

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Joseph Michael Kamp,
Petitioner,

v.

Black Hawk County Board of Review,
Respondent.

ORDER

Docket No. 12-07-0652
Parcel No. 8812-10-251-008

On December 24, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Petitioner Joseph Michael Kamp requested his appeal be considered without hearing and was self-represented. Assistant County Attorney David Mason is legal representative for the Board of Review. The Appeal Board having reviewed the entire record, and being fully advised, finds:

Findings of Fact

Joseph Michael Kamp, owner of a property located at 3411 Doris Lane, Waterloo, Iowa, appeals from the Board of Review regarding his 2012 property assessment. The subject site contains 5.46 acres with the following improvements: a one-story, manufactured home built in 1991 with 1334 square-feet of living area; and 344 square-feet, wood deck. The dwelling does not have a basement or garage. A 320 square-foot, open-sided, pole barn; and a 792 square-foot steel utility building with an overhead door also improve the property.

The 2012 assessed valuation is \$72,950, allocated \$44,000 to the land and \$28,950 to the improvements. The property classification was changed from agricultural to residential in the 2012 assessment.

Kamp protested to the Board of Review claiming that the subject property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2); and that the subject property is not assessable, is exempt from taxes or is misclassified under section 441.37(1)(a)(3). He sought a land value of \$5190. The Board of Review denied the protest, stating that “insufficient evidence [was] presented to prove a downward change in value since [the] last assessment.” We note that Kamp neither claimed this ground on his petition to the Board of Review nor is denial of Kamp’s petition based on the stated rationale appropriate in this appeal. Although 2012 would typically be an interim assessment year, the assessor revalued and changed the 2012 value of Kamp’s property from what it was the previous year. As a result, all grounds of appeal were available to Kamp. *Eagle Food Centers, Inc. v. Bd. of Review of City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). It is unclear whether the Board of Review even considered Kamp’s appeal on the ground of misclassification.

Kamp then appealed to this Board, reasserting the single claim that the subject property is misclassified. He seeks the 2011 agricultural classification be restored and the land value revert to \$5190.¹ The total 2011 assessment based on an agricultural classification was \$40,280, allocated \$5190 to land value, \$32,050 to dwelling value, and \$3040 to agricultural building value.

Kamp reports the land has been used for pasture for the last twelve years and in 2012 it was planted in soybeans. The certified record includes an Application for Agricultural Classification of Land completed by Kamp in April 2012. According to the application, four acres of land have been used for cow and horse grazing land for the past twelve years. Kamp indicated he does not lease the land. It yields \$2500 worth of hay each year to feed his livestock.

No evidence was submitted to explain why the assessor denied Kamp’s Application for Agricultural Classification of Land. No aerial photographs were in the record. The Board of Review did not provide any indication of the reason for the classification change. In addition, nothing was

¹ His Notice of Appeal & Petition states, “I would like to see my land value go back to \$5100.” When asked what he contends the correct value of his land is, however, he wrote “\$5190.”

offered by the Board of Review to challenge or refute Kamp's evidence. There is no indication the assessor's office physically inspected the subject site, which would seem essential in a re-classification case such as this.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. 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, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). 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 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 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).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *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).

Kamp asserts that his property is misclassified and that its actual classification should be agricultural. The Iowa Department of Revenue has promulgated rules for the classification and

valuation of real estate. *See* Iowa Admin. Code Ch. 701-71.1. Classifications are based on the best judgment of the assessor exercised following the guidelines set out in the rule. *Id.* Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. *Id.* r. 701-71.1(2). “Under administrative regulations adopted by the . . . Department . . . the determination of whether a particular property is ‘agricultural’ or [residential] is to be decided on the basis of its primary use.” *Sevde v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989). There can be only one classification per property. Iowa Admin. r. 701-71.1(1).

Iowa Administrative rule 701-71.1(3), related to agricultural real estate, was amended in 2002 and states:

Agricultural real estate shall include all tracts of land and the improvements and structures located on them which are in good faith *used primarily for agricultural purposes* except buildings which are primarily used or intended for human habitation as defined in subrule 71.1(4). Land and the nonresidential improvements and structures located on it shall be considered to be used primarily for agricultural purposes if its *principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit . . .*

Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in this subrule.

Although Kamp has a small acreage, Iowa law does not contain a minimum acreage requirement for agricultural classification. § 441.21; Iowa Administrative rule 701-71.1(3). Kamp indicates he uses the land to graze livestock and that doing so saves feed costs he would otherwise incur. Based on this information, the land may qualify for agricultural classification as it is used for the rearing, feeding, and management of livestock. However, the record is scant on detailed evidence regarding Kamp’s actual use of the land; such as the extent of his livestock operation and sales, information to show intent to profit, and whether the subject parcel was used in conjunction with other agricultural lands. His use of the land for soybean production in 2012 may also indicate agricultural classification is appropriate for 2013, if Kamp can provide sufficient documentation establishing the

primary use and intended profit. Kamp provided no evidence beyond his own assertions on his Notice of Appeal & Petition form and his Application for Agricultural Classification of Land that his land is, in fact, utilized for agricultural purposes consistent with rule 71.1(3) as of January 1, 2012.

Here, the burden of proof was on Kamp to show that the subject property was misclassified by a preponderance of the evidence and he failed to meet this burden. § 441.21(3). Although there is some indication of the property's agricultural use, this Board finds the evidence is insufficient to prove the subject parcel does fully meet the criteria for agricultural classification as of January 1, 2012. Based upon the foregoing, the Appeal Board can only conclude the correct classification of the subject parcel, as of January 1, 2012, is residential. We recommend Kamp provide the assessor's office with adequate documentation of his 2012 use of the land, as suggested above, and request physical inspection to determine whether an agricultural classification is appropriate for 2013.

THE APPEAL BOARD ORDERS that the January 1, 2012, assessment of Kamp's property located at 3411 Doris Lane, Waterloo, Iowa, is affirmed.

Dated this 23 day of January, 2013.

Jaqueline Rypma
Jaqueline Rypma, Presiding Officer

Stewart Iverson
Stewart Iverson, Board Chair

Karen Oberman
Karen Oberman, Board Member

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| 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>1-23</u> , 201 <u>3</u> | |
| By: | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX |
| | <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Overnight Courier |
| | <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other |
| Signature: | <u>John Campbell</u> |