

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

PAAB Docket Nos. 2017-097-00236A—00243A

Gary Walters,
Appellant,

vs.

Woodbury County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 14, 2017. Gary Walters was self-represented. Woodbury County Board of Review was represented by County Assessor Julie Conolly.

Gary Walters owns a farm in Woodbury County; eight of its agricultural parcels are the subject of this appeal. The January 1, 2016 total assessed value for the eight subject parcels is \$665,310. (Exs. A-A8). The following table delineates each individual parcel's assessed value.

Parcel #	Total Assessed Value	Assessed Land Value	Assessed Improvement Value
8746-17-100-001	\$ 95,470	\$ 87,540	\$ 7,930
8746-17-100-002	\$ 86,800	\$ 86,800	NA
8746-17-100-003	\$ 89,280	\$ 89,280	NA
8746-17-100-004	\$ 96,870	\$ 96,870	NA
8746-18-200-001	\$ 79,020	\$ 79,020	NA
8746-18-200-002	\$ 79,470	\$ 79,470	NA
8746-18-200-004	\$ 57,650	\$ 57,650	NA
8746-18-200-005	\$ 80,750	\$ 80,750	NA

Walters protested to the Board of Review claiming his assessments were not equitable as compared with the assessments of other like property, and the properties were assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied his petition. Walters then appealed to PAAB reasserting his claims.

General Principles of Assessment 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).

Findings of Fact

The eight subject parcels contain a total of 298.64 acres of agricultural Missouri River bottomland. Walters testified that the CSR points dramatically increased for his heavy “gumbo-type” bottomland soils with the conversion to the new CSR2 soil rating system. These soils include Luton and Napa soils, which he notes do not easily drain and are subject to ponding for extended periods due to their heavy clay content. Walters attributes the CSR increases to three primary changes in the factors considered for the CSR2: rainfall; soil classification; and water holding capacity.

Walters stated northwest Iowa soils used to be discounted under the old CSR system as it received less rainfall than the rest of the State. Weather conditions have

since changed, with an increase in the frequency of two inch rainfall events. Conversion to CSR2 removed the discount so the rainfall factor is now the same statewide. This change increased his soils' CSR, which he contends is significant when you add it to all the other factors.

Walters testified that his soils were also changed from "occasionally flooded" to "rarely flooded," which caused a fifteen point increase in his soils CSR2 rating. Walters indicated he understands the flooding classification relates to proximity of river overflow flooding and not other types of flooding. (Ex. 1). Nevertheless, Walters asserts increased intensity and frequency of rainfall, coupled with the soils' high clay content, causes ponding. He suggested it takes a long time for the ponding to go away, thereby greatly affecting the soils' productivity. He recognizes the soil survey does have a rating for ponding as well as flooding, but he questions whether CSR2 really takes ponding into consideration.

Finally, Walters testified the properties' higher reclassification for water holding capacity resulted in approximately seven additional points in the soils' CSR under the CSR2 conversion. He argues there is a misconception that better water holding capacity in a soil makes it a better soil. He asserts that having soils with high water holding capacity is a serious detriment when the soils lie low in the topography, close to the normal water table, and receive a lot of rainfall.

Dr. Lee Burras, an agronomy professor at Iowa State University, testified in behalf of the Board of Review. He stated CSR2 is a product of the original CSR, noting it considers six factors. He testified that the subject soils' CSR points doubled since implementation of the CSR2 due to elimination of the rainfall factor, and reclassification from "occasionally flooded" to "rarely flooded." He noted the flooding classification relates to the proximity of river overflow not the ponding that these soils sustain from a frequent two-inch rainfall. He acknowledged the clay content in these soils increases their water holding capacity. He further explained a soil's flooding and ponding classifications are based on the data in the Natural Resource Conservation Service's (NRCS) Web-based Soil Survey (WSS).

Burras testified, upon further review, he now believes he set the Luton and Napa soil factors too high, which in turn set the soils' CSR2 ratings too high and overvalued

the land. He acknowledged both soils are more challenging than the original CSR had indicated and definitely more challenging than CSR2 indicates. He is working with NRCS and the State Soil Scientist to remedy the problem, anticipating possible changes for 2019 might include a ten point reduction for Luton soils and a five point reduction for Napa soils, if NRCS agrees as it is in charge of the WSS. In the meantime, Burras pointed out, the WSS is the official modern soil survey and is to be considered a completely accurate data source for establishing CSR2 ratings.

Julie Conolly, the Woodbury County Assessor, testified that assessors are instructed to use the Iowa Department of Revenue IOWA REAL PROPERTY APPRAISAL MANUAL when establishing the subject parcels' January 1, 2017 assessed values, which she asserts she did do. In response to Walters' petition, she contacted the Iowa Department of Revenue (IDR) for a second opinion on whether the subject parcels circumstances were unique so as to warrant an adjustment. She was instructed that IDR would not consider the subject properties' situation "unique and unusual." (Ex. B).

