

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

PAAB Docket Nos. 2019-026-00015A; 2019-026-00018A; 2019-026-00019A; 2019-026-00020A; 2019-026-00021A

Koritz Iowa Properties, LLC,

Appellant,

vs.

Davis County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 21, 2019. Timothy Koritz, Manager, appeared for Koritz Iowa Properties (Koritz Properties). Davis County Assessor Lois Heckethorn represented the Board of Review. Both parties participated by telephone.

Koritz Properties owns multiple agricultural parcels located in Davis County, Iowa. This appeal concerns the following five parcels and their parcels' January 1, 2019 assessments:

Docket No.	Parcel No.	Acres	Assessed Value
15A	15090190	27.50	\$ 13,980
18A	15085621	25.62	\$ 25,050
19A	15090180	4.66	\$ 2,690
20A	09049230	40.00	\$ 55,660
21A	09054310	12.66	\$ 15,810

Koritz filed a petition to the Board of Review claiming there was an error in each of the assessments under Iowa Code section 441.37(1)(a)(4). (Ex. 15A-Ex C).¹ The

¹ Exhibit references shall first note the last two digits of the Docket Number followed by the appropriate Exhibit number or letter admitted in that appeal.

Board of Review denied the petition. (15A- Ex. B). Koritz reasserted his claim to PAAB in five separate appeals.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2019). 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). New grounds in addition to those presented to or considered by the Board of Review may be pleaded to PAAB, and additional evidence to sustain those grounds may be introduced. 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 (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

Koritz Properties owns 534.73 acres of agriculturally classified land in Davis County. (21A-Ex J). Koritz testified that when the property taxes increased 36% between 2017 and 2018, he decided to closely examine the assessor's property records and found what he considers errors relating to the five parcels' assessments. Each of the parcels will be addressed in turn.

Docket # 2019-026-00015A – Parcel # 15090190

This parcel consists of 27.5 acres of which 10.42 acres are designated as cropland, 15.88 acres as non-cropland, and 1.2 acres as right of way (ROW). (15A- Ex

A). Koritz asserts that Davis Wapello Street is the eastern boundary of this parcel, and he does not own the land east of it. (15A- Ex. 1). He also believes there may be only 7 or 8 acres of tillable land, compared to the 10.42 acres of cropland identified in the assessment. (15A-Ex. C and PAAB appeal). To support his position, Koritz submitted an aerial map of the parcel with his hand written references within the parcel map of what he contends is the east property line of the parcel as well as the outline of the acres he believes are tillable.(15A-Ex. 1).

The Board of Review submitted the Warranty Deed between the previous owner and Koritz, which contained the following legal description of this parcel:

All of the North Half of the Northwest Fractional Quarter (N1/2 NW Fr.1/4), except Thirty-five (35) acres off the West end in Section Six (6), Township Seventy (70) North, Range Twelve (12) West of the 5th P.M. (15A-Ex. E).

Koritz agreed that the deed did not identify the gravel road as the property line, and he was surprised that he may own the property to the east of the road. The aerial photo submitted by the Board of Review, like that submitted by Koritz, shows the outline of the subject parcel, which appears it may include a small strip of land to the east of the gravel road within the parcel boundary. (15A-Ex D). Thus the Board of Review denied his protest stating that “the owner’s legal description does not limit the boundary to West of the road.” (15A-Ex. B).

When asked how he measured the acres he believed to be tillable, Koritz testified that he used a “guestimate” based upon his eyeballing the land in the field. In contrast, Assessor Heckethorn testified to the use of scientific measurement from the GIS (Geographic Information System) to more accurately map the parcel and identify soil maps and values. (21A –Ex E).

