

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

<p><b>William J. Waugh,</b> Appellant,</p> <p>v.</p> <p><b>Jefferson County Board of Review,</b> Appellee.</p>	<p><b>ORDER</b></p> <p><b>Docket No. 13-51-0363</b> <b>Parcel No. 09-23-400-008</b></p> <p><b>Docket No. 13-51-0364</b> <b>Parcel No. 09-25-100-004</b></p> <p><b>Docket No. 13-51-0365</b> <b>Parcel No. 09-24-300-001</b></p> <p><b>Docket No. 13-51-0366</b> <b>Parcel No. 09-24-300-003</b></p>
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On May 23, 2014, the above-captioned appeals came on for hearing before the Iowa Property Assessment Appeal Board (PAAB). The appeals were conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant William J. Waugh was self-represented. Attorney Brett Ryan of Watson & Ryan, PLC in Council Bluffs, Iowa represented the Jefferson County Board of Review. The Appeal Board now, having heard the testimony, examined the entire record, and being fully advised, finds:

***Findings of Fact***

William J. Waugh is the owner of an agriculturally classified property located in Libertyville, Iowa. The subject property includes four parcels of agricultural realty. According to the 2013 Assessment Roll, the total site consists of 128.51 acres. The total assessed land value of the four parcels is \$201,100. The Corn Suitability Rating (CSR) for each parcel is listed on its property record card. (Exhibit C). A uniform \$27.50 county-wide value per CSR point was applied to the point total to arrive at the assessed value. This information is summarized below.

Docket Number	Parcel Number	Acres	CSR Points	Assessed Land Value (rounded)	Waugh's Land Value at PAAB
13-51-0363	09-23-400-008	11.17	780.670	\$ 21,500	\$ 9,500
13-51-0364	09-25-100-004	40.00	2350.040	\$ 64,600	\$ 34,000
13-51-0365	09-24-300-001	37.84	1,738.020	\$ 47,800	\$ 32,164
13-51-0366	09-24-300-003	39.50	2,444.250	\$ 67,200	\$ 33,575
<b>Total</b>		<b>128.51</b>		<b>\$201,100</b>	<b>\$109,239</b>

Waugh protested to the Board of Review on the ground that the property assessments were not equitable compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a)(1). He did not specify the value he sought for each parcel. The Board of Review denied the protests. It also determined Waugh's property did not qualify for the Forest Reserve program, but recommended he consider pasture rental.

Waugh then appealed to this Board reasserting his claims. He asserts the total assessed land value should be \$109,239, as allocated in the chart above.

Waugh testified he believes there is a problem with the use of the CSR method to value his property. Waugh reported his land is non-tillable pasture and timber, some of which is prone to flooding. He believes the productivity and earning capacity of tillable land is superior to his non-tillable land. He asserts the CSR values should only apply to tillable land and using CSR values for his non-tillable land artificially inflated the land values.

Waugh identified five local parcels of timber and pasture he believed were comparable to his land to support his claim of inequity. The parcels vary in size from 10 to 40 acres. Waugh calculated the assessed value per acre of each parcel without consideration of the CSR value of each parcel. The values he calculated for the comparable parcels ranged from \$673 to \$857 per acre. According to his calculations, his assessments range from \$1263 to \$1925 per acre. Waugh's method did not factor in the CSR ratings of the soil for the compared parcels or his parcels. Thus, his valuation method was

fundamentally different from the method Iowa law requires the Assessor use in setting the assessment of agricultural property.

Assessor Sheri Blough-Neff testified she used a method to value agricultural land prescribed by administrative rules. This method uses the CSR ratings and the productivity and earning capacity of the land based on a five-year average. Blough-Neff explained her office changed from using the 1941 soil survey to using the 1998 survey and eliminated all existing land adjustments in 2013. She now also applies a strict CSR calculation, without adjustments. The combination of these two changes resulted in the increase in Waugh's assessments.

