SUPREME COURT OF IOWA

Soifer v. Floyd County Board of Review

759 N.W.2d 775 (Iowa 2009) · No. No. 05-1641 · Decided January 23, 2009

SUMMARY

The Iowa Supreme Court reviewed consolidated appeals challenging the assessed value and equity of a McDonald’s restaurant property in Floyd County. The court held that the taxpayers presented competent evidence from two disinterested witnesses, shifting the burden to the Board of Review, but concluded that the Board’s evidence—particularly franchise-to-franchise comparable sales—was more persuasive. The court vacated the court of appeals’ decision and affirmed the district court’s determination that the assessment was not excessive or inequitable.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Ternus, Chief Justice; Baker, Justice; Wiggins, Justice; Hecht, Justice; Appel, Justice; Mansfield, Justice; Zager, Justice
JURISDICTION	Iowa
DECIDED	January 23, 2009
DOCKET	No. 05-1641
DISPOSITION	vacated
PROCEDURAL POSTURE	Taxpayers appealed Floyd County Board of Review decisions denying objections to property assessments for tax years 2003, 2004, and 2005. The district court upheld the assessments, the court of appeals reversed and reduced the assessed value, and the Supreme Court of Iowa granted further review.
STANDARD OF REVIEW	De novo review. The court gives weight to the trial court's fact findings, particularly credibility findings, but is not bound by them.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Iowa
PARTIES	Sam Soifer, Estate of Barbara J. Soifer, Deceased, by Sam Soifer and Joann Robinson, Coexecutors, Franchise Realty Interstate Corp. v. Floyd County Board of Review

TOPICS

property tax | tax | administrative law | appellate procedure | standard of review

PRACTICE AREAS

property tax | real estate valuation | administrative law | appellate procedure

QUESTIONS PRESENTED

1. Whether the taxpayers introduced competent evidence from two disinterested witnesses that the property's market value was less than the assessor's valuation, thereby shifting the burden of proof to the Board of Review.
2. Whether nonfranchise restaurant properties were sufficiently comparable to a fast-food franchise property to support competent expert valuation testimony.
3. Whether the Board's use of franchise-to-franchise sales improperly included prohibited goodwill, business value, or other intangible value in the property's taxable value.
4. Whether the Board sustained its burden to prove that the $352,990 assessment was not excessive.
5. Whether the taxpayers proved that the assessment was inequitable compared with assessments of similar properties in the taxing district.

HOLDINGS

1. The taxpayers introduced competent evidence from two disinterested witnesses because their comparable properties were sufficiently similar to the subject property and their testimony complied with the statutory valuation scheme. Comparable properties need not be identical; differences generally affect the weight of the evidence rather than its admissibility.
2. The Board's appraiser properly relied on sales of properties used for fast-food franchises and sold to buyers who continued that use. The evidence did not establish that the valuation improperly included prohibited goodwill, business value, or special value to the present owner.
3. The Board sustained its burden to prove that the $352,990 assessment was not excessive. The Board's appraiser's $381,000 valuation, the county assessor's valuation, and the Department of Revenue and Finance's nearly identical $353,390 valuation supported the assessment, while the taxpayers' valuations were less persuasive.
4. The taxpayers failed to prove that their property was assessed at a higher proportion of actual value than similar properties in the taxing district, and therefore failed to establish that the assessment was inequitable.

KEY QUOTATIONS

> *"Because other properties need not be identical to qualify as comparable, we think it follows that the use of other properties need not be identical."* (785)

> *"It would be contrary to legislative intent to allow a taxpayer to circumvent the statutory scheme by voluntarily eliminating buyers who would use the property in the same manner, thereby artificially reducing*

> *the potential sales price of the property."* (789)

> *"We vacate the decision of the court of appeals reducing the assessed value of the Soifers' property. We affirm the judgment of the district court finding the actual value of the subject property was the assessed value of $352,990 set by the Board."* (793)

FACTUAL BACKGROUND

The case concerned a McDonald's fast-food restaurant in Charles City, Iowa, with the real estate owned by Franchise Realty Interstate Corp. and leased to Sam and Barbara Soifer, who were responsible for the property taxes. The property had been assessed at $352,990 for 2003, 2004, and 2005; the taxpayers contended its actual value was substantially lower and that the assessment was inequitable compared with similar property. The property was located near a former commercial route affected by a new interstate bypass, had experienced flooding, and nevertheless remained a viable fast-food establishment. The taxpayers' experts valued it at $230,000 and between $193,000 and $217,500, while the Board's appraiser valued it at $381,000.

PROCEDURAL HISTORY

The Board of Review upheld assessments of $352,990 for the subject McDonald's property. The district court, reviewing the appeals in equity and de novo, concluded the assessment was neither excessive nor inequitable and upheld it. The court of appeals conducted a de novo review, reduced the assessment to $230,000, and reversed the district court. The Supreme Court of Iowa vacated the court of appeals decision and affirmed the district court judgment.

DISPOSITION

vacated

CASES CITED

- Merle Hay Mall v. City of Des Moines Board of Review, 564 N.W.2d 419 (Iowa 1997)
- Boekeloo v. Board of Review, 529 N.W.2d 275 (Iowa 1995)
- Foreman & Clark of Iowa, Inc. v. Board of Review, 286 N.W.2d 169 (Iowa 1979)
- Heritage Cablevision v. Board of Review, 457 N.W.2d 594 (Iowa 1990)
- Riso v. Pottawattamie County Board of Review, 362 N.W.2d 513 (Iowa 1985)
- Post-Newsweek Cable, Inc. v. Board of Review, 497 N.W.2d 810 (Iowa 1993)
- Ross v. Board of Review, 417 N.W.2d 462 (Iowa 1988)
- Johnson v. Iowa District Court, 756 N.W.2d 845 (Iowa 2008)
- Bartlett & Co. Grain v. Board of Review, 253 N.W.2d 86 (Iowa 1977)
- Riso v. Pottawattamie County Board of Review, 362 N.W.2d 513 (Iowa 1985)
- Redfield v. Iowa State Highway Commission, 251 Iowa 332, 99 N.W.2d 413 (1959)
- Sears, Roebuck & Co. v. Sieren, 460 N.W.2d 887 (Iowa Ct. App. 1990)
- Stewart v. Commonwealth, 337 S.W.2d 880 (Ky. Ct. App. 1960)

- Equitable Life Insurance Co. v. Board of Review, 281 N.W.2d 821 (Iowa 1979)
- Dowden v. Dickinson County Board of Review, 338 N.W.2d 719 (Iowa Ct. App. 1983)
- Maytag Co. v. Partridge, 210 N.W.2d 584 (Iowa 1973)
- Lake City Electric Light Co. v. McCrary, 132 Iowa 624, 110 N.W. 19 (1906)
- City Council v. Cedar Rapids & M.C. Railway, 120 Iowa 259, 94 N.W. 501 (1903)
- Farmers Grain Dealers Association v. Sather, 267 N.W.2d 58 (Iowa 1978)
- Office of the Assessor v. Iowa Department of Revenue, 417 N.W.2d 214 (Iowa 1987)
- Vine St. Corp. v. City of Council Bluffs, 220 N.W.2d 860 (Iowa 1974)
- Carlon Co. v. Board of Review, 572 N.W.2d 146 (Iowa 1997)
- Riley v. Iowa City Board of Review, 549 N.W.2d 289 (Iowa 1996)