Docket # 2019-026-00018A – Parcel # 15085621

This parcel consists of 25.62 acres of which 23.30 acres are designated as cropland, 1.6 acres as non-cropland, and 0.72 acres as ROW. (18A-Ex. A). Koritz believes that the non-cropland area is closer to 3 acres compared to the 1.6 acres identified on the property record card. (18A-Ex. C and PAAB appeal). He submitted an

aerial picture of the parcel with his handwritten notes indicating the portions of the parcel he claims are non-cropland. (18A-Ex. 1). When asked how he arrived at his calculation, Koritz testified that he looked at the property or drove by the land.

The Board of Review submitted an aerial map/photo of the parcel which showed the cropland in green and the non-cropland in yellow. (18A-Ex. E). The aerial photo also included the calculations of each of the identified non-cropland sections, totaling 1.55 acres. Koritz agreed that the aerial photo appeared to accurately reflect the use of this property. Additionally, the Board of Review submitted the CSR2 Report² for the parcel detailing the soil productivity ratings delineated between cropland and non-cropland, which also indicates a total of 1.6 non-cropland acres. (18A-Ex. D).³

Docket # 2019-026-00019A – Parcel # 15090180

This parcel consists of 4.66 acres entirely designated as non-cropland. (19A-Ex. A). It is a strip of land that was a former railroad right of way. Koritz asserts that the soil and subsoil have been destroyed, that it is of no commercial value, and therefore he does not believe he should have to pay taxes on it. (18A-Ex.C). He testified that he had not performed any soil or subsoil testing on the parcel. The Board of Review submitted the CRS2 report on the property along with a soil map showing the soil ratings that support the non-cropland designation. (19A -Ex.D & E). As previously noted, the property is designated entirely as non-crop land and receives an adjustment to the CSR2 points as a result. (19A-Ex.D).

Heckethorn testified that the most recent modern soil survey for Davis County was completed in 2005. Koritz acknowledged that he knew of no Iowa law or rule that allowed assessors the discretion to not set a value for railroad land, if classified as

² The CSR (corn suitability rating) is a soil productivity rating for Iowa soils that ranges from a low of 5 to a high of 100. The Iowa Department of Revenue guidelines require the use of the most current corn suitability ratings by assessors to determine the value of agricultural real estate. Iowa Admin. Code r. 701–71.3(1).

³ Exhibit D as originally filed incorrectly attached Exhibit E, the Aerial photo of the parcel. Exhibit D was properly resubmitted as the CSR2 Report prior to hearing.

agricultural property, other than the through the use of the productivity and net earning capacity formula.

Docket # 2019-026-00020A – Parcel # 9049230

This parcel consists of 40 acres of which 38.63 acres are designated as cropland and 1.37 acres as non-cropland. (20A-Ex. A). Koritz asserts that he does not own the land south of the creek. (20A- Ex. 1 & Ex. C). He submitted an aerial picture of the parcel on which he drew a line following what appears to be a creek, which he says is his southern boundary. (20A-Ex. 1).

The Board of Review submitted the Warranty Deed between the previous owner and Koritz which contained the following highlighted legal description:

The Northeast Quarter of the Southwest Quarter all in Section One (1), Township Seventy (70) North, Range Thirteen (13) West of the 5th PM. (20A-Ex. D).

Heckethorn testified that the creek is not mentioned as the boundary line, and that this deed describes the parcel with straight lines. Koritz conceded he was unsure how to read the legal description.

Docket # 2019-026-00021A – Parcel # 9054310

This parcel consists of 12.66 acres, all of which are designated as cropland. (21A- Ex. A). Koritz contends that two acres in the northeast corner of the parcel are non-cropland and have about a 30-degree slope, which cannot be farmed due to erosion risk. (21A-Ex. 1, Ex. C, & PAAB appeal). He submitted an aerial photo of the parcel with a triangle shape penciled in on the NE corner that he states is pasture and not tillable. (21A- Ex. 1). When asked how he determined the slope, Kortiz testified that he just looked at the land.

In comparison, Heckethorn testified that the Assessor's Office used electronic measuring tools to determine the slope. The measurements ranged from 13.8% to 2.8% depending upon the length of the area tested. (21A- Ex. H). She stated that she found no area of the parcel with slopes approaching 30 degrees.

