

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

PAAB Docket No. 2019-025-00159R

Parcel No. 12-24-200-024

Richard Harding,

Appellant,

vs.

Dallas County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on January 23, 2020. Richard Harding was self-represented. Assistant Deputy Assessor Brian Arnold represented the Board of Review.

Richard Harding and Adrian Woolley own a residentially classified property located at 4226 142nd Street, Urbandale. Its January 1, 2019, assessment was set at \$1,297,290, allocated as \$230,630 in land value and \$1,066,660 in dwelling value. (Ex. A).

Harding petitioned the Board of Review asserting the subject property was misclassified as residential under Iowa Code section 441.37(1)(a)(3). He believes the correct classification is agricultural. The Board of Review denied the petition. Harding then appealed to PAAB.

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). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-126.2(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(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).

Findings of Fact

The subject property is a one-story home built in 2014. It has 4504 square feet of gross living area; a full walk-out basement with 3815 square feet of living-quarter quality finish and 1333 square feet of average-quality finish; multiple decks, patios, porches, and a small swimming pool; a 1083-square-foot attached garage with full basement; geo-thermal heating and cooling; and a 3200-square-foot utility building built in 2012. The site is 15.23 acres. (Ex. A). The land receives a \$25,000 Forest Reserve exemption and the dwelling receives a \$36,190 geo-thermal exemption.

The aerial photograph shows a substantial portion of the eastern portion of the parcel is in tree coverage while the western-most section of the property contains a pond. A driveway to the utility building and residence comes off of NW 42nd Ave along the northern edge of the parcel. (Ex. 1, 3).

Richard Harding testified about the history of his family's 130-acre Century Farm located across the street from the subject property but in Polk County. It is classified agricultural. (Ex. 2). There is a residence on the Century Farm that the partnership rents to third parties. Harding's grandfather owned and operated the Century Farm for over 50 years until it passed to Harding's father. Approximately 30 years ago, he and his four siblings inherited it and it is now owned in partnership with his siblings; he has 20% interest.

Harding has worked on the Century Farm, and other farm ground owned by the family partnership, his whole life. He originally rented the farm ground across from his

residence from his father and continues to do so now with an informal agreement with his siblings. Richard also owns and farms additional ground in his own name. He stated farming has changed over the years and he now hires custom operators to do most of the farm work. He maintains a compact tractor and a skid steer on the subject property. Richard testified much of his other equipment had been stolen and his age precludes him from personally working the land. He also works part time in his brother's law office. The Polk County property has a farm number assigned by the Farm Service Agency and Harding maintains crop insurance. (Exs. 16 & 17). Corn and soybeans are grown on the Century Farm and Richard receives a 60% share of the revenue with the other siblings sharing the remaining 40%.

About 25 years ago the subject property came on the market and Harding and his siblings purchased it. In 2012 Harding and his wife decided to build on the property, which would allow him to watch over things on the Century Farm. He constructed a machine shed on the subject property in 2012. An existing dwelling was removed in 2014 and construction of Harding's current home began. The subject property was deeded to Harding and his wife by the other siblings. The subject property has always been classified as residential. No crops are grown on the subject property and no agricultural activity takes place there. No evidence was presented regarding the use of the property before the construction of Harding's home. He testified he stores the skid-steer, the compact tractor, a pick-up truck, weed killer for the farm, and personal items in the utility building.

Assistant Deputy Assessor Brian Arnold testified for the Board of Review and acknowledged Harding was actively engaged in farming. However, the Assessor's Office found no farming activity was taking place on the subject property. Arnold also noted the subject parcel and the Polk County Century Farm parcel have different ownership, which caused him to further question whether agricultural classification was appropriate for the subject. Harding testified he would deed the subject property back to the family partnership if that would ensure his classification as agricultural.

Harding submitted eight properties he believes demonstrate that rural parcels with dwellings adjoining farm parcels are classified as agricultural, despite differences in

how the parcels are titled. (Exs. 5-12). Arnold testified he could not determine from these exhibits how the dwelling parcels were used. He did note that several of the examples were simply a small part of very large farm operations spanning multiple parcels. Using Exhibit 7 as an example, he noted Parcel 0120400007 is owned by Robert and Carol Summerson, but Robert is the sole owner of the immediately adjoining parcels. However, the Summersons collectively own other nearby parcels. In short, Arnold appeared to be cautioning against looking only to the immediately adjacent properties when determining whether a rural dwelling parcel is used or held in conjunction with other agricultural land.

