

FILED

DEC 28 1977

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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

**JOHN F. TIFFANY, a/k/a J. F.
TIFFANY, DONNA TIFFANY and
RAYMOND F. TIFFANY a/k/a
R. F. TIFFANY and
DeSALES TIFFANY,**

Appellees,

vs.

**GREENE COUNTY BOARD OF REVIEW)
IN AND FOR GREENE COUNTY and
RONALD R. WOLF, COUNTY ASSESSOR)
IN AND FOR GREENE COUNTY,**

Appellants.

Filed December 28, 1977

**263
2-59116**

Appeal from Greene District Court - Edward J. Flattery, Judge.

**Defendant Board of Review appeals trial court reduction of assessor's property
tax valuations on plaintiffs' farm properties. - Reversed.**

**Francis L. Cudahy, of Cudahy, Wilcox, Handley and Magee, P.C., Jefferson,
for Appellees..**

**Allan A. Herrick and Jeffrey E. Lamson, of Herrick, Langdon, Belin, Harris,
Langdon and Helmick, Des Moines, for Appellants.**

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

PER CURIAM

The trial court reduced the assessor's 1971 property tax valuations on the three Tiffany farms. The defendant Greene County Board of Review appeals. We reverse.

Tiffany's protest was grounded in § 441.37(2)—that his property is assessed for more than the value authorized by law. In reviewing this asserted overassessment by the taxing authorities, the trial court could not constitute itself as an independent assessing tribunal. *Bennett v. Board of Review*, 234 Iowa 800, 13 N.W.2d 351 (1944). The only determination for the trial court is the correctness of the assessments with reference to Tiffany's complaint before the Board of Review. The trial court reduced the total valuation on the three Tiffany farms: the Raymond Tiffany farm by \$6684; the Keys farm by \$1287 and the Jack Tiffany farm by \$5400.

The question is whether the valuations assessed to the three farms exceed their fair and reasonable market value. Section 441.21, The Code. *Power v. Regis*, 220 N.W.2d 587 (Iowa 1974). That is, whether the assessments as a whole and as approved by the Board are sustainable. *White v. Board of Review of Polk County*, 244 N.W.2d 765, 769 (Iowa 1976).

In seeking to establish market value for the farms, Tiffany proceeded on the theory that farm buildings are increasingly abandoned and viewed as a detriment since the land itself is the real bargainable item in market transactions. Therefore, Tiffany argued the assessor must under § 441.21, The Code, establish the prevailing market price for bare agricultural land and the prevailing market price for agricultural land with improvements. He must then, according to Tiffany, calculate the difference between the two market prices and affix this sum as the actual value for assessment purposes of the farm buildings. Tiffany ignores two fundamental assessment tenets. Section 441.21(1)(a) mandates market value of agricultural land shall be based only on its current use. Tiffany introduced no evidence of abandonment; indeed, every indication is that the buildings are an integral part of the current farming operation. Further, the earlier Tiffany v. County Board of Review in and for Greene County, 188 N.W.2d 343, 349 (Iowa 1971) specifically stated, "... when the fair market value test is applied to farmland, it

should be applied to the property as a unit, that is to the land and buildings combined." There is neither a statutory provision nor case law to support the bifurcated market approach urged by Tiffany.

Tiffany's witnesses proceeding on this theory testified the assessments on the buildings were excessive. The land values they testified were excessive when the contested tracts were compared to the assessor's valuations assigned to adjacent tracts of land. Witness Reitz, when directly asked whether the Keys "total" farm was assessed for more than it could have been sold for on January 1 of 1971, replied "no." With reference to the Raymond Tiffany farm, Reitz said the land, including one contested 40 acre tract, could have sold for more than or at least as much as the assessor valued it for. He did testify adding in the assessor's building valuations on this farm would yield unrealistically high-priced land although some individuals given the right terms, might have given the full actual value assessed for the farm.

The bulk of the plaintiffs' witnesses' testimony went to the negligible value of the buildings in the actual buying and selling of farm property and the error in the valuation of the three 40 acre tracts when compared to adjacent 40 acre-tract valuations Tiffany had acquiesced in. We find no unequivocal plaintiff testimony that the total actual value assigned each farm unit exceeds its fair and reasonable market value. We hold therefore under § 441.21 the burden of proof remained upon Tiffany throughout the proceedings.

Although the assessor himself appears to have used the reproduction cost depreciated method to value the farm buildings, which was held improper in **Tiffany**, we must determine whether the end result of his computations yielded an actual value equal to fair and reasonable market value. The assessor's method is not decisive. *Deere Manufacturing Company v. Zeiner*, 247 Iowa 1364, 78 N.W.2d 527 (1956).

In support of the assessor's valuations the Board introduced testimony and fully documented valuation reports of three expert appraisal witnesses. The Board's witnesses each gave 50% consideration to productivity, net earning capacity and current use when valuing this agricultural property and 50% consideration to current fair and reasonable market value. Section 441.21(1)(a) and (b), The Code. Their testimony demonstrates no error in the valuations assigned

the Tiffany farms by the assessor.

We reverse the trial court and restore the values established by the Board of Review.

Reversed.