

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2016-048-00259A

Parcel Nos. 020202020, 020202031, 020202033, 020202040, 020202041

John Roger Tandy, Residuary Trust / Corrine L. Tandy,

Appellant,

vs.

Iowa County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on September 14, 2016. Attorney William K. Shafer represented the John Roger Tandy Residuary Trust (the Trust). Iowa County Attorney Lewis C. McMeen represented the Board of Review.

The Trust owns a farm in Iowa County made up of six contiguous parcels of land; five are the subject of this appeal (Parcel Nos. 020202020, 020202031, 020202033, 020202040 & 020202041). These five parcels total 178.95 acres, with 163.09 acres designated as cropland and 15.86 acres as non-cropland. (Ex. A). The English River runs along the farm's south/southwest border. (Ex. 1).

The January 1, 2016 assessed value for each parcel is set forth in the table below.

Parcel	Assessed Value
020202020	\$96,910
020202033	\$96,660
020202031	\$52,120
020202040	\$104,320
020202041	\$99,670

The total assessment for the five parcels was set at \$449,680; an increase of \$134,470 or 42.66% over the 2015 assessed value. (BOR Certification).

The Trust petitioned the Board of Review claiming an error in the assessment under Iowa Code section 441.37(1)(a)(1)(d). The Board of Review denied the petition. The Trust then appealed to PAAB reasserting its claim of error, stating yields have declined due to repeated flooding by the English River.

Standard of Review and Applicable Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB 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). PAAB considers only those grounds presented to or considered by the Board of Review, but 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(1)(a-b). New or additional evidence may be introduced, and PAAB 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). 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).

The subject property is classified as agricultural property. Iowa Code section 441.21(1)(e) requires agricultural property be assessed by giving exclusive consideration to its productivity and net earning capacity. In making this determination, 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. § 441.21(1)(f); Iowa Admin. Code r. 701-71.3.

One part of the productivity and net earning capacity formula includes corn suitability ratings (CSR). CSRs measure a given soil's productivity and have been used to provide an equitable basis for farmland assessment. MANUAL, 2-25 (2008). The CSR

considers the soil type, particle size, water holding capacity, field condition, soil depth and rate of erosion. *Id.* The CSR2 formula, implemented by the Iowa County Assessor for the 2016 assessment, requires the assessor to determine the portion of land that qualifies as non-cropland and make adjustments. R. 701-71.3(1)(b). Non-crop land is adjusted if it has a CSR that is greater than 50% of the average CSR for cropland in the county. *Id.* Only in unusual or limited, unique circumstances may land require an additional adjustment. MANUAL, 2-27.

Findings of Fact

The subject property consists of 179 acres, of which 15.86 acres are designated as non-cropland. (Ex. A). The table below summarizes each of the five parcels at issue, with an identifying letter for ease of reference.

Ref	Parcel #	Total Acres	Crop Acres	Non-Crop Acres	2015 Assessed Value	2016 Assessed Value
A	20202020	38.95	37.55	1.40	\$ 87,950	\$ 96,910
B	20202031	20.00	15.95	4.05	\$ 27,010	\$ 52,120
C	20202033	40.00	32.03	7.97	\$ 58,320	\$ 96,660
D	20202040	40.00	37.72	2.28	\$ 69,030	\$ 104,320
E	20202041	40.00	39.84	0.16	\$ 72,900	\$ 99,670
Totals		178.95	163.09	15.86	\$315,210	\$ 449,680

The Trust argues an error occurred when the subject property's 2016 assessed value was increased by 42.66% over its 2015 assessment. It insists an adjustment is needed because of the subject's declining productivity and earning capacity. It contends the five parcels at issue have been subject to increasing incidents of chronic flooding, resulting in a steady decrease in yields over the past decade regardless of the superior quality of its soils. The Trust argues increased river volumes following heavy rains upstream cause the river to cut across its farm fields rather than following the meandering S-curve located along the farm's southwest corner. (Exs. 1-2).

The Trust provided documentation of the actual production history for its 2000 through 2015 corn and soybean production, arguing it demonstrates the land's productivity is declining. (Ex. 4 & Ex. 5). In 2015, soybeans were harvested off 122.9 acres, or 75.36% of the total cropland, with a yield of only 18 bushels per acre. The 9-

year average soybean yield was 38.56 bushels per acre. Corn was harvested off the remaining 75 acres at a yield of 160 bushels per acre.

Douglas Boland, the farm tenant, testified in behalf of the Trust. Boland noted he has been farming this land since 1989, testifying that flooding is becoming more frequent with multiple floods occurring in a single growing season. (Ex. 3). He pointed to 2015 as being particularly impactful, noting he lost 50-foot of riverbank back into his field for a distance of 200 to 300 feet along the river. He also discovered eight rows of soybeans were missing when he went to harvest them.

Boland testified that flooding adversely affects all five parcels of land, making it difficult for him to get his farm equipment through the fields. Boland spoke about the photos that had been taken at ground level, which make the fields look more akin to a lake than a farm while it is flooded. (Exs. 6-7). Additional photos were taken from a drone fly-over after the 2015 flood, demonstrating large wet areas scatter-shot throughout the farm after the river had subsided back into its banks. (Exs. 8-10). However, there was no indication how long of period of time had passed from the river leaving its banks and the subsequent drone photographs.

Linda Griggs, Iowa County Assessor, testified on behalf of the Board of Review. She noted her office implemented the CSR2 starting with the 2016 assessments. She explained the old CSR system allowed county assessors to make adjustments for such things as flooding. She testified that now, however, these adjustments are already built into the formula and the county assessors may no longer make adjustments in this regard. The Board of Review submitted a list of Iowa County CSR Rate Changes, and this list corresponds to the CSRs on the Trust's property. The highlighted CSRs indicate flooding is already taken into consideration in the soils found on the Trust's property and support Griggs' testimony. (Ex. C).

Griggs further noted county assessors are now tasked with identifying and designating agricultural land as crop and non-cropland. According to the property record cards, there is a total of 15.86 acres of non-crop land on the subject parcels. Based on the aerial maps, the majority of this land appears to be located along the river. (Exs. 1 & 2).

Griggs noted that the only exception to strict adherence to IDR instructions involves extreme circumstances. Griggs cited an example of an extreme circumstance is when farmland is located on top of a plateau with no access for farm equipment. Other examples of extreme circumstances are noted in the MANUAL. MANUAL 2-27.

The Trust argues that land with standing water is just as inaccessible by farm equipment as Griggs' cited example. However, the tenant farmer's testimony indicates that while he has had difficulty combining his soybean crop, nothing in the record supports a conclusion that he has not been able to access the subject property.

Conclusions of Law

The property record cards indicate non-crop land on the parcels in question. This land appears to mainly be located along the English River. Additionally, the CSRs for the cropland on the parcels already account for flooding or occasional flooding. (Exs. A & C). Further, the evidence does not support a conclusion that any of the land requires an adjustment for a unique or unusual circumstance contemplated by the MANUAL. MANUAL 2-27. Although the Trust asserts that land was washed away by bank erosion, it failed to provide sufficient evidence of the location of this washout and whether it was in areas already considered "water" as part of the assessment. In any event, the Trust may request that the Assessor's Office reevaluate this area when determining the amount of water on the property for the 2017 assessment. By a preponderance of all evidence in the record, we find the Trust has failed to prove an error in the assessment.

Order

The Iowa County Board of Review's action is AFFIRMED.

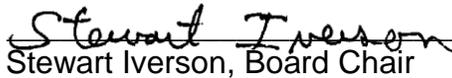
This Order is the final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 2nd day of November, 2016.



Camille Valley, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

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