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PAAB

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

PAAB Docket No. 2018-004-00125R

Parcel No. 04142001360006

Clayton I Nickel,

Appellant,

vs.

Appanoose County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 30, 2018. Clayton Nickel was self-represented. Appanoose County Assessor Michael Barth represented the Board of Review.

Clayton and Lineen Nickel own a residential property located at 11295 160th Avenue, Moravia. The property's January 1, 2018 assessment was set at $196,830, allocated as $61,280 in land value and $135,550 in dwelling value. (Ex. A).

Nickel petitioned the Board of Review contending the subject property was not equitably assessed and that there was an error in the assessment. Iowa Code § 441.37(1)(a)(1 & 4) (2018). The Board of Review denied the petition.

Nickel 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 (2018). 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 may consider any grounds under Iowa Code section 441.37(1) properly raised by the appellant following the provisions of section 441.37A(1)(b) and

Iowa Admin. Code Rule 701-71.126.2(2-4). PAAB 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(3)(a). 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. *Id.*; *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 a one-story home built in 2017 with 1400 square feet of gross living area, a full unfinished basement, a wrap-around open porch, a two-car attached garage, and a 1440-square-foot detached garage/outbuilding. The site is located in “The Shores of Rathbun Lake” subdivision and is 12.28 acres with 9.01 acres in forest reserve. (Ex. A).

Nickel testified that he purchased the subject site in 2015 for $50,000, which included a driveway entrance and some utilities. The property record card also indicates a transfer of the subject site in June 2017 for $25,000, but no one offered an explanation of this listing. (Ex. A).

Nickel believes his site value is too high compared to the recent purchase, as well as compared to other properties and recent sales in the immediate area and around the county. (Ex. A). His land is valued at $50,000 for the first acre and $1000 for each subsequent acre. He indicated that properties not located in his subdivision have much lower land assessments. He believes the low value on the forest exempt acres is circumventing the intent of exempting those acres.

Despite being located near Rathbun Lake, Nickel explained that neither his property, nor any of the nearby neighboring properties, has lake shore frontage or lake views. Additionally, he noted the USDA identified 10.12 acres of timber on the subject

site compared to the 9.01-acres identified on his assessment as being in forest reserve. (Ex. 3).

Nickel submitted eleven land sales in the subject's subdivision that have occurred between 2015 and 2017, which are summarized in the following table. (Exs. 4, 16-25, I).

Lot	Lot Size (Acres)	Sale Price	Sale Date	Improved as of 1/1/2018
1	3.26	$26,000	Aug-15	No
2	5.81	$39,000	Mar-16	Yes
3	4.84	$36,000	Jun-16	No
4	2.68	$25,000	May-16	Yes
5	10.41	$50,000	Oct-15	No
6 (Subject)	12.28	$50,000	Jul-15	Yes
7	4.21	$42,000	Dec-14	No
8	3.77	$30,900	Dec-16	Yes
9	5.30	$39,900	Jul-16	Yes
10	6.72	$29,900	May-17	No
11	3.41	$25,000	Mar-17	No

The sites range in size from 2.68 acres to 12.28 acres; the largest site is the subject property. All of the sales involved unimproved sites. However, five of the lots were improved prior to the 2018 assessment. (Exs. 1, 17, 19, 22, & 23). Lot 4 is a manufactured home with no basement; the subject (Lot 6) is a stick-built home with a full basement; Lots 2 and 8 are stick-built homes with no basement; and Lot 9 is improved with a 2880-square-foot steel utility building.

The most recent sales in the subdivision occurred in 2017. Lot 10, a 6.72-acre site, sold for $29,900 in May 2017 and Lot 11, a 3.41-acre site, sold in March 2017 for $25,000. Both parcels are irregularly shaped and remained unimproved for the 2018 assessment. Barth testified to his belief that these sales prices show the developer was attempting to get rid of the parcels near the completion of the development project. We note, however, the sale of Lot 11 would appear in line with the sales of Lots 1 and 4, which are both less than 4 acres and similarly irregularly shaped. (Ex. 2 & I). Likewise,

Lot 10 is a very irregularly shaped parcel, which could also have contributed to its lower sales price. (Ex. 2).

Nickel testified that his property lies between the Bortz and Cashatt properties, which are the two closest developed properties in the immediate area, but not part of the subject's subdivision. (Exs. 5 & 6). The Bortz property sold in 2014 for $75,000 yet its 2018 assessed land value is only $23,000. The 2014 sale transaction was coded D26 indicating it was a split or division of a larger parcel. (Ex. 5). Nickel noted the Cashatt property is located across the road from the subject property, but its site is assessed at $27,500. This property was improved with a manufactured home and sold in 2014 for $175,000 and again in February 2018 for $190,000. Its total 2018 assessed value was $100,800. (Ex. 6).

Nickel submitted property record cards for nine additional properties asserting their sites are assessed at a different rate than the subject property's site and many of the properties have total assessed values less than what they had sold for in the past. (Exs. 7-15). Two of these properties sold in 2016: 22406 180th Avenue and 24345 Highway 2. (Exs. 10-11).

The property located on 180th Avenue is a 15.79-acre parcel with a one-story home built in 1985, a finished basement and multiple outbuildings. It sold for $150,000 in November 2016. (Ex. 10). The property located on Highway 2 sold in Dec 2016 for $187,500 and is a one-story home built in 1966 on a 2.44-acre site. (Ex. 11). Neither was adjusted for differences between them and the subject property to arrive at an opinion of market value.

