Docket No. 13-82-0919 (Sept. 26, 2014) *available at* https://paab.iowa.gov/sites/default/files/decisions/2015/13-82-0919%20Miller.pdf.

[3] *Miller v. Scott Cnty. Bd. of Review*, PAAB Docket No. 2015-082-01024R (July 8, 2016) *available at* https://paab.iowa.gov/decision/miller-v-scott-county-board-review/2015-082-01024r.

[4] *Miller v. PAAB,* No. 18-0929, 2019 WL 3714977 (Iowa Ct. App. Aug. 7, 2019).

order modifying Miller's 2016 assessed value to $690,000.[5] In that case, the Board of Review did not offer criticism of Miller's appraisal evidence or contrary evidence of value. Miller also appealed his 2017 assessment to the Iowa District Court for Scott County. That Court upheld the subject property's residential classification and modified its assessed value to $800,000. (Ex. 124). Miller appealed that ruling as well, but the Iowa Court of Appeals affirmed the district court's order.[6] Miller sought further review, which was denied by the Iowa Supreme Court.

The subject property has been assessed at $800,000 since 2017. Miller did not appeal his assessments to PAAB in either 2019 or 2020. Miller does not now challenge the property's residential classification. Rather, he contends his property is inequitably assessed, is over assessed, that part of the property is not assessable or exempt, that there is an error in the assessment, and fraud or misconduct in the assessment. Miller amended his claims for this appeal on September 22, 2022, wherein he describes his concerns. Some bear some similarities to his prior appeals, while some are new.

III. General Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2021). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and 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 that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it

[5] *Miller v. Scott Cnty. Bd. of Review*, PAAB Docket No. 2016-082-00020R (June 16, 2021) *available at* https://paab.iowa.gov/sites/default/files/2021-06/Miller%202016-082-00020R_1.pdf
[6] *Miller v. Scott County Board of Review,* Case No. 19-1038, 2020 WL 2059787 (Iowa Ct. App. Apr. 29, 2020).

is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

IV. Miller's Inequity Claim

A. Law

As he has in prior appeals, Miller again contends his property is inequitably assessed. Section 441.37(1)(a)(1)(a) permits an aggrieved taxpayer to protest their assessment on the basis that their assessment is not equitable as compared with assessments of other like property in the taxing district. The fundamental basis for this claim has long been recognized. *Burnham v. Barber*, 70 Iowa 87, 30 N.W.20 (Iowa 1886); *Barz v. Bd of Equalization of Town of Klemme*, 133 Iowa 563, 111 N.W. 41 (Iowa 1907); *Iowa Cent. Ry. Co. v. Bd. of Review of Eliot Tp., Louisa Count*y, 157 N.W. 731, 732 (Iowa 1916). In *Iowa Cent. Ry. Co*., the Iowa Supreme Court stated the "paramount object which the law seeks to insure in distributing the burdens of taxation is equality." 157 N.W. at 732. Thus, the ultimate concern is that similar properties bear similar tax burdens.

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may also show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

> (1) that there are several other properties within a reasonable area similar and comparable . . .; (2) the amount of the assessments on those properties; (3) the actual value of the comparable properties, (4) the actual value of [the subject] property; (5) the assessment complained of;, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.

Id. at 711. The *Maxwell* test provides inequity exists when, after considering the actual and assessed values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id*. This is commonly done through an assessment/sales ratio analysis comparing prior year sales (2020) and current year assessments (2021) of the subject property and comparable properties.

Comparable properties must be in the same taxing district, which the Iowa Courts have interpreted to mean "the district of the assessor and board of review." *Maytag Co. v. Partridge*, 210 N.W.2d 584, 595 (Iowa 1973). As a matter of law, one comparable is insufficient to establish inequity. *Miller v. Property Assessment Appeal Bd*., 2019 WL 3714977 *4 (Iowa Ct. App. 2019) (internal citations omitted).

The "ultimate issue…[is] whether the total values affixed by the assessment roll were excessive or inequitable." *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527, 530 (Iowa 1965); *White v. Bd. of Review of Dallas Cnty*., 244 N.W.2d 765 (Iowa 1976) (emphasis added).

B. Facts & Conclusions

To the Board of Review, Miller listed eleven residential properties he believed supported this claim. (Ex. 2, p. 3). It is clear from the data included in that table that Miller was only comparing the land valuation of the properties he selected. There is no additional information about these properties contained in Exhibit 2. Because we cannot determine the properties' comparability to the subject, and Miller appeared to focus only on the land value rather than the total values contrary to *Deere* and *White*, we give this evidence no weight.

Miller also seems to conduct a land value comparison with two parcels under common ownership totaling 9.55 acres located at 8972 Wells Ferry Road, Bettendorf. (Ex. 203). The record does not include the methodology used to value those properties, but Miller points out that, in total, it has a lower per acre rate. He admits, however, that it is located 5.5 miles from his property. Although Miller's focus on the land value is, again, contrary to *Deere* and *White*, we also find the distance apart from each other as well as other locational differences (the comparable is more rural) would be sufficient to

find them not comparable. Further, using one property for comparison is not sufficient as a matter of law.

On appeal, Miller submitted a spreadsheet he created listing five properties located in Bettendorf. (Ex. 221). Miller asserts these properties were used as comparables by previous appraisers. However, none of these properties are used as comparables in the two appraisals admitted in the record.[7] (Exs. 144, 145, & 221). The only information in the record concerning these properties is the data Miller compiled in his spreadsheets. Miller analyzes the year-over-year percentage change in the assessments of the properties. He contends he has followed the assessments of these properties and each received decreases in assessed values between 2016 and 2021, while the subject has increased 16% during that same time frame. We note his data shows 2020 to 2021 decreases in his comparables' assessments by an average of 3% and no change in the subject. Although Miller wishes to focus on a longer history of assessments and continues to find fault with the outcome and history of his many appeals, our concern is with the 2021 assessment.

