FILED
MAY 31 1978
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

DONALD C. BURKGREN and HELEN A. BURKGREN, et al,	)	
Appellants,	)	Filed May 31, 1978
v.	)	
CITY OF HAMPTON, IOWA, A Municipal Corporation,	)	504 / 2-60358
Appellee.	)	

Appeal from Franklin District Court - L. E. Plummer, Judge.

Plaintiffs appeal from order of trial court confirming assessments against their properties for special improvements. Affirmed.

Edward R. Boyle, of Boyle, Schuler & Stanton, of Clear Lake, for appellants.

Michael J. Cross, of Coonley & Coonley, of Hampton, for appellee.

Heard by Allbee, C.J., Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

The plaintiffs, Donald and Helen Burkgren, Norma Stonebrook, and Arlene and Steven Axiotis, owners of property subject to assessment for street improvements, appeal from judgment of the district court upholding assessments for special improvements levied by the city counsel of the City of Hampton.

Plaintiffs rely upon the following grounds for reversal: (1) the trial court erred in failing to find that the objectors' evidence had overcome the presumed validity of the assessments; (2) the court erred by its failure to find that § 391.48, The Code 1973, had been violated in that (a) the amounts assessed exceeded the benefits derived from the improvements made, (b) the assessments exceeded 25% of the actual value of the properties, and (c) the assessor did not consider current assessment roll values of the properties; and (3) the court violated § 441.21(1), The Code 1973, by applying an improper standard for valuing agricultural land.

The determination of the district court was de novo, under § 391.90, The Code 1973. Our review, therefore, is also de novo. Rule 4, Rules of Appellate Procedure.

I. We first address plaintiffs' contention that the court erred by not valuing the properties involved solely as agricultural lands, pursuant to § 441.21(1), The Code 1973. That statutory limitation on valuation methods, clarified by the holding in Heins v. City of Cedar Rapids, 231 N.W.2d 16 (Iowa 1975), could well have been dispositive of this appeal. However, a study of the pleadings and the trial transcript reveals that the issue presented in Heins and urged on appeal by plaintiffs was not raised in the trial court by any means sufficient to place the trial court on notice of the contention now being made. We therefore decline to consider this issue on appeal for the same reasons stated in Brown v. City of Des Moines, 245 N.W.2d 533, 540 (Iowa 1976). This results in upholding the trial court's determination that future uses, reasonably to be anticipated, may be considered in fixing the value of the property.

II. Plaintiffs' next assignments, regarding violation of the assessment-benefit and 25% limitations of § 391.48, The Code 1973, are based upon their contention that the properties were overvalued and that the presumed validity of the assessments had been overcome by their evidence. If the valuations of the assessor and the trial court are correct then the assessment-benefit limitation and 25% limitation are not violated. Examining the record according to the standard discussed in division I, supra, we find

that the valuations established by the assessor and confirmed by the trial court's findings of fact are fully supported by the evidence. Future prospects for the properties were considered by the assessor and the trial court only to determine their present actual values. See, Rood v. City of Ames, 244 Iowa 1138, 60 N.W.2d 227 (1953).

III. Finally, plaintiffs argue for reversal based upon the failure of the city assessor to consider the most recent county assessment rolls as required by § 391.48, The Code 1973. In determining property values for special assessment purposes, the assessor must give at least initial consideration to the rolls. Brown v. City of Des Moines, 245 N.W.2d 533, 541 (Iowa 1976). However, failure to consider the rolls is only one factor to be considered in deciding the weight to be given the assessor's valuation. Brown, supra at 541. In this appeal we are not reviewing the findings of the assessor but rather the independent findings of fact made by the trial court after full hearing and evidence. There is ample evidence to support the trial court's ultimate affirmance of each of the special assessments, even though the assessor may have failed to consider the most recent assessment rolls.

We have considered all issues presented and affirm the trial court.

AFFIRMED.