IN THE COURT OF APPEALS OF IOWA

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8-505 / 88-186

WILSON TRAILER COMPANY, and WILRETH, INC.,

Plaintiffs-Appellees,

vs.

R. DEAN CHAPMAN, CHAIRMAN, JAMES M. DUFFY, RONALD B. KRAGE, EMERSON H. SCHILL, and MARY ANN DAVIDSON, Members of the Board of Review of Sioux City, Iowa,

Defendants-Appellants.

Appeal from the Iowa District Court for Woodbury County (Eq. 94746-C), Dewie J. Gaul, Judge.

The Board of Review of Sioux City appeals the district court's reduction of an assessment levied against plaintiffs. **AFFIRMED.**

Paul W. Deck, Jr., Sioux City, for defendants-appellants.

Jack A. Faith and Dennis D. Hendrickson, Sioux City, for plaintiffs-appellees.

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

PER CURIAM 373

The district court reduced the tax assessment levied by the Board of Review of Sioux City (Board) against Wilson Trailer Company (Wilson). The Board has appealed.

The Board of Review for Sioux City assessed Wilson Trailer's property at a value of $2,145,600 as of January 1, 1986. Wilson challenged this finding in the trial court and presented two expert witnesses who testified that, based on the market data approach, the value of the subject property is $1,500,000 to $1,600,000. Experts for the board placed the value of the property between $2,000,000 and $2,279,800. After an evidentiary hearing the trial court ruled that the assessed value of the property should be reduced to $1,850,000.

On appeal the Board argues that: (1) Wilson's experts were not qualified to render these opinions, and thus the burden of proof did not shift; (2) the trial court failed to consider the unique value of Wilson's machinery and failed to factor in the excess land on which Wilson's manufacturing building set; and (3) a cost approach analysis should have been used rather than sales of comparable businesses.

When taxation assessments are appealed to the district court, the case is heard in equity. Iowa Code § 441.39 (1987). Our review of the district court ruling is de novo. Equitable Life Insurance Co. v. Board of Review, 281

N.W.2d 821, 823 (Iowa 1979). However, we give weight to the findings of the district court especially when considering the credibility of witnesses. River Products Co. v. Board of Review, 332 N.W.2d 116, 117 (Iowa App. 1982). There is no presumption the assessor's valuation is accurate. Iowa Code § 441.39 (1981).

The board claims the testimony of Wilson's disinterested witnesses was not sufficient to shift the burden of proof to the Board.

A taxpayer protesting an assessment has the burden to prove a statutory ground for protest. Iowa Code § 441.21(3). When the complaining party "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 valuations to be assessed." Iowa Code § 441.21(3).

Wilson alleged in its appeal to the district court the Board's assessment was excessive and inequitable. Iowa Code § 441.37(1). Wilson presented evidence by the two disinterested witnesses, however, the board asserts the evidence presented by David Davenport should be disregarded because he was not qualified to address the issues before the court. We disagree.

Davenport is a commercial industrial real estate broker in Sioux City, a position which allows him to monitor the sale of industrial property. He has training in the field and has been appraising property for approximately twelve years. His background alone makes him "competent"--"qualified or capable"--to testify regarding the value of the property in question. See Ross v. Bd. of Rev. of City of Iowa City, 417 N.W.2d 462, 465 (Iowa 1988). Furthermore, we find nothing in this record which suggests Davenport could not answer satisfactorily questions put to him nor is there any issue raised as to lack of foundation for Davenport's conclusions. We therefore determine Davenport was competent to testify and that Wilson met its task of proving the grounds necessary to shift the burden in this matter to the Board.

The Board argues the district court failed to consider the unique value of machinery and equipment at arriving at a fair market value. As a result, the Board proposes to use the replacement cost approach to determine the property's value.

In urging the machinery be valued separately, the Board is asserting no comparable property is available. Iowa Code section 441.21(2) states:

> In the event market value of the property being assessed cannot be readily established in the foregoing manner [fair and reasonable exchange], then the assessor may determine the value of the property using the other uniform and recognized appraisal methods including its productive and earning capacity. . . . (Emphasis added).

The supreme court has interpreted the statute:

> Two approaches for ascertaining market value are provided in the statute, the "sales prices" approach and the "other factors" approach. The sales prices approach depends upon the availability of sales prices of the property or comparable property in normal transactions. When market value cannot be readily established in that manner, the other factors approach is to be used.

Equitable Life Insurance Co. v. Board of Review, 281 N.W.2d 821, 823 (Iowa 1979).

Thus, the approach the board advocates, according to statute, may only be applied if the sales price approach cannot readily establish the exchange value of the property, which is simply not the case here.

Each expert agreed four properties are comparable to Wilson's property. The trial court, as do we, relied primarily upon three properties which evidence shows are most comparable to the property involved here. It is clear each expert considered the characteristics of the properties, emphasizing and de-emphasizing variations, to reach their conclusions. Our review indicates the board is incorrect in its assertion the trial court failed to consider the value of the machinery.

The Board next argues the trial court neglected to factor in the land value of the Wilson Trailer property in determining its fair market value. We disagree.

The record is not crystal clear on this point. However, to sustain the trial court's determination would be neither unjust nor inequitable. The trial court is in the best position to weigh the credibility of witnesses. Payton Apartments v. Bd. of Review, 358 N.W.2d 325, 329 (Iowa 1984). The appellate court's decision "is not whether the value placed upon certain constituent elements . . . is just and equitable, but whether the assessment of the property as a whole is just and equitable." (Citations omitted.) White v. Board of Review of Polk County, 244 N.W.2d 765, 769 (Iowa 1976). Value comparability is an approximation, not a science. Deere Manufacturing Company v. Zeiner, 78 N.W.2d 527, 535 (Iowa 1956). The trial court weighed the credibility of the witnesses and favored the Board of Review's expert testimony as to property comparability and square footage. The trial court also valued comparable property as a whole. Therefore, the trial court's approximate valuation was neither "unjust" nor "inequitable."

AFFIRMED.