

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

<b>ORDER</b>	
<b>Elizabeth &amp; Troy Severson</b> Petitioners-Appellants,	<b>Docket No. 09-99-0804</b> <b>Parcel No. 07-04-100-001</b>
<b>v.</b>	<b>Docket No. 09-99-0805</b> <b>Parcel No. 07-04-100-002</b>
<b>Wright County Board of Review,</b> Respondent-Appellee.	<b>Docket No. 09-99-0806</b> <b>Parcel No. 07-04-100-003</b>
	<b>Docket No. 09-99-0807</b> <b>Parcel No. 07-04-100-004</b>

On March 10, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants, Elizabeth and Troy Severson, were self-represented. The Wright County Board of Review designated Assistant County Attorney Eric Simonson as its legal representative. Both parties participated at the hearing and submitted evidence in support of their positions. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

*Findings of Fact*

Elizabeth and Troy Severson, (The Seversons) owners of property located in Belmond, Iowa, appeal from the Wright County Board of Review regarding their 2009 property assessments. The appeal includes four agriculturally classified parcels totaling 178.12 acres. Parcel number 07-04-100-001 (parcel 001) includes several agricultural buildings, a dwelling, and 49.1 acres of agricultural land. Parcel number 07-04-100-003 (parcel 003) also includes several agricultural buildings. The remaining

two parcels, parcel number 07-04-100-002 (parcel 002) and parcel number 07-04-100-004 (parcel 004) have no improvements and are used for agricultural purposes. Assessments for each are noted in the following table.

Docket #	Parcel #	Site Size	Original 2009 Assessment			
			Building	Dwelling	Land	Total
09-99-0804	07-04-100-001	39.5	\$18,700	\$202,900 <sup>1</sup>	\$57,600	\$279,200 <sup>1</sup>
09-99-0805	07-04-100-002	50.02	\$0	\$0	\$53,500	\$53,500
09-99-0806	07-04-100-003	39	\$3,400	\$0	\$46,800	\$50,200
09-99-0807	07-04-100-004	40	\$0	\$0	\$46,100	\$46,100
					Total	\$429,000

The Seversons separated their claims when they protested to the Board of Review. They filed a protest on parcel 001, asserting the dwelling was assessed for greater than market value. The Board of Review agreed, and reduced the dwelling value from \$202,900 to \$169,800; resulting in a reduction of the parcel's 2009 total assessed value from \$279,200 to \$246,100.

The Seversons filed two additional protests, each encompassing two of the four parcels, seeking relief specifically on the land value. The grounds asserted in the protests included 1) the assessment is not equitable as compared with assessment of other like property in the taxing district under Iowa Code section 441.37(1)(a); 2) there is an error in the assessment under section 441.37(1)(d), plainly stating that the error is "all parcels are over-assessed" or in essence that the property is assessed for more than the value authorized by law under sections 441.37(1)(b); and 3) there has been a change downward in value since the last assessment under sections 441.37(1) and 441.35(3). The Board of Review denied the protests.

To this Board, the Seversons reasserted their claims citing the same grounds. We note that in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006).

<sup>1</sup> The 2009 dwelling value was protested separately by the Seversons and was reduced by the Board of Review to \$169,800 resulting in a total value of \$246,100 for this parcel.

Accordingly, we do not consider downward change as a separate claim. Additionally, Severson's plain language to the Board of Review regarding an error is that the subject property is over-assessed. For these reasons, the grounds this Board will consider are inequity and over-assessment.

Elizabeth Severson testified at the hearing. Mrs. Severson provided maps and hand-drafted plot plans which outlined the subject parcels and the lay of the land, identifying how the land is used and why. Exhibit 2 is a sketch outlining all four of the parcels as a single contiguous unit and the use of that land. Severson's sketch identifies roughly thirty-one acres in farmed wetland program, fifteen acres of "no crop" (due to the lay of the land and conservation efforts), eighty-two acres of hay/corn rotation, and thirty-eight acres of pasture. The Seversons consider the remainder homestead.

