

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

PAAB Docket No. 2019-091-00126R

Parcel Nos. 01-000-17-0844, 01-000-17-0845, & 01-000-17-0846

Douglas Rooney & Alfonso Valenzuela-Gumucio,

Appellants,

vs.

Warren County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 25, 2019. Douglas Rooney and Alfonso Valenzuela-Gumucio (Appellants) were self-represented. Assessor Janet Bunce represented the Warren County Board of Review.

The Appellants own three adjoining parcels, hereinafter referred to as the subject property, located at 14586 Scotch Ridge Road, Carlisle, Iowa. The subject property was reclassified from agricultural to residential for the 2019 assessment. The following table summarizes the property's January 1, 2019, assessment. (Exs. A, A2, & A3).

Parcel	Assessed Site Value	Assessed Dwelling Value	Total Assessed Value
01-000-17-0844	\$1,000	\$0	\$1,000
01-000-17-0845	\$93,000	\$278,000	\$371,000
01-000-17-0846	\$15,000	\$0	\$15,000
Total Assessed Value			\$387,000

The Appellants petitioned the Board of Review and claimed the subject property was misclassified. (Ex. C, C2 & C3). Iowa Code § 441.37(1)(a)(3). The Board of Review denied the petitions. (Ex. B).

The Appellants appealed to PAAB reasserting their claim. They believe the property should be classified agricultural.

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. § 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). New or additional evidence may be introduced. *Id.* 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 consists of three adjoining parcels totaling 13.56 acres. (Ex. D).

Parcel 0844 is an unimproved 0.42-acre site. (Ex. A).

Parcel 0846 is an unimproved 6.21-acre site. (Ex. A3).

Parcel 0845 is a 6.93-acre site improved with a brick, two-story home built in 1930. The home has 2161 square feet of gross living area, an unfinished basement, a small porch, a deck, a patio, and a brick two-car detached garage also built in 1930. Other improvements include several agricultural buildings built between 1940 and 1980. (Ex. A2). The Appellants purchased the subject property in December 2017 for \$519,000.

Rooney is a landscape architect and was raised on a 40-acre farm in northeast Polk County, Iowa. Valenzuela-Gumucio is a real estate agent and was raised in Chile;

his family also has a farming background. After moving away to live and work in California, the Appellants came to Des Moines in 2017 to look for property to relocate back to Iowa. Rooney testified their search parameters for a future property to purchase included a site preferably between 20 to 40 acres, some farm related outbuildings, and located within a 45-minute commute to the south or east of Des Moines. They found a number of properties in Madison and Warren County during their search, and ultimately purchased the subject property.

Rooney testified their goal was to create a small, diverse farm with multiple types of livestock and crops. Their inspiration came from a family-run operation in Illinois that grows a number of products from maple syrup to produce that is sold to Chicago restaurants. Rooney acknowledged he and Valenzuela-Gumucio recognize they will not be able to reasonably support themselves on 13.5 acres and consider their farming endeavor as an augmentation to their income. Valenzuela-Gumucio testified there may be a possibility of purchasing more land from the neighbor to expand their operation.

Rooney explained they settled on the subject property despite it being a bit smaller than they were seeking and closer to the Des Moines area than they anticipated purchasing. He explained they liked the vintage farmhouse and found the subject property to have excellent outbuildings including three, three-sided sheds, a silo, and a historic barn in good condition for its age. Months later, the property was still on the market and the Appellants became aware an adjoining site was also available; they then purchased the property. At the time the Appellants purchased the subject property, it was classified agricultural. Despite completing the purchase in December of 2017, due to contractual work obligations, they did not fully move into the property until May 2018.

After moving in, the Appellants surveyed the perimeter fencing and found it to be in poor condition and required replacement before they could invest in the goat and sheep livestock they were planning on acquiring. Additionally, Rooney testified they were entirely responsible for the perimeter fencing and there were no shared costs between them and the neighboring parcel. Because the Appellants are fully responsible for the cost of the fences, they applied for a USDA Farm number in August 2018, which

is required to apply for cost sharing through the Environmental Quality Incentives Program (EQIP). (Exs.4-6).

