

IN THE IOWA DISTRICT COURT FOR POTTAWATTAMIE COUNTY

POTTAWATTAMIE COUNTY
BOARD OF REVUE,

NO. CVCV104902

Petitioner,

VS

STATE OF IOWA PROPERTY
ASSESSMENT APPEAL BOARD,

ORDER

Respondent.

FILED
2012 JUN 15 AM 9:16
CLERK DISTRICT COURT
POTTAWATTAMIE COUNTY
IOWA

This matter comes before the Court on Pottawattamie County Board of Review's petition for judicial review of a final decision of the Property Assessment Appeal Board pursuant to Iowa Code Section 17A.19. Oral arguments were heard on June 14, 2012, in Pottawattamie County, Iowa. Leanne Gifford appeared on behalf of Petitioner, Pottawattamie County Board of Review. Jessica J. Braunschweig-Norris appeared on behalf of the Property Assessment Appeal Board (PAAB).

BACKGROUND FACTS AND PROCEDURAL HISTORY

This matter arises from a 2009 tax assessment protest filed by MMTD, LLC to the Pottawattamie County Board of Review regarding assessed value of a number of parcels commonly known as Jonesy's Taco House, located at 1117 16th Avenue, Council Bluffs, Pottawattamie County, Iowa. MMTD claimed the property was assessed for more than the value authorized by law and that there had been a downward change in value. The Board of Review denied the protest, finding the evidence did not prove the property was over-assessed or that there had been a change in value since it was last re-assessed. MMTD appealed the Board of Review decision to PAAB, again contending its property was over-assessed. On January 4, 2011, a contested case hearing was held before PAAB. Based upon the evidence presented, the Iowa Property Assessment Appeal Board ordered that the January 1, 2009, assessment be modified to \$260,000.00, representing \$30,000.00 in land value and \$230,000.00 improvement value as of that date. The Pottawattamie County Board of Review filed a timely notice of appeal and petition for judicial review.

Copy: L Gifford (to ATTY)

Jessica J Braunschweig-Norris.

STANDARD REVIEW

The District Court acts in an appellate capacity when reviewing petitions for judicial review of administrative agency decisions. In examining the actions of the agency, the Court's scope of review is at law and is limited to those issues considered in the record. The burden of demonstrating the validity of agency action is on the party asserting invalidity, and it is, thus, Pottawattamie County Board of Review's burden to demonstrate grounds for the reversal or for other relief from the PAAB's final decision.

When exercising judicial review of administrative decisions, a reviewing Court may affirm, reverse, modify or grant other appropriate relief of agency action. Iowa Code Section 17A.19 (10).

FINDINGS AND CONCLUSIONS

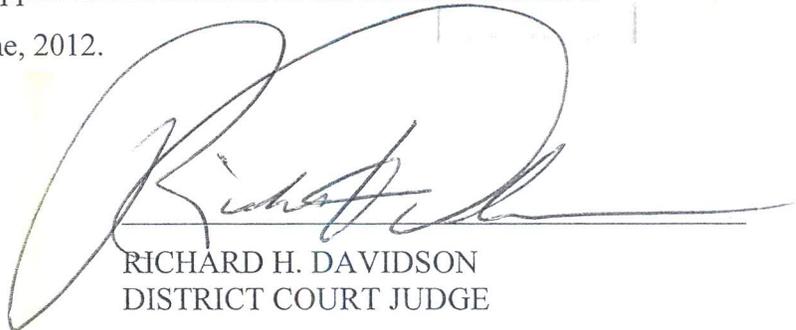
The Court finds that PAAB's order modifying the assessment is legally correct and supported by substantial evidence. The PAAB's determination in the MMTD case did not involve improper procedure or decision making process. The PAAB considered relevant and important matters in its decision making, and its decision in this case is rational, logical and a justifiable application of the law of the facts. Further, PAAB's decision is reasonable and not arbitrary, capricious or an abuse of discretion under Iowa Code Section 17A.19 (10)(n).

For all these reasons, the petition is denied. Further, in affirming the Property Assessment Appeal Board's decision, the Court adopts all the findings and conclusions as set forth in PAAB's final order of March 7, 2011.

DECISION

The Property Assessment Appeal Board decision in this matter is affirmed.

DATED this 14th day of June, 2012.



RICHARD H. DAVIDSON
DISTRICT COURT JUDGE