Conolly acknowledged the subject parcels are "AAA" rated by the Risk Management Agency, which she noted is the worst rating and the most expensive land to insure. However, Conolly submitted Exhibit E showing thousands of acres with "AAA" ratings, demonstrating the subject property is not "unique and unusual." She also offered photos demonstrating crops growing on the subject parcels. (Exs. F & G).

Conolly noted agricultural land is not assessed based on market value, but instead on the 5-year rolling average productivity value for each soil type, plus the net earning capacity per acre as determined by the IDR. She stated every two years she updates Woodbury County's system based on the values she receives. Conolly stated assessors cannot change the CSR2 rating, but if the soil scientists decide to make changes then her office will implement those changes during the next revaluation year. She suggested Walters continue working with Burras.

Analysis and Conclusions of Law

Walters claims his assessments were not equitable as compared with the assessments of other like property, and that his properties were assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b).

The subject parcels are classified as agricultural property. Iowa Code section 441.21(1)(e) requires agricultural property be assessed by giving exclusive consideration to the soils' productivity and net earning capacity. Any formula or method employed to determine productivity and net earning capacity of property shall be adopted in full by rule. § 441.21(1)(e); Iowa Admin. R. 701-71.3. Assessors are required to consider the results of a modern soil survey. § 441.21(1)(f). In making a determination of value, assessors "shall use available data from Iowa State University, the United States Department of Agricultural (USDA) National Agricultural Statistics Service (NASS), the USDA Farm Service Agency (FSA), the Iowa department of revenue, or other reliable sources." Iowa Admin. Code r. 701-71.3(1)(a). The IOWA REAL PROPERTY APPRAISAL MANUAL shall be used, as well as any other IDR guidelines. *Id.*

One part of the soil productivity and potential net earning capacity formula includes corn suitability ratings (CSR). The CSR reflects a given soil type's productivity and serves to provide an equitable basis for farmland assessment. MANUAL, 2-25 (2008). The CSR2 considers the soil type, particle size, water holding capacity, field condition, soil depth, and rate of erosion. *Id.* Only in unusual or limited, unique circumstances may land require an additional adjustment. MANUAL, 2-27.

To prove inequity, a taxpayer may show 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). Conolly testified that she verified IDR's net earning capacity figure and the CSR2 points were correctly entered into Woodbury County's assessment program that calculated the subject parcels' January 1, 2017 assessments. Further, Walters provided no evidence demonstrating the assessor failed to uniformly apply the same assessing method to similar situation properties.

Iowa Code section 441.37(1)(a) clearly provides that when the petitioner intends to rely on the ground of inequity of assessment within a taxing district, **"the legal description and assessments of a representative number of comparable properties, as described by the aggrieved taxpayer, shall be listed on the protest, otherwise said protest shall not be considered on this ground."** Iowa Code §

441.37(1)(a) (emphasis added). Here, Walters offered no comparable properties; therefore we conclude Walters failed to properly assert an inequity claim.

Next Walters asserts the subject parcels assessments are higher than authorized by law, and he is suffering the consequences from someone trying to generalize assessed values. He argues there are flaws with CSR2 and he does not want to pay for them in terms of higher taxes. He doubts whether CSR2 actually accounts for ponding, which appears to be the major issue that inflated the subject parcels' CSR2 points and in turn increased the assessed values. Burras stated CSR2 does factor in both flooding and ponding but acknowledged he overstated the productivity of the subject parcels' Luton and Napa soils during the transition from CSR to CSR2. Yet he noted that the WSS is the current modern soil survey and its resultant CSR2 points are what assessors are to rely on until such point in time the data is changed.

It is evident the WSS database is a key component in the CSR2 formula for determining a soil's productivity. Even with Burras' acknowledgement of possible errors within the WSS, it is evident its continual use is dictated by law and rule. Therefore, we conclude the subject parcels are not assessed for more than authorized by law. However, if the CSR2 is indeed set too high for the soils at issue, it would be prudent for those entities overseeing the CSR2 model to make any needed changes prior to the next reassessment year.

By a preponderance of all evidence in the record, we find Walters failed to prove the subject parcels were inequitably assessed or over assessed.

Order

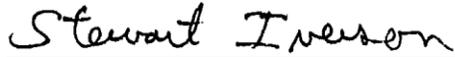
PAAB HEREBY AFFIRMS the Woodbury County Board of Review's action.

This Order is the final agency action for the purposes of Iowa Code Chapter 17A (2017). 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.



Camille Valley, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:

County Assessor Julie Conolly by eFile

Gary Walters by eFile