The Appellants submitted two EQIP applications. The first included a plan for fencing, forage and biomass planting, a livestock pipeline and watering facility, and a prescribed grazing plan; it was approved and signed in May 2019. (Ex. 4). The EQIP funds for this application total \$13,847 towards the Appellants' plan. The second EQIP application was for critical area planting and a high tunnel system, which was awarded and approved in August 2019. (Ex. 5). (19:00). The EQIP funds for this application total \$11,594 towards the Appellants' plan. Rooney testified they purchased an antique tractor and mower in July 2018, for roughly \$4100 to maintain the pastures. The Appellants have since replaced the antique tractor with a newer \$18,000 Kubota tractor.

The Appellants also joined the Iowa Farmers Union and Practical Farmers and attended numerous peer learning days, as well as conferences for both groups in November 2018 and January 2019 respectively. Rooney testified they applied for a savings incentive program with Practical Farmers and were accepted into the program. As a result, Practical Farmers is matching the Appellants' savings towards the purchase of additional farm equipment.

The Appellants have named their business operation Gleann Daire Farm. Rooney testified they have a website, a Facebook and Google presence, and business cards. Valenzuela-Gumucio testified they have applied for organic farming designation. This requires a testing of the soil and Gleann Daire Farm is on the list for this testing for the next year.

The Appellants submitted a six-page narrative and pictorial outline of the agricultural endeavors taking place on the subject property, as well as a 2018 Schedule F. (Ex. 7-9). Rooney testified the Schedule F was filed in 2018 because of equipment purchases and pasture rental during that time. Rooney explained neighbor's horses were pastured on the subject property for several months in 2018. While this is shown as a \$924 rental income on the Schedule F, Rooney testified it was not a cash payment but rather a bartered trade for equipment and time for grading on the subject property.

Beginning in 2019, the Appellants were able to fully engage in the development of their farming operation. They began baling hay, yielding 330 square bales, which was split 50/50 with the contract baler. The 165 hay bales the Appellants retained were stored in the barn for feeding their sheep and llamas through the Winter of 2019-2020. Gleann Daire Farm acquired 10 Romeldale/CVM sheep, a rare and endangered breed prized for its wool. They intend to increase the flock to 20. In addition to selling the wool, the primary focus of the livestock is for future breeding purposes to re-establish the breed. The sheep graze the main 6-acre pasture. Gleann Daire Farm also has 37 laying hens that are currently producing two-dozen eggs daily and sold fifty-five dozen eggs over a two-month period in 2019. They intend to expand the flock to 75 hens. Gleann Daire Farm is also in its second year of harvesting honey, which was awarded a ribbon at the Iowa State Fair. It harvested 42 pounds in 2019 and sold 35 pounds.

Regarding its infrastructure, Gleann Daire Farm upgraded one of its three-sided buildings with structural posts and repaired a sagging roof. This structure is now used as the sheep barn and chicken coop. Rooney testified Gleann Daire Farm is also designing a mobile coop that will allow for the rotation of the flock as part of their parasite control program. Rooney also testified there is an automatic watering system in three locations and one was replaced in 2019.

Replacement of the perimeter fencing and paddock began and is anticipated to be complete by Summer 2020. The fencing project will include a water distribution system for rotational grazing. Rooney testified that during one of the seminars he and Valenzuela-Gumucio attended they learned about electric-net fencing. They purchased this type of fencing with solar chargers, which allows them to have their livestock on their pastures despite the fences not yet being repaired. The Appellants' business plan also includes a plan to over seed 7.5 acres with legumes to improve forage quality.

Lastly, a 30-foot-by-96-foot high tunnel structure will be constructed in Spring 2020 to allow for the cultivation of produce and cut flowers in a semi-controlled environment. The Appellants have a long-term plan of becoming involved in farmers markets.

