

IN THE IOWA DISTRICT COURT IN AND FOR SCOTT COUNTY

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<b>OLYMPIC STEEL IOWA, INC.,</b>	)	
	)	<b>Case No. CVCV296839</b>
<b>Petitioner,</b>	)	
	)	
v.	)	<b>RULING ON JUDICIAL</b>
	)	<b>REVIEW</b>
<b>PROPERTY ASSESSMENT APPEAL</b>	)	
<b>BOARD,</b>	)	
	)	
<b>Respondent.</b>	)	

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On April 27, 2018, the Court held a hearing on the above-captioned Petition for Judicial Review. Petitioner Olympic Steel Iowa, Inc. was represented by attorney Megan Merritt. Respondent Property Assessment Appeal Board (“PAAB”) was represented by attorney Bradley Hopkins. After considering the certified record and exhibits, as well as the parties’ oral and written arguments, the Court makes the following ruling.

**I. Background Facts and Prior Proceedings**

The following facts were presented to the Court. Olympic Steel owns 25.55 acres of land located at 6425 State Street, Bettendorf, Iowa; parcel number 8424052011. Located on the land is a 250,504 square-foot manufacturing facility. 194,292 square-feet of the building were constructed in 1998 and 54,912 square feet were added in 2007. A modular office was moved on property in 2012.

Olympic Steel’s 54,912 square-foot 2007 addition was completed through a tax increment financing agreement with the City of Bettendorf which stipulates that the addition will be assessed at a minimum valuation of \$2,869,000 until December 31, 2017.

The Scott County Assessor set Olympic Steel's 2016 tax assessment at \$9,600,000, allocating \$738,750 in land value and \$8,861,250 in improvement value. Olympic Steel protested this assessment to the Board of Review and claimed the property was assessed for more than the value authorized by law under Iowa Code § 441.37(1)(a)(1)(b). (2016). The Scott County Board of Review denied Olympic Steel's protest and Olympic Steel timely appealed to PAAB. On January 17, 2017, a contested hearing was held before PAAB. PAAB affirmed the Scott County assessment. Pursuant to Iowa Code § 441.37B, Olympic Steel filed this timely appeal.

## **II. Standard of Review**

Judicial review of an administrative agency's action is governed by the Iowa Code chapter 17A. Neal v Annett Holdings, Inc., 814 N.W.2d 512, 518 (Iowa 2012). The district court acts in an appellate capacity to correct errors of law on the part of the agency (PAAB). Mayer v IBP, Inc., 710 N.W.2d 213, 219 (Iowa 2006). The court may affirm an agency's decision, remand the case to the agency for further proceedings, or may modify the agency's decision. Iowa Code § 17A.19(10) (2016). The court may only modify the agency's decision if the agency has prejudiced the substantial rights of the petitioner and the agency's action meets one of the enumerated criteria contained in section 17A.19(10)(a) through (n). Burton v. Hilltop Care Ctr., 813 N.W.2d 250, 256 (Iowa 2012). Specifically, the Court may modify an agency's decision if the agency's fact-findings are not supported by substantial evidence when viewing the record as a whole. Iowa Code § 17A.19(10)(f).

If an agency's error is an error of fact, the Court must determine whether the agency's findings are supported by substantial evidence. Id. "Evidence is substantial when a reasonable person could accept it as adequate to reach the same findings. Conversely, evidence is not insubstantial merely because it would have supported contrary inferences, or because two

inconsistent conclusions could be drawn from it.” Ludtke v. Iowa Dept. of Transp., Motor Vehicle Div., 646 N.W.2d 62, 65 (Iowa 2002). Therefore, the ultimate question is not whether the evidence supports a different finding, but whether the evidence supports the finding that was made by the agency. Id.

“In short, the findings of an agency are binding on appeal unless a contrary result is demanded as a matter of law. This limited scope of factual review is warranted by the presumably greater expertise an agency has over matters within its purview.” Id. (citing CMC Real Estate Corp. v. Iowa Dep’t of Transp., 475 N.W.2d 166, 174 (Iowa 1991)).

### **III. Applicable Law and Analysis**

Central to this dispute is Iowa Code § 441.37(1)(a)(1)(b) (2015), which provides that a dissatisfied property owner may protest against an assessment on the grounds that “the property is assessed for more than the value authorized by law.” Olympic Steel claims PAAB erroneously upheld the 2015 tax assessment given by the Scott County Assessor, and this Court should overturn the PAAB’s decision because the ruling was arbitrary, capricious and made without regard to facts. *See* § 17A.19(10)(f)(1)(n) (2016).

