

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

PAAB Docket No. 2017-020-10172A

Parcel No. 08670

Ellen Grace Danner

Appellant,

vs.

Clarke County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on January 12, 2018. Ellen Grace Danner was self-represented. Attorney Brett Ryan represented the Clarke County Board of Review.

Danner owns an unimproved 38-acre agricultural parcel in Franklin township, Clarke County. The January 1, 2017, assessment was set at \$19,900. (Ex. A & 2017 Assessment Roll).

Danner petitioned the Board of Review claiming the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b). The Board of Review denied her petition. Danner reasserts her claim to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2017). 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 subject property is an agricultural parcel consisting of 13.76 acres designated as cropland and 24.24 acres designated as non-cropland. (Ex. A). Of the \$19,900 assessment, \$13,600 (rounded) is attributable to the cropland and \$6,300 (rounded) is attributable to the non-cropland. (Ex. C). The site is bifurcated on the southeast corner by a road. The portion of the site on the south side of the road is able to be cropped, while much of the parcel north of the road is wooded. (Ex. B).

Danner testified the subject parcel's assessed value increased 184% from \$7000 in 2016 to \$19,900 in 2017. Danner notes the increase occurred with the change from CSR (corn suitability rating) to the new CSR2 rating system. She explained the land located north of the road is almost all permanent timber and brush pasture with severe gullies and hills. She submitted photos in support of her testimony. (Ex. 3). Danner testified this portion of the site has only been used as pasture ground. Danner indicated that "cash rent for hay & pasture for each of past years has been \$800." (Ex. 2). Danner believes the CSR2 rating should not be applied to her land north of the road because it has never been cropped and is unable to be cropped.

Lastly, Danner notes that property is to be classified to its current use and not its highest and best use; and that it shall be assessed by giving exclusive consideration to

its productivity and not its net earning capacity. Because the subject site has no productivity, she again asserts its CSR2 ratings should be zero; however acknowledged she has no idea what the value of the subject property would be if this were the case.

Clarke County Assessor Steve Smith testified for the Board of Review. Smith explained that assessing jurisdictions were required to implement the new CSR2 ratings no later than January 1, 2017. CSR2 soil types are determined by the Farm Service Agency. He noted the portion of the subject site located north of the road is heavily wooded, with the majority of it designated as non-cropland, as shown by the green areas on Exhibit B. For example, the property record card indicates 9.99 acres of the northern portion of the site is designated as non-crop land with a CSR2 rating of 8.00. In comparison, 10.66 acres of cropland situated closer to and on either side of the road has identified soil types and their corresponding CSR2 ratings ranging from 62 to 83. (Ex. A , p. 3). Smith further testified that if a CSR2 rating of zero were applied to a portion or portions of the site, those areas would calculate to a zero value.

The non-cropland acres with the highest CRSs are receiving adjustments, thereby reducing the resulting valuation of those acres. (Ex. C, p. 2-3).

Smith confirmed the north side of the subject site is heavily wooded; however, it is currently not eligible for a forest reserve exemption because Danner uses it for pasture ground. Danner acknowledged she was aware of this forest reserve restriction.

Analysis & Conclusions of Law

Iowa Code section 427A.1(1) provides that unless otherwise exempt, rights to land are to be assessed and taxed. As of now, the property is neither fully or partially exempt and therefore it must be assessed and taxed.

The unimproved subject parcel is 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 Agriculture, National Agricultural Statistics Service, the USDA Farm Service Agency, the Iowa department of revenue, or other reliable sources.” R. 701-71.3(1)(a). THE IOWA REAL PROPERTY APPRAISAL MANUAL shall be used, as well as any other Iowa Department of Revenue 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). Iowa assessors recently changed to the new CSR2 rating system. The CSR2 considers the soil type, particle size, water holding capacity, field condition, soil depth, and rate of erosion. *Id.*

Additionally, in 2013 the Iowa Department of Revenue amended rule 701-71.3(1) “to address the lack of uniformity in the distribution of agricultural productivity value at a parcel level across the state of Iowa.” IAB Vol. XXXV, No. 24 (5/29/13) p. 1897, ARC 0770C. The rule amendment was developed in consultation with a stakeholder group consisting of the Iowa Association of Assessors, Iowa Cattlemen’s Association, Iowa Corn Growers Association, Farm Bureau, Iowa National Heritage Foundation, Iowa Soybean Association, and a farmer representative. *Id.* This stakeholder group “arrived at an adjustment that addresses the problem inherent in high CSRs on non-cropland . . .” *Id.* Implementation of these changes was to occur by 2017. R. 701-71.3(1).

Pursuant to the rule 701-71.3(1)(b), assessors are now to make specified adjustments on non-cropland. *Id.* In order to qualify for the adjustment, the non-cropland must have a CSR that is greater than 50 percent of the average CSR for the cropland in the county. R. 701-71.3(1)(b). The record shows that portions of Danner’s non-cropland are receiving an adjustment, thereby reducing the value attributable to that land.

In an appeal alleging the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). We understand Danner believes the properties’ timber, brush pasture, and steep ravines affect its value;

asserting CSRs should not be applied to the non-cropland. Under the current agricultural land valuation system, this would ultimately cause the non-cropland to have no value for assessment purposes.

Danner admits she uses the non-cropland for pasture. Because Danner is utilizing the property and deriving an income from that use, we do not believe the property is valueless. *Boekeloo v. Bd. of Review of City of Clinton*, 529 N.W.2d 275, 278 (Iowa 1995) (rejecting taxpayer's contention that property suffering from groundwater contamination has no market value). Danner has offered no other evidence of the property's value to demonstrate the property's valuation is excessive. Therefore, we conclude the subject parcel is not assessed for more than authorized by law.

For the foregoing reasons, after viewing the record as a whole, we find Danner has failed to show her property is assessed for more than authorized by law.

Order

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

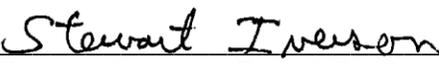
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

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.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Camille Valley, Board Member

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