The Seversons assert the current CSR rating is too high and does not appropriately take into consideration the less desirable land. Severson believes additional adjustments, beyond those taken into consideration within a CSR rating, need to be applied. Severson stated she believes the current CSR rating system provides exponential benefits to good land and applies a penalty for farming something less than good land. While we find this general belief to be true, it is an inherent reality of the system. But, we also note the assessor is not prohibited from, and is in fact permitted to, apply their own adjustments based upon factors which may not have been appropriately considered in the CSR rating system. IOWA DEP'T OF REVENUE, IOWA REAL PROPERTY APPRAISAL MANUAL 2-26 (2008).

Severson testified that she had spoken with the previous Wright County Assessor, Kathy Waddell, and requested her to perform an on-site inspection. This was never completed. The current Wright County Assessor, Denise Baker, testified neither she nor her office inspect agricultural ground as a practice. However, when a tax-payer directly requests the assessor to inspect, and when there is a pending protest or appeal, it seems imprudent not to do so.

The Board of Review supplied property record cards, net CSRs, and an aerial photo for each parcel in this appeal. It also made available a productivity worksheet for Wright County, provided by the Department of Revenue. The land distribution section of the productivity worksheet has a negative number for "other acreage." We are unclear as to how any category in this section could be negative.

Ms. Baker testified on behalf of the Board of Review and stated all the agriculturally classed property in Wright County was assessed based on productivity and net earning capacity, which is calculated from the Department of Revenue. It is the Board of Review's position there is no authority to further adjust agricultural land.

When asked if she believed she could make an adjustment to a parcel Baker responded, "Yes." However, she had already testified that she did not physically inspect ag-land to determine if factors existed that may require additional adjustments beyond those inherent in a CSR rating. Baker stated it would be unfair to adjust only the Severson's property, based either upon an inspection, viewing of photos, or other means of verification, and not providing similar contingencies to all properties in Wright County. On the other hand, she did acknowledge this is precisely what the Board of Review does when it grants relief only to residential, commercial, or industrial classed property owners who petition for relief.

The Seversons came to the hearing prepared and presented what they believed to be the correct value of the property. The Seversons took what they consider "prime" farm land and compared it to their parcels. They used this "prime" farm land, referred to by the Seversons as the Black Farm, to determine the percentage difference in the income production between "prime" and "less than prime" CSR ratings. They contend "prime" land is represented by an 80.02 CSR. They assert the CSR rating for their parcels does not adequately reflect the income production. They use an estimated cash rental for their site, which is based upon the 2008 Cash Rental Survey from Iowa State University Extension. They used this information to calculate what they believe the average CSR should be for each parcel.

For parcels 001 and 002, the Severson's maintain their calculations support a conclusion the CSR's should be reduced 56% off of "prime." The following formula is based upon their calculations.

$$80.02 \text{ "prime" CSR reduced by } 56\% = 44.57 \text{ "less than prime" CSR}$$

They argue parcels 001 and 002 should be reduced from their current average CSR of 62.65 to a CSR of 44.57, representing a 29% reduction.

They used the same formula for parcels 003 and 004, for a total of three recommendations for reductions in CSR. The request for parcel 003 is a reduction from 67.07 CSR to 37.55 CSR (a 44% reduction); and for parcel 004, the request for reduction is from 64.37 CSR to 31.59 CSR (a 51% reduction.)

While the Seversons put significant thought and research into their analysis, and the formulas are essentially based upon productivity and net earning capacity, they are somewhat flawed. For example, the formulas utilize the average CSR versus net CSR points, and the net earning capacity is based upon cash rental rather than landlord share. Additionally, the Severson's combined parcels 001 and 002 rather than valuing them separately.

Although the Severson's formulas are not entirely based upon the prescribed method of valuing agricultural land in Iowa, they have demonstrated their property has at least some areas that could be further adjusted. The Seversons have roughly thirty-one acres in farmed wetland programs (FWP), with the bulk of this land being situated in parcel 002 and a small portion located in parcel 003. The Seversons assert the value of parcels 001 and 002 should be reduced by 29% to reflect their less than prime CSR.

Because assessors and Boards of Review are allowed to apply adjustments based upon other factors, which may not have been appropriately considered within the CSR rating and because the vast majority of the FWP is located within parcel 002, we believe a reduction in the CSR, between 1% and 29% for the areas located in FWP is supported. We believe making no adjustment is unreasonable,

and conversely the upper end of this adjustment range, which was the reduction the Severson's sought, represents the extreme as well. From within this range, it is our opinion the mid-to-upper end of this range is reasonable. Although the Seversons used cash rent instead of landlord share, this Board believes an adjustment of 20% would more closely support the difference in methodology.