Heckethorn also submitted the Parcel CSR2 Report showing various slope measurements, with a maximum reported slope of 14% to 18%. (21A-Ex. G). We note the CSR2 Report identified the parcel has 11.96 acres of cropland acres and also includes 0.70 non- cropland acres resulting in an assessed land value of \$15,664; this differs from the assessed value of \$15,810 set forth on the property record card. (21A-Exs. A & G). The CSR2 Report recognizes 0.70 acres with varying degrees of slope and moderate erosion, designated as non-crop land, which likely coincides with the area of Koritz's concerns.

The Board of Review also submitted the CSR2 Reports on other parcels Koritz owns each showing a breakdown of cropland acres with slopes greater than the measured slopes in the subject parcel. (21A-Exs. D, E &F). Heckethorn contends these reports provide examples of the farming activity taking place on parcels with significant slopes.

Analysis & Conclusions of Law

Koritz Properties contends there are errors in their assessments. Iowa Code §441.37(1)(a)(4). An error may include, but is not limited to, listing errors or erroneous mathematical calculations. Iowa Admin. Code R. 701–71.20(4)(b)(4). Koritz raised issues with regard to the extent of his land ownership in two parcels and the nature and measure of the cropland versus non-cropland in three parcels. Koritz bears the burden to prove these errors. § 441.21(3).

Iowa Code section 441.21(1)(e) requires agricultural property be assessed by giving exclusive consideration to its productivity and net earning capacity. Any formula or method employed to determine productivity and net earning capacity shall be adopted in full by rule. *Id.* Assessors are directed to use the IOWA REAL PROPERTY APPRAISAL MANUAL and other guidelines issued by the Department of Revenue to determine the actual value of agricultural real estate. “In determining the productivity and net earning capacity of agricultural real estate, the assessor shall also use available data from Iowa State University, the United States Department of Agriculture... the Iowa department of revenue, or other reliable sources” such as modern soil surveys. R. 701–

71.3(1)(a). The formula or method for determining aggregate value of agricultural real estate (also known as the “ag productivity formula”) is set forth in Rule 701– 71.12(1). The Iowa Supreme Court has recognized that valuation of agricultural property as mandated by the Code and Rules is governed by objective criteria that remove any subjective determinations by the assessor. *Naumann v. Iowa Property Assessment Appeal Bd.*, 791 N.W.2d 259, 263 (Iowa 2010).

The 2008 IOWA DEPARTMENT OF REVENUE REAL PROPERTY APPRAISAL MANUAL provides extensive directives and instructions to county assessors when valuing agricultural land. MANUAL 2-24 – 2-34 available at https://tax.iowa.gov/sites/default/files/idr/documents/2LANDVALUATIONSECTION_0.pdf (last visited Sept. 6, 2019). First, the parcel map is analyzed to verify the gross, net and taxable acreage. MANUAL 2-29 & 2-31. While digital mapping does not represent an official survey of the parcel inventory, the source for the calculation of gross acres is the acres listed on the deeded documents. *Id.* The MANUAL suggests that clear discrepancies between the digital parcel maps and the recorded documents will need additional research for resolution. *Id.*

Thereafter, layers of digital data consisting of soil maps, soil ratings and land use and exemption mapping are used to populate the GIS (Geographic Information System) software. *Id.* This computerized mapping system has the ability to measure, process, and analyze multiple layers of information providing measured acres of each soil type within each parcel and compute the CSR points for each soil.

As part of this process the Assessor is required to delineate between cropland and non-cropland in order to apply the adjustment for non-cropland using the MANUAL as a guide. The MANUAL lists seven non-cropland circumstances, which include:

1. Building sites including driveways or access roads.
2. Non crossable streams or waterways.
3. Forest or timber ground.
4. Dedicated ponds or dam area (not occasional ponding in field).
5. Permanent pasture.
6. Land under permanent easement that precludes any type of crop production.
7. Land with access limitations or limited ability to be cropped.