The following table describes the properties:

Comparable Address	Site Size (acres)	Year built	GLA	Basement Finish	Sale Date	Sale Price	2020 Assessed Value	2021 Assessed Value	Change in AV
Subject	10.22	2008	4947	2100	NA	NA	$800,000	$800,000	0%
1 – 4457 Old Ivy Ct	0.55	1999	3340	1060	2/2020	$491,000	$504,860	$502,800	0%
2 – 5021 Pigeon Creek Tr	0.58	2005	3965	1200	4/2017	$640,000	$710,420	$704,520	-1%
3 – 6 Highland Green Ct	0.58	2000	3962	1330	10/2019	$770,000	$798,750	$782,440	-2%
4 – 6262 Eagle Ridge Ct	0.77	2007	4551	1670	11/2019	$875,000	$889,390	$905,350	2%
5 – 6234 Eagle Ridge Ct	0.56	2008	4298	1820	NA	NA	$962,200	$847,820	-12%

What can be gleaned from Miller's data is that all the properties are smaller in gross living area and site size than the subject and most have significantly less basement finish. They are all also situated on less than an acre site and none have any

[7] Miller submitted Exhibit 173 titled Appraisal Chart 10-2-2022. The document referenced all appraisals Miller has had completed on the property, however, only pages 1 and 9 were admitted in the record. The remaining pages were excluded upon a relevancy objection.

outbuildings like the subject. These factors alone raise concerns over their comparability to the subject and would explain their differences in assessments. No information about the condition or quality of construction has been provided for the properties. Given Miller's concern about land values, we find it notable that the assessed land values of these properties range from $107,410 to $193,350 despite the site size differences. Though significantly larger, the subject's land value of $200,000 sits only slightly above the top of the range.

Looking at the two properties that are the most similar in age, GLA, and basement finish (Comparables 4 and 5), we note their 2021 assessments are both higher than Miller's despite their sites being a fraction of his property's site size and lacking outbuildings. This evidence directly contradicts Miller's claim that he is inequitably assessed.

In his narrative to Exhibit 221, Miller makes several assumptions. First, he assumes his previous assessments should have changed to the values determined in numerous appraisals he had completed. He then suggests his total assessments should have decreased by the percentages of his comparable properties' reductions year over year. Although Miller thinks an apparent decrease in these assessments should permit him the same, the evidence shows his property's value is not inequitable as compared to others he has selected, when these properties are smaller but have similar or higher assessments than his.

Scott County Assessor Tom McManus criticized Miller's evidence and noted no adjustments were made to any of the properties Miller selected. McManus also questioned whether they were all within the subject property's taxing district.[8]

We find flaws with Miller's analysis and reject it. The subject's 2021 assessment is our focus. First and foremost, Miller's arguments have no tendency to show inequity in the 2021 assessment. Simply comparing the rate of change in assessments is not sufficient to demonstrate inequity and it is not a recognized method for demonstrating inequity under Iowa law. Miller's methodology in arriving at an appropriate assessed

[8] We note McManus' emphasis on taxing district is too narrow under the law; if the properties are in the assessing jurisdiction, which these are, they may be used for an inequity claim.

value for his property, by using a presumed start point and categorical reductions, is also unrecognized appraisal methodology.

Further, the properties Miller selected bear little resemblance to the subject property. The law requires properties to be similarly situated, and based on the record before us, these are not because of the differences previously noted. The two that are closest in dwelling size suggest Miller is not inequitably assessed.

Finally, Miller's belief that previous appraisals dictate his value should have been reduced is irrelevant. PAAB received and reviewed appraisals as part of its consideration of the 2016 appeal. The District Court and Court of Appeals likewise did the same when they considered Miller's 2017 appeal. Miller was granted relief in both proceedings. It appears Miller obtained appraisals for his property in 2019 and 2020, but no appeals were filed with PAAB, the appraisals were not submitted in this appeal, and it would seem any district court litigation regarding those assessments was not brought to fruition. (*See* Board of Review Motion to Compel Discovery, n. 1, filed Aug. 11, 2022). While Miller may believe his year-over-year assessments should have changed based on these appraisals and other calculations he contrived, we disagree. Miller cannot continue to attempt to relitigate the past in order to seek a different outcome now.

The only 2020 sale Miller references is Comparable 1, which is the smallest and oldest property. Its assessment-to-sale-price ratio was 1.02, indicating it is assessed just slightly more than its market value. Based on a thorough review of the record, it appears this is the only 2020 sale in evidence. A single property is legally insufficient to prevail on the aforementioned *Maxwell* ratio analysis. However, while we typically would limit a *Maxwell* analysis to sales immediately preceding the 2021 assessment year, for the sake of argument we will also consider the late 2019 sales of Comparables 3 and 4. They have ratios of 1.02 and 1.03 respectively. As will be discussed, we are unconvinced that Miller's appraisals offer a reliable indication of the subject's value, the least bad appraisal indicates a value of $780,000. This would result in a ratio of 1.02 for the subject, and indicates its assessed at a similar proportion of market value as Miller's selected comparables.

Moreover, we also find Miller has not identified any non-uniform assessment methodology with regard to the 2021 assessment of the subject and his selected comparables.

Based on the foregoing and the record as a whole, we conclude Miller has failed to show his property is inequitably assessed under either the *Eagle Food Centers* or *Maxwell* tests.

V. Miller's Overassessment Claim

A. Law

Miller contends his property is assessed for more than the value authorized by law. In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).* The "ultimate issue…[is] whether the total values affixed by the assessment roll were excessive or inequitable." *Deere*, 78 N.W.2d at 530; *White*, 244 N.W.2d 765 (emphasis added). *See also* 2020 Iowa Real Property Appraisal Manual 2-2 ("Land and improvements are frequently valued separately so that the trends and factors affecting each can be studied. However, the final analysis for an improved property must be as a unit.").

In protest or appeal proceedings when the complainant offers competent evidence that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials seeking to uphold such valuation to be assessed. Section 441.21(3)(b)(1). To be competent, the evidence must comply with the statutory scheme for property assessment valuations, *i.e*. the sales price of the property, or sales of comparable properties. *Compiano v. Bd. of Review of Polk Cnty*., 711 N.W.2d 392, 398 (Iowa 2009).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "'Market value' is defined as the fair and reasonable exchange in the year in which the property is listed

and valued between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property." *Id*. Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id*. Conversely, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion including, but not limited to, immediate family sales, foreclosure or other forced sales, contract sales, or discounted purchase transactions. *Id*. If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

The law makes a presumption that a valuation fixed by the courts continues to be the value in subsequent years unless a change in value is shown. *Metro. Jacobson Dev. Venture v. Polk Cnty. Bd. of Review*, 524 N.W.2d. 189, 192 (Iowa 1994) (internal citations omitted).