The property record cards (Exhibit D) for the comparable properties identified by Waugh show the same CSR method, and \$27.50 value per CSR point, were used to value these properties. We note, although the Vanous property has an assessed value of \$26,200, the property is in the Forest Reserve program and exempt from taxation.

Owner	Parcel Number	Acres	Net CSR Points	Assessed Land Value
Reed	09-25-200-002	37.50	932.696	\$ 25,600
Channel	09-25-200-004	40.00	1,776.158	\$ 48,900
Fields	10-30-300-005	9.500	317.836	\$ 8,700
Vanous	10-31-100-004	39.50	952.725	\$ 26,200

Blough-Neff has not yet implemented the recently amended administrative rule requiring agricultural land be divided into two categories, crop and non-crop. Iowa Administrative Code R. 701-71.3(1). Under this method, non-crop land value will be adjusted to reflect its reduced productivity. Use of this procedure is required state-wide beginning in 2017, although some assessing jurisdictions have already implemented it. Property owners can apply for this adjustment beginning in 2014. Since all of Waugh's appealed parcels have been characterized as non-crop land, this rule will likely apply and may result in reduced assessments. However, since the 2013 assessment of Waugh's property

used the current CSR method in a manner consistent with the valuation of all other agricultural land in the county, his equity argument fails.

### ***Conclusion 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).

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 Admin. Code r. 701-71.3. The Department of Revenue uses agricultural income and expense data to determine the five-year rolling average, in this case 2007 to 2011, which is used to establish the productivity and earning capacity of agricultural property. Iowa Admin. Code r. 701-71.12. Waugh's parcels all carry an agricultural classification,

which requires that they are valued using the set formula. *See* Iowa Admin. Code rule 701-71.3, 701-71.12.

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. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.*

The application of the *Maxwell* test to agricultural land is tenuous as agricultural land is already valued at less than its actual market value. Waugh compared the assessed values of nearby pasture and timberland to his property to compare the per-acre values. He did not produce evidence to demonstrate inequity under the *Maxwell* test.

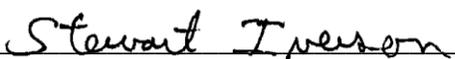
It appears to this Board that Waugh's primary equity argument falls under the *Eagle Food* test. He claimed the CSR method yielded higher assessments of his less-productive, non-cropland parcels than to similar, neighboring non-cropland parcels on a per-acre basis. Because the Assessor used the CSR method uniformly throughout the county, Waugh did not prove by a preponderance of the evidence that his property is inequitably assessed under the *Eagle Food* test. We note a recent amendment to Iowa Administrative Code Rule 701-71.3(1) requires the Assessor's Office to determine which portion of the property qualifies as non-cropland and make adjustments to non-cropland in future years. While full implementation of the amended rule is not required until 2017, taxpayers may apply for adjustments starting with the 2014 assessment. R. 701-71.3(1)(b), (c). We suggest Waugh consult with the Assessor regarding this amendment if he has not already done so.

In conclusion, we believe Blough-Neff is implementing a uniform procedure, which takes into consideration the relative productivity of Waugh's land via the CSR values under the administrative rules in effect at the time of the assessment. When the new rules are implemented they may allow for an adjustment to Waugh's non-cropland assessments. Under the current methodology, however, we find Waugh failed to prove his property is inequitably assessed.

THE APPEAL BOARD ORDERS the assessment of the William J. Waugh's property located in Libertyville, Iowa, as set by the Jefferson County Board of Review, is affirmed.

Dated this 11th day of June, 2014.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

Copies to:

William J. Waugh  
2602 Fir Avenue  
Libertyville, IA 52567  
APPELLANT

Brett Ryan  
Watson & Ryan, PLC  
535 West Broadway, Suite 200  
PO Box 646  
Council Bluffs, IA 51502  
ATTORNEY FOR APPELLEE