MANUAL 2-27.

According to the MANUAL, “[I]f the status is questionable, the assessor’s best judgement is required until support for non-cropland is provided by the taxpayer...” *Id.*

The final step of the valuation process is to process all of the above information and create a soil calculation report or CSR2 Report detailing CSR points and Adjusted CSR points for non-cropland or exempt areas to arrive at total CSR points for each parcel. The value of the property is calculated using the aggregate land value of the county divided by the total CSRs for the county, times the CSR attributable to each parcel. *Id.* 2-33 – 2-34.

It is quite possible that Koritz began noticing an increase in the subject properties’ assessments due, in part, to implementation of the CSR2.

Docket # 2019-026-00015A – Parcel # 15090190

Koritz failed to provide any reliable evidence, such as a land survey, to support his belief that he does not own the land located east of the gravel road on this parcel. He admitted the deed description was correct and did not limit the boundary to West of the road. The Assessor appears to have correctly used the deeded document to map the parcel. Moreover, Koritz failed to demonstrate that the Assessors’ calculation of cropland acres is incorrect. Accordingly, we find no error.

Docket # 2019-026-00018A – Parcel # 1508562

Koritz failed to demonstrate that the Assessor incorrectly measured the non-cropland at 1.6 acres. His assertions were based only on his personal perceptions compared with the Assessors’ use of recognized scientific methods. Accordingly, we find no error.

Docket # 2019-026-00019A – Parcel # 15090180

Koritz failed to provide any support that this parcel has no value. He acknowledged there was no exemption for former railroad land; nor does the assessor have the discretion to value such land differently. He conducted no independent soil

testing. The entire parcel is designated non-cropland and has an adjusted value to reflect this fact. Accordingly, we find no error.

Docket # 2019-026-00020A – Parcel # 9049230

Koritz failed to provide any reliable evidence, such as a land survey, to support his contention that he does not own the land located south of the creek on this parcel. He admitted the deed description was correct and it does not appear to include the creek as a boundary line. Again, it appears the assessor correctly used the deeded document to map the parcel. Accordingly, we find no error.

Docket # 2019-026-00021A – Parcel # 9054310

Koritz failed to demonstrate that a 2-acre portion of this parcel should be designated as non-cropland due to his belief it has about a 30-degree slope. His contention was based only on his personal observation compared to the scientific measurements employed by the Assessor. However, there does appear to be error in the assessment which fails to take into account the non-cropland acres detailed in the CSR2 Report at 0.70 acres. For some reason, this acreage has been omitted on the parcel's final property record card. (21A-Ex. A). Accordingly, we find there is an error in the assessment and order that the Assessor modify the value to correctly reflect the non-cropland on the property as identified on the Parcel CSR2 Report. (21A-Ex. G).

Order

PAAB HEREBY AFFIRMS the Davis County Board of Review's actions in Docket Nos. 2019-026-00015A, 2019-026-00018A, 2019-026-00019A, and 2019-026-00020A.

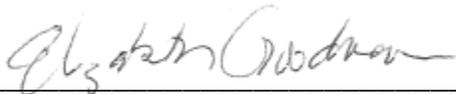
PAAB HEREBY MODIFIES the Davis County Board of Review's action in Docket No. 2019-026-00021A and orders that the subject parcel's value be changed to reflect the correct value of \$15,664 as listed on the Parcel CSR2 Report, which accounts for the 0.70 acres of non-crop land on the parcel.

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

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 30 days of the date of this Order and comply with the requirements of Iowa Code sections 441.37B and Chapter 17A.19 (2019).

IT IS SO ORDERED.



Elizabeth Goodman, Board Member



Karen Oberman, Board Member



Dennis Loll, Board Member

Copies to:

Timothy Koritz by eFile

Davis County Board of Review by eFile

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