

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Donald Rex Young,
Appellant,

v.

Warren County Board of Review,
Appellee.

ORDER

Docket No. 13-91-0102
Parcel No. 23-000-14-0480

On January 6, 2014, 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) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Donald Rex Young was self-represented. Assistant County Attorney Karla Fultz represents the Warren County Board of Review. County Assessor Brian Arnold appeared on behalf of the Board of Review at hearing. The Appeal Board, having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Donald Rex Young is the owner of residential property located at 21489 Highway 69, Indianola, Iowa. Young's property is a mobile home built in 1998 with 1184 square feet of living area. There is also a 440 square-foot detached garage built in 1960. Additionally, there are five outbuilding structures including multiple sheds and a dog run that were built from 1950 to 1971. The total depreciated value for all of the buildings combined is \$700. The site is 9.00 acres. The January 1, 2013, assessed value was \$100,200, allocated as \$58,000 in land value and \$42,200 in dwelling value.

Young protested to the Board of Review claiming the property was not assessable, is exempt from taxes, or is misclassified under Iowa Code section 441.37(1)(a)(3). Young believes the correct

classification is agricultural. The Board of Review denied the petition. Young then appealed to this Board reasserting his claim.

At hearing, Young explained he has seeded his property for hay in the past and housed horses. In addition, he still grows and bales hay for the feeding of horses and some calves and pigs that his grandchildren show for 4-H projects. Young provided a receipt from Heartland Coop showing his purchase of seed for hay. He also supplied a Farm Service Agency (FSA) map indicating the portions of the property used for his mixed hay/grass crop.

While Young does not “make money,” he asserts he saves money by raising/baling the hay for the use of animals of his extended family. Further, he barter the cutting/baling of the hay. He gives half of it to the person who cuts and bales the hay, and he keeps half for his use. He considers this typical in the agricultural community. Regardless of the typicality of a bartering system in the rural community, Young’s agricultural use is limited and he is not raising crops with a clear intent to profit. Ultimately, we find Young’s agricultural activity is limited primarily to his personal use and lacks any subjective or objective intent to generate income, which is required to be classified agricultural

Arnold acknowledged the subject parcel has about 5.2 acres in hay production. He referenced the Farm Service Agency (FSA) spreadsheet titled “Report of Commodities Farm and Tract Detail Listing.” (Exhibit 2). He points out there are four field areas listed on this spreadsheet classified as mixed grass/hay. Two of the field areas are located on the north (subject) parcel and two are located on the adjoining south parcel. There is also a column on the spreadsheet that lists whether the field area is cropland. Two of the four fields listed, for a total of 5.2 acres, are cropland. Arnold testified the subject site has the two portions identified as cropland. Despite this, Arnold explained his office must first determine the use of a property for classification purposes and it has developed criteria for doing so. During this process, the Assessor’s office determined the primary use of the subject parcel was residential.

Conclusion 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. 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, Young has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, Young 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).

The Iowa Department of Revenue has promulgated rules for the classification and valuation of real estate. *See* IOWA ADMIN. CODE 701-71.1. Classifications are based on the best judgment of the assessor following the guidelines set out in the rule. r. 701-71.1(1). Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. r. 701-71.1(2). Property is to be classified “according to its present use and not according to any highest and best use.” r. 701-71.1(1). “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 Ames*, 434 N.W.2d 878, 880 (Iowa 1989); *Polk Cnty. Bd. of Review v. Property Assessment Appeal Bd.*, No. 09-1542, 2010 WL 3155273 (Iowa App. Ct. Aug. 11, 2010) (noting that “a dwelling may exist on both agricultural and residential real estate”). There can be only one classification per property. r. 701-71.1(1).

By administrative rule, agricultural property

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*. r. 701-71.1(3).

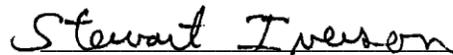
Young asserts the subject site has 5.2 acres of grass/hay mix. He exchanges half of the baled product for the labor involved with the cutting and baling. He gives the remainder to his grandchildren to feed their 4-H animals. Young's testimony indicated he did not make money from raising hay and he did not suggest he ever intended to make a profit. While this activity may result in cost savings for Young, a desire to reduce expenses is not synonymous with an intent to profit. Young's agricultural use of the property is limited and appears to be an incidental use, not the primary use, of the property. For these reasons, we find the subject property is properly classified as residential real estate.

THE APPEAL BOARD ORDERS the 2013 assessment of Young's property located at 21489 Highway 69, Indianola, Iowa, set by the Warren County Board of Review, is affirmed.

Dated this 11th day of February, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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