There are two appraisals at issue in the record assessing the value of Olympic Steel’s property. The first appraisal was completed by Situs RERC for Olympic Steel, and the second was completed by Martin Corey for the Scott County Board of Review. RERC valued the property at \$8,240,000, while the “Corey” appraisal determined the value to be \$10,100,000. The parties today disagree on the validity of the opinions reflected in both assessments and their use in PAAB’s decision to affirm the final assessment of \$9,600,000 made by the Scott County Assessor.

In Iowa, the “actual value” of a property is the determined by its fair market value. Iowa Code § 441.21(1)(b)(1)(2016).

“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.

To determine the fair market value, Iowa law requires that the assessor must first use a comparable sales analysis method, unless this method would not readily produce fair market value. Iowa Code § 441.21(1), (2) (2016). “The property offered for comparison must be comparable and the sale of that property must be a ‘normal transaction.’” Soifer v. Floyd County Bd. Of Review, 759 N.W.2d 775, 782 (Iowa 2009). PAAB has the discretion to determine what properties are considered comparable. Id. at 783. Furthermore, it is the fact finder (PAAB) that is allowed to determine which evidence is reliable and which evidence is not. Heritage Cablevision v. Bd. of Review of City of Mason City, 457 N.W.2d 594, 598 (Iowa 1990).

PAAB determined that the Corey appraisal was valid under Iowa law, and the RERC appraisal was an unreliable assessment based upon the following facts:

First, in making the Corey appraisal, Mr. Corey took into account industrial property sales in the Quad Cities and Dewitt area from August 2012 to December 2013. Conversely, the RERC used properties located mostly outside of the local market, despite having access to comparable industrial property in the local market. Olympic Steel claimed the Corey appraisal was not an accurate representation of current property value, but both appraisals relied on property sales from 2013; RERC’s appraisal used some sales information from 2008.

Second, PAAB found that Mr. Corey made adjustments for property size, location, onsite building characteristics, quality, site improvements, and a Minimum Assessment Agreement

between Olympic Steel and the City of Bettendorf for \$2,869,000. In contrast, PAAB found that RERC was unaware of any Minimum Assessment Agreement when they completed the initial assessment. Though Olympic Steel had an expert witness from RERC testify to amend its assessment to factor in the agreement and offer any needed explanation, PAAB found that the assessment was completed without full knowledge of all the material facts, and could not be convinced that RERC had exercised due diligence in completing the assessment.

Lastly, PAAB found that after factoring in physical depreciation and a functional obsolescence adjustment, Mr. Martin came to the conclusion that the property should be valued at \$10,200,000. PAAB noted that the RERC appraisal lacked several adjustments without explanation, including the use of “comparable” properties that were sold subject to lease agreements and the difference in market location of the selected properties.

Taking into account all of the evidence provided by Mr. Martin, PAAB determined that the Corey assessment was reliable because it complied with Iowa statutes, was based upon local sales of similar property, included only one leased-fee sale, and was completed with full knowledge of the Minimum Assessment Agreement. Furthermore, PAAB held that the assessment opinion provided by RERC was unreliable because it was not completed with full knowledge of the Minimum Assessment Agreement and included sales comparisons for properties located outside of the market. Based upon the previous findings of fact, PAAB did not find the Scott County Assessor over-assessed Olympic Steel’s property at \$9,600,000; a value sitting directly between the two opinions given.

The Court cannot find that the PAAB’s decision was irrational, illogical, or wholly unjustifiable. There is no evidence in the record to suggest that PAAB did not consider all relevant factors in making its final decision. It is of no matter that this Court may find evidence

to suggest another ruling could have been made, but only that the ruling made was supported by substantial evidence. City of Hampton v. Iowa Civil Rights Comm'n, 554 N.W.2d 532, 536 (Iowa 1996). The Court will not reassess the evidence to make new conclusions. Christiansen v. Iowa Bd. Of Educ. Exam'r, 831 N.W.2d 179, 186 (Iowa 2013).

The Court finds that PAAB's decision was supported by substantial evidence and was not arbitrary, capricious, or made without regard to the facts. It is up to the discretion of PAAB to weigh the strengths and weaknesses of the evidence presented and make a ruling based upon that evidence.

**IT IS THEREFORE THE ORDER OF THE COURT** that the decision of PAAB is hereby **AFFIRMED**.



State of Iowa Courts

**Type:** OTHER ORDER

**Case Number** CVCV296839  
**Case Title** OLYMPIC STEEL, INC. V. PROPERTY ASSMT. APP. BOARD

So Ordered

A handwritten signature in black ink that reads "Mark J. Smith". The signature is written in a cursive style and is positioned above a horizontal line.

Mark J. Smith, District Court Judge,  
Seventh Judicial District of Iowa