B. Facts & Conclusions

The subject's 2021 assessment is $800,000, the same value set by the district court in Miller's 2017 litigation of his assessment. Miller essentially argues against the presumption arising from that adjudication and asserts the subject's value has declined.

Miller submitted two appraisals to support his claim that the subject property is assessed for more than the value authorized by law. The two appraisals have effective dates of January 1, 2020. (Exs. 144 & 145). Miller believes the market has not appreciated between 2020 and 2021 and the dated appraisals should be sufficient to show the property's value as of January 1, 2021.

Miller also testified that he believes he could not sell his property for the 2021 assessed value of $800,000. He asserts there are few potential buyers for a property like his. He also stated he talked with two realtors who told him he could list his property for $800,000, but it would likely sell in the $700,000 range. Miller acknowledged he is not an appraiser and has not had a more recent appraisal of the property.

Justin Schroeder with DataSource Appraisal in Bettendorf developed both the sales comparison and cost approaches to value, and opined a value of $710,000 as of January 1, 2020. (Ex. 144). He inspected the subject property on April 11, 2018. (Ex. 144, Reconciliation/signature page). It is uncommon to have an inspection date precede the effective date of report by nearly two years. When it does occur, an appraiser would typically include an extraordinary assumption[9] indicating what source(s) were used to determine the subject's physical characteristics, reflective of the effective date. Schroeder did not include any of this information, which raises concerns about the reliability of his analysis.

In his sales comparison approach, Schroeder analyzed two 2018 and two 2019 sales; the most recent sale was June 2019, more than two-and-one-half years prior to the assessment date at issue. No time adjustments have been made to any of the sales. The unadjusted sale prices ranged from $455,000 to $735,000, significantly less than the subject's 2021 assessed value. The subject has the largest site, the most GLA,[10] and is one of the newer homes. Schroeder's adjustment grid reports both the subject's quality of construction and condition as below average. He provides minimal narrative about the condition, but notes "the house also has some settlement issues which has caused cracking and "screw pops" in the drywall, out-of-square doors, and a noticeable hump in the upper level hallway… Similar issues in other properties have been repaired for costs between $10,000 to $30,000. The estimated cost to brace the foundation, repair the drywall, and repair the doors are included in the condition adjustment." (Ex. 144, supplemental addendum). This observation would have been from April 2018 when Schroeder last inspected the property, which is nearly three years

[9] Extraordinary Assumption: an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions. UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 2020-2021, p. 4, lines 111-112.

[10] We also note Schroeder reports total above grade living area at 4847 square feet, or 100 square feet less than the assessor.

prior to the assessment date in question.[11] It is unknown if all of these issues have remained the same, deteriorated, or been corrected as of the January 1, 2021, assessment date in question. This lack of information and analysis affects the reliability of Schroeder's conclusions.

The majority of Schroeder's sales are reported as superior in quality and condition with negative combined adjustments from $90,000 to $140,000. Sales 1, 2, and 4 were all adjusted downward $40,000 for condition, which Schroeder had identified as relating to the structural issues. However, this adjustment is greater than his estimate of repair which ranged from $10,000 to $30,000. Schroeder only considered Sale 3 to be similar to the subject in quality and condition but it is 14 years older than the subject property and situated on less than an acre site. None of the sales had an outbuilding.

Given the subject property is the largest and has amenities the other properties do not possess, we question whether these sales are the best available because they fail to bracket the subject property in many significant elements of comparison especially gross living area, site size, and quality and condition. "Reliable results can usually be obtained by bracketing the subject property between comparable properties that are superior and inferior to it." APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 356 (15th ed. 2020). "If all the comparable properties are inferior in terms of qualitative factors, the only conclusion that can be drawn is that the value of the subject property is higher than the highest value indication from the comparable properties." *Id*. The same issue appears in the perceived condition of the subject property to the comparables.

After adjustments, Schroeder's sales comparables indicated a range of value from $692,700 to $756,300.

Schroeder also completed the cost approach and in it valued the subject property at $809,912. We note Schroeder relied on December 2019 cost estimates and priced the utility building at $27,216, before depreciation. Additionally, he applied $40,000 in functional utility for the foundation issues, despite reporting typical costs to cure of

[11] Erickson's appraisal, with a later inspection date, also notes the structural shifting but does not detail any of the other issues Schroeder cites. Moreover, Erickson's opinion of quality and condition differ as will be discussed.

$10,000 to $30,000. Considering the dated costs, his estimates are not likely reflective of the January 1, 2021, market value.

Schroeder's final value of the subject was $710,000.

Daniel Erickson with EZ Appraisals in Davenport inspected the subject property on December 20, 2019, more than a year and a half later than Schroeder, and contemporaneous to his appraisal's effective date of January 1, 2020. Erickson developed only the sales comparison approach, concluding a value of $780,000 as of January 1, 2020. (Ex. 145).

Like Schroeder, Erickson's sales are dated, occurring between February and October 2019. The sales had unadjusted sale prices ranging from $550,000 to $825,000.

Both Schroeder and Erickson noted the subject property's original foundation has caused some areas of structural shifting and took this into account in their analyses. However, unlike Schroeder, Erickson reported the subject as average quality and above-average condition.[12] Erickson considered all of his comparables to be similar to the subject property in condition, requiring no adjustments, but determined Comparables 1 and 4 were superior in construction quality. Erickson also made across the board upward adjustments of $39,100 for the subject's outbuilding.

Erickson's sales bracket the subject in GLA but are all situated on much smaller sites and lack outbuildings.

After adjustments, the sales indicated a range of $732,400 to $833,160. Erickson concluded a final opinion of value of $780,000. We note the subject's current assessment falls within both Erickson's unadjusted and adjusted ranges.

McManus was critical of the appraisals. As we previously noted, he also pointed out that no time adjustments were made to the appraisal or the comparables therein. Yet, McManus testified the residential market has been "on fire".[13] McManus also noted

[12] We note Erickson reports gross living area of 4902 square feet, or 45 square feet less than reported on the Property Record Card.

[13] We note the Board of Review submitted an appraisal completed by Martin Corey of Oakwood Appraisal Company, East Moline, Illinois. (Ex. X). Corey opined a value opinion for the subject

errors in the values assigned to land and outbuildings, based on assumptions of an agricultural classification. Further, he believes the appraisers made inappropriate adjustments for features such as basement finish. McManus believes that if these errors were corrected each of the comparable sales would have higher adjusted values, and result in higher final value conclusions.

