FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

FIRST NATIONAL BANK OF AMES, IOWA,	)	
Plaintiff-Appellee,	)	Filed February 26, 1985
vs.	)	
BOARD OF REVIEW OF THE CITY OF AMES, IOWA,	)	4-518 84-233
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Story County - David R. Hansen, Judge.

Defendant appeals from the district court decision reducing the assessed valuation of plaintiff's property. AFFIRMED.

John R. Klaus, City Attorney, Ames, Iowa, for defendant-appellant.

Dale Sharp of Smith, Nutty, Sharp, Benson and John, Ames, Iowa, for plaintiff-appellee.

Considered by Schlegel, P.J., Hayden, and Sackett, JJ.

Defendant appeals from the district court decision reducing the assessed valuation of plaintiff's property. Defendant asserts that: (1) the district court erred in shifting the burden of proof to defendant on the basis of unpersuasive testimony by plaintiff's expert witnesses; and (2) the district court erred in reducing the assessed valuation.

Plaintiff, First National Bank of Ames, owns a two-story building of approximately 25,400 square feet. The building contains the facilities of the bank and additional rental office space. The property was valued at $1,371,500 for the 1981 tax year. Plaintiff's protest was denied by defendant board of review. Plaintiff appealed that decision to the district court which reduced the assessment to $1,150,000.

Plaintiff produced two expert witnesses who testified that the property had been excessively assessed. Defendant produced one expert witness in addition to the city assessor. The conclusions of the witnesses using the three approaches to value are summarized in the chart below:

	Market Approach	Cost Approach	Income Approach	Final Value
Mr. Davis	$ 965,000	$1,074,000	$ 908,000	$ 975,000
Mr. Thompson	$ 927,000	$1,104,800	$ 925,000	$1,100,000
Mr. Carlson	$1,400,000	$1,412,295	$1,365,000	$1,380,000
Assessor Horn	$1,702,000	$1,698,000	no opinion	$1,702,000

An appeal of the board's decision to the district court is heard in equity and issues before the board are triable anew. Iowa Code § 441.39. Review of the district court decision by this court is de novo. Iowa R. App. P. 4. While we are not bound by the findings of the district court, we do give weight to them, especially where the credibility of witnesses is involved. Iowa R. App. P. 14(f)(7).

I. Burden of Proof. When a taxpayer challenges an assessment as excessive, inadequate, inequitable, or capricious, the taxpayer has the burden of proof. However, if the taxpayer "offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation to be assessed." Iowa Code § 441.21(3) (1983). No presumption exists that the assessor's valuation is correct. Iowa Code § 441.39.

Defendant argues that the district court erred in shifting the burden of proof to it because the evidence presented by plaintiff's experts was not "competent" within the meaning of the statute. Defendant maintains that the evidence is not competent because the district court found it to be unpersuasive.

"Competent evidence is that which the very nature of the thing to be proven requires." State v. Snyder, 244 Iowa 1244, 1248, 59 N.W.2d 223, 226 (1953). In Bartlett & Company Grain v. Board of Review, 253 N.W.2d 86, 88 (Iowa 1977), the supreme court held that the opinions of two expert witnesses on the valuation of three terminal grain elevators under the sales prices approach was competent evidence since the other elevators used in the comparison were comparable. The court stated that if the other elevators had not been comparable, the burden of proof would not have shifted to the defendant board of review. Id.

In the present case the district court decision did not make clear which party had the burden of proof. The district court stated only that it had given eight to all of the evidence in the case and concluded that the assessed valuation as too high. Furthermore, although defendant argues that the district court found the opinions of the plaintiff's experts unpersuasive, the passage of the district court decision cited by defendant is one in which the court was making an observation about the opinions of all of the experts. The court specifically in this passage singles out the assessor's testimony as suspect. After reviewing all of the

evidence de novo, we conclude that the opinions of plaintiff's expert witnesses were not so flawed as to render them incompetent. Therefore, the burden is on defendant to uphold the valuation.

II. Valuation. The 1980 assessed value of the property was $1,056,000. The assessed value for 1981, the year in question, was $1,371,500. At trial the assessor opined that as of January 1, 1981, the market value of the property was $1,702,000. No explanation was given for the increase in the assessed value from 1980 to 1981 except the assessor's opinion that the 1980 assessment was too low. Furthermore, no reason was given by the assessor for the $330,500 difference between his original 1981 assessment and his opinion of value at trial. We agree with the trial court's conclusion that the assessor's value was not correct. The assessor was the only one of the four appraisers who did not allow any depreciation of the building for economic obsolescence.

We find that the valuation set by the district court is reasonable. It is clear that the district court did not unreservedly accept any of the appraisers' opinions but considered all of the evidence in arriving at its decision.

AFFIRMED.