Arnold testified he looks at each parcel and considers the number of farm buildings and equipment thereon as indicative of farming activity or use that is in conjunction with another farming operation. Several of the site maps for these parcels reflect not only a dwelling, but also multiple outbuildings such as barns, grain bins, hog houses, and silos. (Exs. 5, 9, 10, & 11). In Arnold's opinion, some of the parcels with dwellings and other agricultural buildings would qualify for agricultural classification independent of any adjoining farm land. (Exs. 9 & 10)

Both Harding and Arnold concede classification decisions are difficult and the "guidelines" leave many grey areas.

Analysis & Conclusions of Law

Harding asserts the subject property is misclassified as residential and should instead be classified agricultural. The sole basis for his claim is that he has an ownership interest in the adjacent Polk county farm, which is classified as agricultural, and asserts the subject property is a part of that farm. (Appeal). He bears the burden of proof. § 441.21(3).

Iowa assessors are to classify and value property following the provisions of the Iowa Code and administrative rules adopted by the Iowa Department of Revenue (IDR) and must also rely on other directives or manuals IDR issues. Iowa Code §§ 441.17(4), 441.21(1)(h). IDR has promulgated rules for the classification and valuation of real estate. See Iowa Admin. Code r. 701-71.1. The assessor shall classify property

according to its present use. *Id.* Classifications are based on the best judgment of the assessor exercised following the guidelines set out in the rule. *Id.* Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. *Id.* There can be only one classification per property, except as provided for in paragraph 71.1(5) “b”. *Id.* The determination of a property’s classification “is to be decided on the basis of its primary use.” *Sevde v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989).

First, we typically find evidence of other properties’ classifications neither informative nor relevant when determining the correct classification of a specific property like Harding’s. As use is the basis for classification determinations, often the record lacks the necessary and complete information to properly compare the use of one property as opposed to another. Here, we have little information about the use of the properties Harding submitted, but many contain agricultural buildings or other indicia of agricultural activity taking place on the parcels. Even those properties with dwellings appear to have agriculture use on the specific property as well. Further, the classification of Harding’s property is ultimately to be based on its own primary use when considered against the classification rules.

Pursuant to the classification rules, residential property “shall include all land and buildings which are primarily used or intended for human habitation.” R. 701-71.1(4). This includes the dwelling as well as structures used in conjunction with the dwelling, such as garages and sheds. *Id.*

Agricultural property includes land and improvements used in good faith primarily for agricultural purposes. R. 701-71.1(3). Land and nonresidential improvements shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest and fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit. Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in the subrule.

Id.

The above requirements bring into play the concepts of primary use, agricultural purposes, good faith and intended profit. Our first focus here is on the subject property's present and primary use. There is no evidence of agricultural use such as raising crops, livestock, or horticulture with an intent to profit taking place on the property. As a result, we find the subject property does not qualify for agricultural classification under the first sentence of Rule 701-71.1(3).

This case also brings into question the application of the final sentence of the above rule; does the subject property qualify as woodland, wasteland, and pasture land that is held or operated in conjunction with agricultural real estate? Although at hearing the parties focused on the interpretation of "held or operated in conjunction with" as the determinative question in this appeal, the analysis of Rule 701-71.1(3) does not end there. Where there are competing uses occurring on one parcel of property, such as arguably exist here, its primary use determines the property's classification. *Sevde*, 434 N.W.2d at 880-881.

Standing alone, the subject's 9.7-acres of woodland¹ could qualify as agricultural real estate on the basis it is operated or held in conjunction with other agricultural real estate, but we do not believe the subject parcel as a whole is primarily used for agricultural purposes. As already stated, there are no traditional agricultural activities occurring on the subject property, such as the raising of crops or livestock. There was no testimony or evidence that any other agriculturally-related activities occur on the subject property, like the storage and repair of agricultural equipment and materials for example. There are no structures dedicated to agricultural use on the property. Rather, the subject parcel contains a substantial residential dwelling backing to a pond. Together they occupy a large portion of the parcel, in addition to their significant and obvious contributory value. The property also contains a utility building where Harding testified he stores a skid-steer, a compact tractor, a pick-up truck, weed killer for the farm, and personal items. At best, the use of the utility building might be considered for both residential and agricultural purposes. In total, even if the forest reserve acreage

¹ Of the 15.23-acre site, 9.7 acres are in a forest reserve exemption. The remainder consists of pond, the dwelling and appurtenant yard, a utility building, and driveway. The only area that could reasonably qualify as woodland, wasteland, or pastureland is the 9.7-acre forest reserve.

could qualify as an agricultural use for the purposes of Rule 701-71.1(3), we find the present and primary use of the subject is residential.

Viewing the record as a whole, we find Harding failed to establish that the subject property is misclassified.

Order

PAAB HEREBY AFFIRMS the Dallas County Board of Review's action. This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

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 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Board Member



Dennis Loll, Board Member



Elizabeth Goodman, Board Member

Copies to:

Richard Harding by eFile

Dallas Board of Review by eFile