Rather than claim either of these appraisals should be relied upon in whole, Miller attempts to justify further reductions should be given to his property. He takes bits and pieces of each appraisal, as well as his own attempts to value the land. We do not reiterate all of his mathematical gyrations here but note they are contained in his Motions filed on 9/11/2022 and 9/22/2022 as well as Exhibit 221. He arrives at a value of $635,347 for the subject property, which he acknowledges is low but "he's going to ask for all that he can."

We reject his calculations and conclude the methodology is wholly unreliable. Not only does Miller's requested value abandon the sales comparison method preferred by Iowa law, but it also relies on questionable evidence. Among the problems with his analysis, he uses Schroeder's replacement cost new for the dwelling and utility building, which relied on December 2019 costs. He also relies on Schroeder's depreciation estimates that include $40,000 in functional depreciation for the foundation issues; a figure we have noted exceeds Schroeder's estimates for the cost to repair. Most significantly, Miller's requested land value of $87,000 is not supported by any sales and is also not supported by either appraisers' land value estimates.

Examining the appraisals without Miller's analysis, we conclude Schroeder's appraisal is the least reliable of the two based on our foregoing findings. Schroeder's

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of $825,000 for both January 1, 2017 and January 1, 2018. No testimony or other discussion of this appraisal took place at the hearing of this appeal. At the time of his inspection on August 24, 2018, Corey found the property to be of below average quality and average condition. We note his adjustments to the sales for quality were much smaller than Schroeder's. We also note the sales on which Corey relied are more dated than the sales used by either Schroeder or Erickson. Thus, we conclude they have little relevance for establishing the subject's January 1, 2021, market value. We do note that Corey, like Schroeder, reported gross living area of 4847 square feet.

inspection date predates his report date by more than one-and-one-half-years and he articulates no extraordinary assumptions for this fact. Further, his quality and condition opinions contradict Erickson's, who inspected the property closer to the date he appraised it and closer to the assessment date at-issue in this matter. Schroeder also appears to make significant adjustments for quality and condition with little support for them. His analysis is not reliable. Thus, if we were forced to choose one appraisal as more reliable, it would be Erickson's.

Nevertheless, we conclude neither are reliable indicators of value for the subject property as of the assessment date. Although the appraisals were developed using the sales comparison approach to value, they ultimately determine a value of the property a year prior to the assessment at issue. The sales used in the appraisals are even older, from 2018 and 2019. There is no evidence in the record developing a valuation as of January 1, 2021. Particularly in a market described as "on fire," sales in the year immediately preceding the assessment would be necessary to provide a reliable indication of market value, or at the very least time adjustments should be considered and/or made to older sales to reflect the current market. Therefore, we conclude the 2020 appraisals are not competent to shift the burden of proof to the Board of Review to uphold its valuation. Further, we conclude they are not persuasive indications of value for the subject property as of the assessment date.

Finally, Miller contends that his five equity comparables support his overassessment claim. (Ex. 221). Only Comparable 1 was a newer sale than those used in the appraisals. However, of all of Miller's equity comps, we find it is the least similar to the subject property. Like the others, it has a smaller site compared to the subject, but also is least similar in GLA and basement finish. Even if Miller's other equity comparables and their sales prices were considered, they are not adjusted to arrive at a value for his property. We note though, the sales price of Comparable 4 does not support Miller's claim his property is over assessed as that property sold for $875,000 in November 2019 and has a smaller site, less GLA, and less basement finish. It is currently assessed for $905,350. Similarly, Comparable 3 sold for $770,000 in October 2019. It has a significantly smaller site, is several years older than the subject, and has

substantially less GLA and basement finish. Given its inferiority to the subject, the subject's $800,000 assessment in 2021 seems extraordinarily reasonable.

With the evidence in the record we conclude Miller has failed to show the subject property's assessment is excessive or its correct value.

VI. Miller's Claim the Property is Not Assessable or Exempt

A. Law

Iowa Code section 441.37(1)(a)(1)(c) a taxpayer may claim the property is not assessable, is exempt from taxes, or is misclassified. Miller has chosen to waive his claim that the property is misclassified. However, he still contends a portion of the property is not assessable or should be exempt from taxation because of a "taking" of his property by the local government.

Miller bears the burden of proof. § 441.21(3); *Wendling Quarries, Inc. v. Property Assessment Appeal Bd*., 865 N.W.2d 635, 638-39 (Iowa Ct. App. 2015). Tax exemptions are to be construed narrowly, with doubts resolved in favor of taxation. *Stateline Coop. v. Iowa Property Assessment App. Bd*., 958 N.W.2d 807, 812 (Iowa 2021).

The property listed in Iowa Code section 427A.1 et. al. is to be assessed and taxed as real property unless it otherwise qualifies for an exemption. This includes land and water rights. Under Iowa law, "All outstanding interests are taxed as a whole and measured by the value of the fee." *Oberstein v. Adair Cnty. Bd. of Review*, 318 N.W.2d 817, 819 (Iowa 1982).

B. Findings and Conclusions

Miller testified that he believes the City of Bettendorf "took" 0.14 acres from his site in 2013 and paved it for a walking trail. He states he received no compensation from the City, and although he is still the owner of the land, it should not be considered assessable or should be exempt. (Motion filed 9/22/2022). He alleges McManus told

him it may be exempt or not assessable due to the fact the City owns the easement. Miller cited no provision under section 427.1, or otherwise, that would entitle him to an exemption on the property.

We note the plat map, which includes the subject property and was approved by the City in February 1980, clearly depicts a “25’ Bikeway Easement” at the rear of Miller’s property and on other properties in the subdivision. (Ex. J). The attached Surveyor’s Certificate also states, “A perpetual easement is hereby granted to the City of Bettendorf for the area shown on the plat as Bikeway Easem’t for cycling and other recreational purposes as are granted to the public by the City of Bettendorf.” (Ex. J). Further, Exhibit X contains a plat prepared for Chad Miller in September 2008 that also shows the bikeway easement. (Ex. X, p. 25). The evidence is clear the bikeway easement existed prior to Miller’s purchase of the property and was granted at the time of subdivision in 1980.

