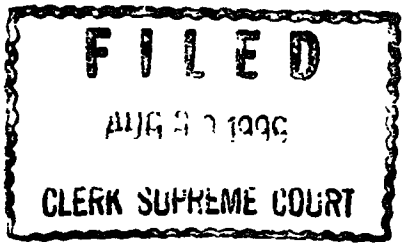
IN THE COURT OF APPEALS OF IOWA

No. 6-144 / 95-303



BOB ZIMMERMAN FORD, INC.,
Appellant,

vs.

CEDAR RAPIDS BOARD OF REVIEW,
Appellee.

Appeal from the Iowa District Court for Linn County, William L. Thomas, Judge.

Bob Zimmerman Ford challenges the order establishing its property tax assessment for 1993 and 1994. **AFFIRMED.**

Joseph E. Day and Bruce A. Willey of Hines, Pence, Day & Powers, P.C., Cedar Rapids, for appellant.

James H. Flitz and David McGuire, City Attorneys, Cedar Rapids, for appellee.

Considered by Cady, P.J., and Streit and Vogel, JJ.

STREIT, J.

Bob Zimmerman Ford, Inc. (Zimmerman) appeals the district court's order establishing its real property tax assessment for 1993 and 1994. We affirm.

The property in question is the site of a car dealership in Cedar Rapids, Iowa. The Cedar Rapids Board of Review (Board) determined that the assessed valuation for the property was $2,315,760. Zimmerman appealed to the Board, arguing that the actual value of the property was $1,588,200. The Board reduced the assessed value to $2,240,430. Zimmerman appealed to the district court and a trial was held that consolidated the actions regarding the 1993 and 1994 assessments.

Each party presented two experts who opined as to accurate valuation of the property. Zimmerman offered Kevin Pollard and Keith Westercamp. The board offered Kyran cook and Darrel Risting. All four experts valued the property using the market sales approach and the cost approach. In addition, Pollard and Westercamp used the income approach. Each expert offered a final opinion. There findings are summarized below.

	WESTERCAMP	POLLARD	COOK	RISTING
MarketSales Approach	$1,700,000	$1,800,000	$2,000,000	$2,138,100
Income Approach	$1,800,000	$1,800,000	———	———
CostApproach	$1,704,275	$1,955,024	$2,303,385	$2,176,000
Final Opinion	$1,700,000	$1,800,000	$2,000,000	$2,176,000

The district court found that the Board's valuation was excessive and that the correct valuation should be $2,000,000. Zimmerman appeals.

Our standard of review is de novo. Iowa R. App. P 4. We are not bound by the findings of the district court, but do give weight to them. Iowa R. App. P. 14(f)(7).

Zimmerman's first argument is that the district court's reliance on Risting's report was improper. Zimmerman claims Risting's report is incompetent because it relied on the cost approach instead of the market-sales approach. Iowa law gives preference to the market-sales approach when valuing real property. Iowa Code § 441 21(1)(b) (1995). Reliance on other methods is allowed in the event that the market value cannot be readily established. *Id.* § 441.21(2). Zimmerman relies on *Ross v. Board of Review of Iowa City*, 417 N.W.2d 462 (Iowa 1988), to support its contention that Risting's report cannot be considered. *Ross*, however, is distinguishable. In that case, the expert whose evidence was found incompetent "admitted in his testimony that his sole valuation approach in this case was the . . . income method." *Ross*, 417 N.W.2d at 464. As noted above, however, Risting did calculate a value based on the market-sales approach. Zimmerman argues that if the final opinion differs from the results under the market-sales approach, the opinion is incompetent under Iowa law unless the court has ruled that the market-sales approach could not be used. The statute is not so exclusive. Section 441.21(1)(b) states that the market-sales approach "shall be taken into consideration" in arriving at a value. The statute does not state that an

appraiser must solely rely on that approach. Risting applied his experience to the facts of this case, utilizing both the market-sales approach and the cost approach,[1] and came to a final opinion. As this court has stated, "appraisal is not an exact science, is a subjective determination, and in final form, the exercise of professional judgment by highly qualified and skilled individuals who disagree." *Sears, Roebuck and Co. v. Sieren*, 484 N.W.2d 616, 617 (Iowa App. 1992). Furthermore, the "heart of most assessment cases is the evidence of experts applying, at best, their professional judgments within a context of variables which can in no definite way be objectively conclusive." *Id.* Thus, Risting was not using an improper approach; he was merely applying his expertise to a highly subjective area. There was no impropriety in the district court's consideration of Risting's evidence.

Zimmerman next argues that both Risting and Cook failed to use similar properties in their market approach evaluations. In the context of real property valuation, "[s]imilar means having a resemblance, and properties may be similar even though they have some different characteristics." *Sears Roebuck & Co. v. Sieren*, 460 N.W.2d 887, 890 (Iowa App. 1990) (citing *Redfield v. Iowa State Highway Comm'n*, 251 Iowa 332, 341-42, 99 N.W.2d 413, 418-19 (1959)). The properties compared by Risting, for example, were all commercial properties in Cedar Rapids used in connection with automotive sales and service. Furthermore, the properties are of

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[1] The two methods produced results differing by less than two percent.

considered were within the discretion inherent in an expert opinion on real property value.

Zimmerman also finds several other faults in the methodologies of Risting and Cook. These arguments all attack the credibility of Risting and Cook. Zimmerman's complaints, however, lie primarily with Risting, whose final opinion the district court did not adopt, instead of Cook, whose final opinion of $2,000,000 was adopted. In fact, Zimmerman's sole complaint with Cook's methodology involves portions of two of the four sales Cook used in applying the market-sales approach. We reiterate the fact that valuation of real property is not an exact science, and that each expert is required to make subjective methodological assumptions. *Sieren*, 484 N.W.2d at 617. We do not find Zimmerman's complaints convincing. The district court heard the testimony of all of the experts and found the testimony of the City appraisers more persuasive. "While our review is de novo, we take note that the trial court was able to hear and evaluate the testimony of each witness." *Ross*, 417 N.W.2d at 466. We find no reason to disagree with the district court's well-reasoned decision.

We find the reports of the Board's assessors more persuasive than Zimmerman's. Furthermore, we find no basis from which to accept Zimmerman's suggestion that the value assessed by the district court should be lowered. Therefore, we do not disturb the district court's determination on appeal.

AFFIRMED.