Based upon the evidence as a whole, it is our opinion the Severson's have provided sufficient evidence to support a reduction to portions parcels 002 and 003. The Appeal Board finds an adjustment should be applied to the roughly thirty-one acres of FWP to reflect a 20% reduction. The majority of the FWP acres are located in parcel 002 with the remaining few acres of FWP are located in parcel 003. The Appeal Board finds there is insufficient evidence to support the claim that parcels 001 and 004 are over-assessed.

#### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board 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). The Appeal Board 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(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board 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).

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 show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The Seversons did not provide evidence to support a claim of inequity.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Iowa Code section 441.21(1)(e) provides that agricultural real estate be assessed at its actual value by giving exclusive consideration to its productivity and net earning capacity. In determining the productivity and net earning capacity of agricultural real estate, the assessor is required to use available data from Iowa State University, the Iowa crop and livestock reporting service, the Department of Revenue, the *Iowa Real Property Appraisal Manual*, and to consider the results of a modern soil survey, if completed. Iowa Code § 441.21(1)(f); Iowa Administrative Code r. 701-71.3. The Seversons' parcels all carry an agricultural classification, which requires them to be valued using the agricultural formula method. *See* Iowa Admin. Code r. 701-71.3, 701-71.12.

Even though valuing agricultural land requires use of the formula, assessors and boards of review are allowed to apply adjustments based upon other factors which may not have been appropriately considered with the CSR rating. IOWA DEP'T OF REVENUE, IOWA REAL PROPERTY APPRAISAL MANUAL 2-26 (2008) Evidence shows that two of Severson's four parcels have significant acres that warrant additional adjustment.

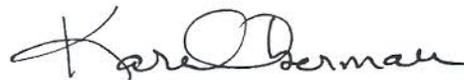
Because we find parcels 002 and 003 are over-assessed, we must set a new value, based on the fact that no adjustments were made for the FWP areas. However, we do not have sufficient information to identify, the exact acres in each of the two affected parcels. We, therefore, remand this

issue to the Wright County Board of Review to modify the FWP acres in parcels 002 and 003 by reducing the value 20%. See Iowa Code § 421.1A(4)(c) (permitting this Board to “grant other relief . . . orders, or directives that the board deems necessary or appropriate in the processes of disposing of a matter”).

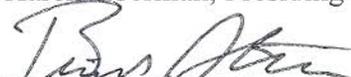
We find insufficient evidence has been presented to support the claim that parcels 001 and 004 are assessed at greater than their productivity and net earning capacity. We, therefore, affirm the assessments of parcels 001 and 004, as determined by the Wright County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS the January 1, 2009, assessments of Elizabeth and Troy Severson’s agriculturally classified parcels 07-04-100-001 and 07-04-100-004 are affirmed. Additionally, the Appeal Board orders the assessments of Elizabeth and Troy Severson’s agriculturally classified parcels 07-04-100-002 and 07-04-100-003 shall be modified by the Board of Review to represent a 20% reduction in value on the total thirty-one FWP acres found within these parcels. The Board of Review shall send this modified value to this Board and the Wright County Auditor within thirty days of the date of this order. Upon receipt of the value from the Board of Review, all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

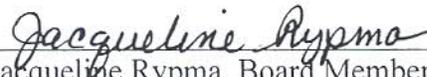
Dated this 27 day of April, 2010



Karen Oberman, Presiding Officer



Richard Stradley, Board Member



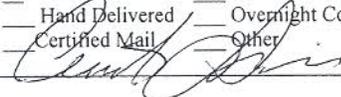
Jacqueline Rypma, Board Member

Cc:

Elizabeth & Troy Severson  
1610 Obrien Avenue  
Belmond, Iowa 50421  
APPELLANT

Eric Simonson  
Wright County Attorney  
331 E Main Street  
PO Box 247  
Belmond, Iowa 50421  
ATTORNEY FOR APPELLEE

Betty Ellis  
Wright County Auditor  
115 North Main Street  
Clarion, IA 50525  
AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>April 27</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u></u>