The aerial pictures show the bike path appears to be constructed on the property line and across the river/stream from the main part of Miller’s property. (Ex. K). Additionally, neither of Miller’s appraisals indicate the bike path is a detriment to the property or that it impacts the land value. (Exs. 144 & 145).

Again, Miller has not identified any exemption for which he believes his property qualifies. Our review of section 427.1 has also found none that would clearly apply.

Without any legal citations or support, Miller basically seems to be arguing he should not have to pay taxes on property for which the city has an easement, the city maintains, and that is made available for public use. Miller, however, is still the owner of the property. Unless exempted, all interests, including the easement, are to be assessed and measured by the value of the fee. This is true “even though the party named in the assessment owns less than the entire interest therein.” *Oberstein,* 318 N.W.2d at 819.

The easement is clearly noted on the plat and Miller’s own experts made no mention of it having a negative impact on the property’s value. In *Drost v. Mahaska County Board of Review*, owners of an agricultural property argued a wetlands easement sold to the federal government meant their land had no value. 2013 WL

5498143 (Iowa Ct. App. Oct. 2, 2013). In addition to discussing evidence from the Board of Review showing the property had value, the Iowa Court of Appeals also noted that "the Drosts did not counter this evidence." Similarly, Miller's own experts did not indicate any diminution to the property's value.

Without specifying any basis for granting an exemption and without any other supporting legal sources or evidence, we cannot find merit in Miller's argument.

VII. Miller's Error Claim

A. Law

Under Iowa Code section 441.37(1)(a)(1)(d), an aggrieved taxpayer or property owner may appeal their assessment on the basis "[t]hat there is an error in the assessment." An error may include, but is not limited to, listing errors or erroneous mathematical calculations." Iowa Admin. Code R. 701-102.20(4)(b)(4) (formerly rule 701-71.20(4)(b)(4)).

Questions of errors in the assessment can be challenging to evaluate, particularly when the record otherwise lacks evidence demonstrating the subject's assessment is excessive or inequitable as a result. *See Markwardt v. Cnty. Bd. of Review for Franklin Cnty*., 174 N.W.2d 396, 398-400 (Iowa 1970) (Iowa Supreme Court found that taxpayer who failed to prove assessment was excessive, and who did not claim the assessment was inequitable, had not demonstrated the assessor committed error).

The "ultimate issue . . . [is] whether the total values affixed by the assessment roll were excessive or inequitable." *Deere*, 78 N.W.2d at 530; *White*, 244 N.W.2d 765. Accordingly, while giving due consideration to Miller's arguments, our end focus when evaluating his claims are on the subject property's total value.

Finally, the law makes a presumption that a valuation fixed by the courts continues to be the value in subsequent years unless a change in value is shown. *Metro. Jacobson*, 524 N.W.2d. at 192 (internal citations omitted).

B. Findings

Miller alleges a host of errors exist in his assessment. At hearing, he referred to the 9/22/2022 Motion outlining his claims. He also referenced Exhibits 159, 160, 212, 223, and H; however all but 223 and H were excluded from the record based on an objection of relevancy.

Generally, the bulk of Miller's error contentions are centered around the subject property's land-designation listings and the listing history of the improvements on the property record card. (Appeal from Board of Review Action; 9/22/2022 Motion and attachments). Some of his arguments regarding error are also conflated with his misconduct claim.

1. Land Ratings

Miller claims there are errors in his assessment because he believes land quality ratings have been historically misapplied or misrepresented to the property. Miller refers to these land quality ratings as "classifications." So as to not confuse them with classification of real property under Iowa Administrative Code Rule 701-102.1, we refer to them as ratings.

The following chart summarizes how the site is described on the 2021 property record card. (Ex. A).

	Site Area (SF)	Acres	Qual/Land	Unit Price	Total	Topo & Other Adjustments	Adj Total
	43560.00	1.00	R-270	$100,000	$100,000		$100,000
	21780.00	0.5	R-220	$50,000	$25,000		$25,000
	192535.20	4.42	R-125	$10,000	$44,200	10%/10%	$35,800
	87120.00	2.00	Forest/Fruit	$10,000	$20,000	10%/20%	$14,400
	100188.00	2.3	Forest/Fruit	$10,000	$23,000	10%/20%	$16,560
Total	445183.20	10.22			$212,200		$191,760

Despite the foregoing, Miller's land has been valued at $200,000 since 2017 following the district court order.

Miller contends McManus is improperly assigning land quality ratings, and is disregarding changes to his land. He studied the CAMAVision Land Rate Table he was provided in discovery responses from previous litigation and believes his property consists of several acres of wasteland, timber, and water that is not being correctly identified and valued. (Ex. 212). Miller states that 7.2 acres of his land are now in the 100-year flood plain and should be valued at a reduced per acre rate. (9/22/21 Motion to Modify). He also believes his first and subsequent acre rates should be lowered, and the portion of his land used for a City trail potentially be removed from the assessment. Miller requests the following changes to his land assessment.

	Acres	Qual/Land	Unit Price	Total
	1.00	R-225	$60,000	$60,000
	1.00	R-125	$10,000	$10,000
	1.02	Timber	$4,000	$4,080
	6.06	Wasteland/ Flood	$2,000	$12,120
	1.00	Wasteland/ Flood	$1,000	$1,000
	0.14	City Trail	$0	$0
Total	10.22			$87,200

(Motion 9/22/2022 p. 3).

Alternatively, he arrives at other conclusions in the Attachment to the 9/22/2022 Motion. (Motion 9/22/2022 Attachment p. 2). We note the appraisals Miller submitted do not support his requested land value. In his cost approach, Schroeder estimated a land value for the subject of $208,000. (Ex. 144). Erickson estimated a site value of $142,300 for the subject. (Ex. 145).

Miller also questioned the exemption descriptions and valuations of the portion of his site exempted under the Slough Bill provided by Iowa Code section 427.1(22). He believes McManus is incorrectly applying the Forest and Fruit Tree exemptions to his property. Miller appears to argue the Slough Bill exemption is more arduous to obtain and requires annual renewals and for that reason should be differently designated in the

quality/valuation description. It is not clear what relief a change in the description would provide in Miller's land valuation. At present, he receives a $30,960 deduction from the taxable value of his land. Further, 2021 notes on the property record card note "Slough Bill 3/16/2021 – BH – City of Bettendorf approved slough bill for 2.00 acres forest cover and 2.30 acres streams & stream banks." (Ex. A, p. 14). Thus, we fail to see how the Assessor has ignored or incorrectly applied his exemption.