The Appellants were critical of the Assessor's Office for changing the classification of the subject property to residential for the 2019 assessment with no warning. Bunce testified she reviews rural properties when they sell but it is not the Assessor's Office practice to contact buyers to inquire about how they intend to use a property. Bunce explained the Assessor's Office will investigate a rural sale to see if there are any adjoining parcels owned by the buyer and they typically send the buyer an agricultural questionnaire form, like the one the Appellants filled out and attached to their petition. (Ex. C2).

The Appellants also submitted two lists of properties, the first are agriculturally classified properties that sold in 2017 that have since been classified as residential (Exs. 17-24); and the second list is of agriculturally classified properties that sold in 2017 and are still classified agricultural. (Exs. 10-16A). Rooney testified about each property. Because classification is not determined by the use or classification of other property, we do not find it necessary to expand on this evidence.

Bunce testified the evidence the Appellants presented to PAAB affects her view of the subject property and its current use. She testified she recently contacted the Appellants to inspect the property but they denied the request. Rooney explained because the request to inspect was on the cusp of the PAAB hearing, he did not want to "muddy the waters" with a new inspection at that time.

Analysis & Conclusions of Law

The Appellants assert the subject property is misclassified as residential and should instead be classified agricultural.

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). The assessment is determined as of January 1 of the year of the assessment. §§ 428.4, 441.46; Iowa Admin. Code R. 701-71.2. The Appellants bear the burden to prove their property is misclassified. § 441.21(3). *See also Miller v. Property Assessment Appeal Bd.*, 2019 WL 3714977 at *2 (Iowa Ct. App. Aug. 7, 2019).

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 subject property is indisputably used for both residential and agricultural purposes. In such cases, the question of the correct property assessment classification can be difficult. Of course, in each case the resolution is dependent on the unique facts and circumstances of the case.

PAAB finds the Appellants’ testimony and evidence credible and it demonstrates the agricultural activities taking place on the subject property are being done in good faith. The evidence presented shows the Appellants purchased the subject property with an intent to establish a sustainable farming operation. This includes financial outlays for machinery and infrastructure upgrades, purchase of livestock, membership in farming associations, and applications for grants or funds available to farmers. The Appellants

have a plan and articulated it in describing their business objectives and functions necessary to accomplishing those objectives. In our view, despite the Appellants not moving into the subject property until midway through 2018, these facts and others demonstrate the Appellants intent was immediate and have been actively engaged in the upstart phase of agricultural endeavors in good faith.

Turning to the more complex issue of intent to profit, the Appellants filed a 2018 Schedule F, and testified about product sold in 2019 as a result of their farming activities. Because the Gleann Daire Farm is in its infancy, there would not be an immediate expectation of profit. But the Appellants offered credible testimony and objective evidence showing actions designed to move the operation toward profitability. Indeed, although still in its early stages, the operation has already begun to generate income. It is clear to PAAB they intend to methodically grow the farming operation with a clear eye towards profit. Accordingly, we conclude the agricultural use planned in 2018 and conducted in 2019 on the subject property was both designed and is being done with an intent to profit.

Viewing the record as a whole, we find the Appellants supported their claim that the subject property is misclassified.

Order

PAAB HEREBY modifies the Warren County Board of Review's action. The Appellants' property located at 14586 Scotch Ridge Road, Carlisle, shall be classified as agricultural real estate as of the January 1, 2019, assessment date.

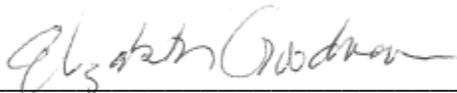
PAAB ORDERS the Board of Review/Assessor to revalue the subject property as agricultural real estate as of January 1, 2019, and file the modified assessment with PAAB within 15 days of the date of this Order. The Appellants then have 10 days to file an objection, if any. Subsequently, PAAB will issue its final agency action setting the property's assessed value as of January 1, 2019.



Karen Oberman, Board Member



Dennis Loll, Board Member



Elizabeth Goodman, Board Member

Copies to:

Douglas Rooney by eFile

Warren County Board of Review by eFile