Barth testified that the properties in the subject's subdivision were all valued similarly. At the Shores of Rathbun Lake, the first acre of an unimproved property is valued at $35,000. The first acre of an improved property is valued at $50,000. Each additional acre is valued at $1000. He explained there are properties in different subdivisions that may have different features or utilities that required different pricing. In Barth's opinion, many of the properties Nickel offered as comparable are not similarly situated.

Analysis & Conclusions of Law

Nickel contends the subject property is inequitably assessed and that there is an error in the assessment under Iowa Code section 441.37(1)(a)(1 & 4).

Nickel submitted a multitude of properties, which he believes demonstrate that his assessed site value is inequitably assessed and over assessed. Iowa Courts have concluded the "ultimate issue . . . [is] whether the total values affixed by the assessment roll were excessive or inequitable." *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527, 530 (Iowa 1956); *White v. Bd of Review of Dallas County*, 244 N.W.2d 765 (Iowa 1976). Accordingly, while giving due consideration to Nickel's arguments, our end focus when evaluating his claims is on the subject's total value.

To prove inequity, 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 portion of its actual value. *Id.* The *Maxwell* test requires a showing of the subject property's actual market value to which the ratio can be applied.

Nickel did not offer any evidence of the subject property's market value as of January 1, 2018. Typically, market value is demonstrated with a competent appraisal or a comparative market analysis, considering at minimum the sales comparison approach to value. In cases where a sales comparison approach cannot be completed, other approaches may be considered such as the cost approach and/or income approach. Accordingly, we cannot complete the *Maxwell* equity analysis.

Alternatively, 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). Nickel argues the Assessor is applying different first acre values to similarly situated properties. As it relates to Nickel's argument about land value equity, we note we are only giving consideration to properties located in the subject's subdivision as well as the Bortz and Cashatt properties. The other properties Nickel offered are scattered about

the county and we cannot reasonably determine whether they are comparable to the subject from the information in the record. (Ex. F). These differing locations result in differences in zoning, utility connections, and whether they sit on a paved road. (Ex. 7-15).

In particular, Nickel points to the Bortz and Cashatt properties, to which he contends the Assessor is applying a value of $20,000 to the first acre. Conversely, his property and other improved properties in his subdivision are valued at $50,000 for the first acre. Barth suggested the differences were supported by sales prices in the subdivision and variations in features and utilities that come along with being in a subdivision.

We are not convinced the Bortz and Cashatt sites are so dissimilar that they warrant a variation in $30,000 from first acre values in the subdivision. Exhibit 2 shows they are located on the same paved street as the subdivision and, in the case of the Bortz property, abuts other subdivision lots. However, the subject's land is valued consistent with other improved lots in its subdivision.

Moreover, we are skeptical of Barth's assertion that the most recent sales are not reflective of market value and that the prior sales support a $50,000 first acre value. First, we question whether Nickel's purchase of $50,000 should have been included in developing a median for unimproved land values in the subdivision. (Ex. I). Nickel testified his purchase price included utilities and a driveway entrance, and therefore was not entirely unimproved. This also causes us to question whether the October 2015 purchase for $50,000 also reflected a partially improved site. Excluding those sales will result in a median sales price of $36,000 for unimproved properties ranging from 2.68 to 5.81 acres. Including the 2017 sales lowers the median to $30,900.

Second, it appears the first acre value was calculated from the median sale price based on the Assessor's determination of value for excess acres. Exhibit I shows the median sale price is reduced by the product of median excess acres times $1,000 to arrive at $35,000 (rounded). Because there is no indication of how a value of $1000 per excess acre was derived, we are not confident these allocations are accurate.

While we have concerns about the methodology employed in arriving at the land valuations based on the comparables in this record, we are unable to say Nickel's assessment is inequitable. The values applied to his land assessment are consistent with other improved properties in the subdivision. Furthermore, there is insufficient evidence demonstrating Nickel's total value is inequitable.

Nickel also argued there was an error in his assessment, but it appears that claim may be intertwined with his land equity concern.[1] For the first time at the PAAB hearing, Nickel also asserted an error in the number of acres allocated to forest reserved. There are 9.01 forest reserve acres on the subject property. Nickel provided a July 2018 USDA aerial photograph suggesting 10.12 of forest area on the property. Based on that photograph alone, we are unable to determine whether the 10.12 acres identified meet the requirements for forest reserve exemption under Iowa Code chapter 427C. Accordingly, we find no error. We do, however, suggest Nickel contact the Assessor prior to February 1, 2019 to determine if the number of forest reserve acres should be modified.

Viewing the record as a whole, we find Nickel failed to show his property is inequitably assessed or that there is an error.

Order

PAAB HEREBY AFFIRMS the Appanoose 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.

[1] An attachment to his board of review petition argues the Assessor's 20% adjustment for the construction status of the dwelling as of January 1, 2018 was too low. This concern was not discussed at the PAAB hearing and therefore is not addressed in this order.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2018).

Stewart Iverson, Presiding Officer

Karen Oberman, Board Member

Camille Valley, Board Member

Copies to:

Clayton Nickel by eFile

Appanoose County Board of Review by eFile