Further, he also points out there is at least an acre of running water on his property. Yet he has never received this designation on his property. Rather, the flood plain ground has been considered wasteland, and Miller believes this should be valued lower. Additionally, he thinks he should be listed rural rather than urban.

McManus testified the land quality ratings are merely descriptors assigned to different aspects of a site using the codes and values from the Assessor's database. He stated Miller's property also receives 10% and 20% topographical and other obsolescence adjustments on portions of the property to recognize low lying areas prone to flooding. McManus still considers land in a flood plain as wasteland. McManus explained the underlying data was essentially manipulated to arrive at a value as close to the $800,000 total value established by the District Court in the 2017 assessment (allocated $200,000 to land and $600,000 to improvements). He acknowledged the software system used to arrive at assessed values was overridden to accomplish this goal.

2. Dwelling Size & PRC Listings

Miller complained extensively about the listing of the subject property's size. Miller asserts the square footage has changed on the property record card and it is now over-reported. He believes the Assessor refuses to acknowledge the size as listed in his blueprints and by his independent appraisers. (Motion 9/22/2022 & Ex. 223). Miller says he's had no modifications to the property. He believes the Assessor's Office continues to make cumulative errors in its measurements by rounding up to the nearest whole foot when measuring his property and others.

McManus asserts someone from his office is the only person that has ever actually physically measured the subject property since its completion. He noted it is not his office's practice to measure to the nearest foot, rather they round to the nearest quarter-foot if possible.

The property is listed as having 4947 square feet of total living area (TLA) on the 2021 property record card. (Ex. A). The Schroeder Appraisal lists the square footage as 4847. (Ex. 144). The Erickson appraisal lists the square footage as 4902. (Ex. 145).

Although Miller alleges the Assessor's Office is in error, it is clear that his own appraisers do not even agree upon the size of the dwelling. Moreover, the difference in total is 100 square feet and, considering the total size of the property, is de minims. In our experience, it is not uncommon to see minor size discrepancies between appraisal professionals.

Relative to his outbuilding, Miller asserts the Beacon information sheet available on the Assessor's website presents misleading information. (Motion 9/22/2022 Attachment p. 13; Ex. 150). He believes it is an error that his barn is not broken out from his dwelling value when this value is separated on ag classified properties. He believes this makes it impossible for property owners to know their outbuildings' assessments or to compare to their neighbors to ensure equal treatment. He further states this report identifies his outbuilding as an agricultural building even though his property is classified residential. (9/22/22 Motion Attachment p. 13). Aside from being general complaints about the Assessor's Office and its website, we note none of the foregoing tends to relate to an error with regard to the subject's 2021 assessment and therefore we give them no further consideration. Miller also contends his two 2020 appraisers valued his outbuilding between $18,000 and $36,000, and his record card should be corrected to reflect this value.

Similar to his complaints about the outbuilding and publicly available online information, he also states the acreage values aren't viewable.

McManus testified the subject's outbuilding is indeed separately valued on the official Property Record Card maintained by the Assessor's Office. (Ex. A). He stated any taxpayer may request this information at any time from his office. He further stated

the designation as an agricultural building is merely a descriptor and cost tables from the Manual identify this type of structure as an agricultural building, whether or not sitting on a residentially classified parcel. McManus disputed Miller's asserted valuation of this outbuilding and contends it is properly valued using the costs of its various components. We note that although the property record card lists the outbuilding value at $57,690, it is part of the total dwelling/improvement value which has been overridden and lowered from $650,800 to $600,000 for the 2021 assessment.

Miller further nitpicks changes on the property record card from year to year. He notes the grade has changed, as has the condition and physical depreciation. He has tracked various iterations of his property record card dating back to pre-2008. He also questions the assigned effective age (EFA) of his property. The property record card reports an EFA of 9 years since 2017, but changed to 14 years for the 2021 assessment. Miller also appears to dispute the grade adjustment to his property combined with his condition rating of below normal, and the map factor adjustment applied to it. (Ex. 223).

As it relates to all of these listings, McManus testified that the computer system that would typically value individual properties has been overridden since the District Court decision of value for the subject at $800,000 (before exemptions) in 2017. He has attempted to make the existing data match as best he can to that total valuation, including reducing condition rating and increasing physical depreciation, and artificially continuing to value the property at $800,000. (Ex. A).

We note the change in effective age increased the physical depreciation on the improvements. The Assessor's effective age of 14 years is actually higher than used by the appraisals in the record, which each used an effective age of 13 years. Also, map factors and adjustments related to grade are meant to follow market trends. The listing of Miller's property in below-normal condition is likely one of the main drivers in determining market value. Frankly, with our history and knowledge of the subject and similar properties, we would question the continued assignment of such a low condition rating. Miller seeks to cherry pick calculations on his property record card, call them errors or the result of misconduct, and receive additional value concessions. He further

seeks to apply conclusions from a 2020 appraisal, that had not been deemed accurate, and apply yet more depreciation/obsolescence to arrive at an even lower valuation than his own appraisers. To remove the overrides and move closer to an accurate property record card would result in an increase in the assessment, at a minimum value of $842,560 using the Manual and assessor's software.

C. Conclusions

We find that as it relates to Miller's error complaints as a whole, he is merely substituting his own, self-interested judgement for that of the Assessor. Just because Miller believes the Assessor has erred does not make it so. As noted, there is a presumption the value adjudicated by PAAB or the courts continues forward unless a change is shown. The Assessor has clearly attempted to comply with the district court's adjudication of the 2017 assessment. *See Metro. Jacobson,* 524 N.W.2d. at 192. Moreover, as a general matter, Miller's complaints of error are not supported by any reliable evidence that his property is otherwise inequitably or excessively assessed.

As McManus testified, the land listings on the property record card for the 2021 assessment have no actual bearing on the property's valuation because he had to override the system to continue to value the property as determined by the previous district court order. Clearly, the Assessor's attempt to comply with an order of the court should not constitute an error.

Moreover, Miller's requested land value is not supported by the record. We have already rejected the notion that the City trail easement land should be given no value. His own appraisals do not support the land valuation he proposes. Despite having a substantially larger site than most other properties, a valuation of $87,000 for Miller's land would also set his land value significantly below all of his equity comparables. (Exs. 203, 221).

Additionally, some of the changes on Miller's property record card were the result of Miller's prior protest and appeals, and further investigation into the amenities of the property. Others are the result of the Assessor's best attempts at valuing the property in accordance with the value established by the district court and the necessity of over-

riding the system. Moreover, in some instances Miller's own opinions contradict those of his own experts – his land value in the 9/22/2022 Motion, for example, is much lower than either appraisal he offered. Further, Miller focuses on bits and pieces of the assessment to come up with a value rather than focusing on the value as whole, which he repeatedly argues is lower than either of the values at which his own appraisers concluded. (9/22/2022 Motion p. 3).

Ultimately we conclude Miller has failed to show any errors in the 2021 assessment that result in his property being inequitably assessed or over assessed. Rather, Miller has benefited from the Assessor's continued application of the 2017 court decision. If Miller's property listing were corrected and revalued based on the Manual and the system applied to all other properties in the county, it is quite possible his value would be higher than it is currently.

VIII. Miller's Misconduct Claim

A. Law

Under section 441.37(1)(a)(1)(e), a taxpayer may assert there is fraud or misconduct in the assessment, which shall be specifically stated.

"It is not necessary to show actual fraud. Constructive fraud is sufficient." *Chicago and North Western Railway Co. v. Prentis*, 161 N.W.2d 84, 97 (Iowa 1968) (citing *Pierce v. Green*, 294 N.W. 237, 255 (Iowa 1940)). Constructive fraud may include acts that have a tendency to deceive, mislead, or violate confidence, regardless of the actor's actual motive. *In Interest of C.K.*, 315 N.W.2d 37, 42 (Iowa 1982) (quoting *Curtis v. Armagast*, 138 N.W. 873, 878 6 (Iowa 1912)). See 37 C.J.S. Fraud § 5 (2020); BLACK'S LAW DICTIONARY Fraud (11th ed. 2019).

Misconduct is defined in section 441.9 and "includes but is not limited to knowingly engaging in assessment methods, practices, or conduct that contravene any applicable law, administrative rule, or order of any court or other government authority." §§ 441.9; 441.37(1)(a)(4).

If PAAB decides in favor of the property owner or aggrieved taxpayer and finds that there was fraud or misconduct in the assessment, the property owner's or aggrieved taxpayer's reasonable costs incurred in bringing the protest or appeal shall be paid from the assessment expense fund under section 441.16. § 441.37(1)(a)(2). For purposes of section 441.37, costs include but are not limited to legal fees, appraisal fees, and witness fees. § 441.37(1)(a)(3).

B. Findings & Conclusions

Miller's examples of misconduct in the assessment also bear similarity to his allegations of error. (9/222022 Motion and Attachment). Miller believes examining his assessment history from 2012 onward demonstrates a pattern of misconduct. However, Miller must show "fraud or misconduct in the assessment" as it pertains to the appealed property's assessment. § 441.37(1)(a)(1) ("Any property owner or aggrieved taxpayer who is dissatisfied *with the owner's or taxpayer's assessment may file a protest against such assessment*…"). It is not enough to show fraud or misconduct as a general matter or in prior assessment cycles; it must be shown that fraud or misconduct was committed when setting Miller's 2021 assessment.

In this respect, we find many of Miller's arguments fail to particularly relate to how his own 2021 assessment was set. He asserts the assessor has made mistakes over the years relative to his property's features and has not followed what he believes to be proper protocol in using his software inputs to arrive at his assessed value. What he ignores is how these actions have actually benefited him and resulted in a static assessment in an appreciating market. Moreover, on the whole, Miller cites little to no law to support his claims, instead relying on his interpretation of facts surrounding the assessment. Thus, we do not believe Miller can prevail on his misconduct claims.

We first address the few instances where Miller has attempted to cite any legal authority in support of this claim. Miller appears to believe the Assessor, without authority to do so, sets and modifies the land rate tables used in the jurisdiction and fails to publish them for the public. He also believes there are errors in these rates. Miller seems to believe this violates the requirement to follow the Manual (Iowa Code section

441.21(1)(h)) and constitutes misconduct. (Motion 9/22/2022 Attachment pp. 4-9). Again we note Miller's references in this document to some Exhibits that were excluded from the record. The Manual makes clear that it is within the purview of the Assessor to value land, and thus establish land rates, in his jurisdiction. IOWA DEP'T OF REV., 2020 IOWA REAL PROPERTY APPRAISAL MANUAL, Land Valuation *available at* https://tax.iowa.gov/sites/default/files/2020-01/Land%20Valuation.pdf.

The Manual recognizes "six acceptable methods of establishing unit land values" as well as units of comparison. Manual pp. 2-2, 2-5. See also Manual 1-3 ("Land values are influenced by the basic principles of value, and trends may vary considerably within a jurisdiction."). Clearly the Manual contemplates it is the Assessor's duty to investigate, analyze, and establish the methods for valuing land within his or her jurisdiction. We are unaware of, and Miller fails to point to, any law that requires an Assessor's office to publish all of its data online. Finally, as previously noted, the values listed on the property record card are all ultimately over-ridden to value Miller's property as set by the district court for the 2017 assessment. The Assessor following, and continuing to follow, an order of a court cannot be misconduct. Thus, we conclude this allegation fails to show any misconduct in setting Miller's 2021 assessment.

Miller also alleges misconduct in his assessment because he was not refunded taxes paid relating to his 2016 assessment appeal or paid interest thereon. (Motion 9/22/2022 Attachment p. 9). Miller cites Iowa Code section 421.60 in support of this allegation. As noted, we are not concerned with previous issues Miller believes occurred, but rather with the 2021 assessment. Further, Miller's reliance on section 421.60 regarding interest accruing from a refund is misplaced and inapplicable to a property tax payment. That section clearly states it relates to "[a]ll Iowa taxes which are administered by the department;" the "department" refers to the Iowa Department of Revenue. Property taxes are overseen and paid to the Counties where the property is located. This allegation has no merit.

Miller alleges McManus is incorrectly applying Forest and Fruit Tree exemption descriptions to Slough Bill exempted parcels which fall under Iowa Code section 427.1(22). (9/22/2022 Attachment p. 12). Miller fails to show, however, how this

distinction actually impacts his assessed value or the amount of his exemption. Nor do we interpret his claims or arguments as an assertion that his property should receive a Forest and Fruit Tree exemption.[14] As we previously noted, the property record card mentions Miller has been granted a Slough Bill exemption. Ultimately, he is entitled to and receives a partial exemption for a portion of his property.

Miller also believes "the directive on Agricultural classification is clearly an administrative rule." Miller waived any misclassification claim in this case. The directive is not an administrative rule but a policy letter issued by the Department. Administrative rules must be adopted in accordance with Iowa Code section 17A.4, which has not occurred with respect to the directive.

Miller alleges his outbuilding is improperly designated an agricultural dwelling on his property record card and believes this is contrary to the requirements of Iowa Administrative Code Rule 701-102.1(1) (formerly 701-71.1(1)). We find no issue with the descriptor of Miller's outbuilding on his property record card as an "agricultural building." PAAB is quite familiar with the Vanguard and CAMA systems' property record cards, and the descriptors and listings therein. It is common practice that an outbuilding such as Miller's may be identified and valued as an "Agricultural Building," regardless of the property assessment classification. Valuing all similar buildings as Agricultural Buildings, as McManus testified, creates equity and continuity in valuation. Then, the classification of the property as a whole – as residential or agricultural – dictates whether that building receives an additional deduction, which only occurs when the ag factor is applied to outbuildings on agriculturally classified parcels. *See* Iowa Admin. Code R. 701-102.(3)(2). Miller conflates land (whole property) classification under rule 701-102.1(1) with the description of items on his property. Based on the foregoing, we conclude Miller has not shown any misconduct in the assessment as it relates to listing and valuing the outbuilding.

Finally, Miller alleged a slew of other items that he believes constitute misconduct in his 9/11/2022 Motion. He cites no concrete legal authority for these claims. Thus, we

[14] Miller indicates he applied for the Forest and Fruit Tree exemption in 2020, but there is no indication he applied in 2021. (9/22/2022 Motion p. 12).

have no basis to consider whether his allegations can be considered "contraven[ing] any applicable law, administrative rule, or order of any court or other government authority." To the contrary, as we have repeatedly noted, the subject's assessment is set at the value determined by the district court in 2017. This appears to be an affirmative attempt to comply with a court order and belies any misconduct argument Miller raises.

Many claims Miller makes appear to be duplicative of his error claims – for example, Miller has undertaken an analysis of the various changes that have been made to his property's Record Card over the last decade and contends this demonstrates a pattern of misconduct. (Ex. 223). He believes overriding the assessment on the property record card and flagging for revaluation constitutes misconduct. He believes any changes that have been made to the assessment when he has not done any improvements to the property is misconduct. He believes nothing should be contained in private notes. Finally, he believes reviewing his assessment in the next year is also misconduct. Miller points to no law to support these contentions. Again, our attention must be focused on the assessment year in question, 2021. As with the valuation of his dwelling and improvements, Miller appears to be receiving the benefit of an assessed land value that has not increased in multiple years.

Miller also contends the Scott County Board of Review limits taxpayer protest hearings to 10 minutes, with no option for longer meetings, fails to record the hearings, and Board Member individual votes are not documented. Additionally, Miller noted at the time of hearing that two Board of Review members are now retired from their previous occupations. He suggests these issues bring into question the validity of the Board of Review actions. (Exs. 216 & 222).

McManus testified the Board of Review members do indeed mark the minute sheets with their vote totals for each ground of the protest, and each maintain their own notes of the hearing. McManus was unaware of the change in employment status of the Board Members.

We note jurisdiction over the qualifications, appointments, or removal of Board of Review members rests with the local conference board/board of supervisors, not the

assessor, or this Board. Even so, a retired person is not entirely foreclosed from being a member of the board of review under rule 701-102.20 (formerly 701-71.20). There is also no legal requirement as to the length of board of review hearings. We note with the increased number of protests to local boards of review, and on the heels of the issues surrounding the pandemic, most of if not all boards of review have adopted limitations on the time for individual hearings, particularly in residential cases. We conclude nothing related to these allegations constitute misconduct.

In summation, having carefully reviewed all of Miller's statements in his filings, particularly the 9/11/2022 and 9/22/2022 Motions, we categorically reject any claim Miller makes as it relates to misconduct in the assessment. Any changes to his assessment, or lack thereof, ultimately stem from Miller's repeated protests and appeals and an effort by the Assessor's Office to comply with rulings from PAAB and the courts. It is also apparent from the record that the Assessor's Office and the County has done its best to supply Miller with copious amounts of information relating to his assessment and assessment practices over the years.

IX. Conclusions & Order

Miller has raised a significant number of claims and arguments in support of his appeal. In evaluating these claims and arguments, one might lose sight of the bigger picture – this is a dispute about the property's total value in 2021. It is our suggestion that, moving forward, Miller focus on the forest, not the trees.

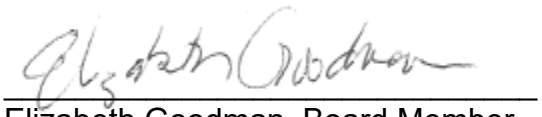
PAAB has endeavored to review all of the arguments and evidence presented, even if not specifically discussed herein. From our review, it is apparent that Miller's assessment has remained the same since the district court set a value in the 2017 assessment litigation. Although Miller has presented appraisals of his property in this appeal suggesting the assessment may be excessive, that evidence is dated and has noted flaws. In certain respects, that evidence actually directly contradicts other arguments Miller attempts to make; specifically regarding his land value. Conversely, there is other evidence in the record which suggests the subject's present assessment may be too low.

For the foregoing reasons, we conclude Miller has failed to prove his claims.

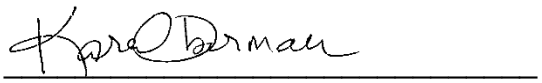
IT IS THEREFORE ORDERED that the Scott County Board of Review's action is affirmed.

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.

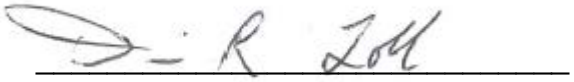
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Elizabeth Goodman, Board Member



Karen Oberman, Board Member



Dennis Loll, Board Member

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