IN THE SUPREME COURT OF IOWA
No. 19-0674
EMMET COUNTY CASE NO. CVCV019170

STATELINE COOPERATIVE,
Petitioner-Appellant,
vs.
IOWA PROPERTY ASSESSMENT APPEAL BOARD
Respondent-Appellee.

EMMET COUNTY BOARD OF REVIEW,
Cross Appellant-Cross Appellant
vs.
STATELINE COOPERATIVE and IOWA PROPERTY ASSESSMENT APPEAL BOARD,
Cross Appellees-Cross Appellees.

APPEAL FROM THE IOWA DISTRICT COURT IN AND FOR EMMET COUNTY
THE HONORABLE DON E. COURTNEY
DISTRICT COURT JUDGE

RESPONDENT-APPELLEE/CROSS-APPELLANT FINAL BRIEF

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PROOF OF SERVICE

I hereby certify that on October 9, 2019, a copy of the Defendant-Appellee's Brief and Request for Oral Argument was served upon the following persons and upon the Clerk of the Supreme Court through the electronic filing of the same with the Iowa Judicial Brank Appellant Courts' EDMS system

/s/ Brett Ryan

SIGNATURE

CERTIFICATE OF FILING

I hereby certify that on October 9, 2019, I filed this Defendant-Appellees Brief and Request for Oral Argument with the Clerk of the Supreme Court through electronic filing the same with the Iowa Judicial Branch Appellate Courts' EDMS system.

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ROUTING STATEMENT

The issues raised in this appeal are matters of settled law in Iowa, and the Court of Appeals is an appropriate venue for the hearing of this matter.

STATEMENT OF THE CASE

A. Nature of Case, Course of Proceedings and Disposition Below.

This case is an appeal and cross-appeal by Stateline Cooperative ("Stateline") and the Emmet County Board of Review (the "Board") from decisions of the Iowa Property Assessment Appeal Board's (the "PAAB") decision that held that certain property of Stateline's was exempt as equipment in a manufacturing establishment. Specifically, the parties disagree as to the amount of property that is exempt as equipment. Further, the Board contends that Stateline failed to carry its burden of proof by showing what the value of the property is absent the claimed exempt equipment.

The Board substantially agrees with Stateline's summary of the proceedings before the PAAB and the District Court set forth in Sections II and III of Stateline's Brief, and as such adopts same, rather than re-stating them in its Brief.

B. Facts.

This case is a property tax appeal taken by the plaintiff, and involves an animal feed manufacturing facility located in Emmet County, Iowa, and fully described in the taxpayer's Petition. As of January 1, 2014, the assessed value for the property is $4,272,900.00. The taxpayer claims that the fair market value of its real property is lower than that figure, claiming that the assessment includes property exempt from taxation as machinery used in manufacturing establishments.

The Taxpayer purchased the ground on which the subject property sits in 2013 for $315,907.19 (App.pp. 1082-1083). The taxpayer constructed the improvements at the subject property in 2013 at a cost of $10,082,891.09 (App.pp 1080-1081), beginning operations in June of 2013. The Taxpayer claims that its assessment improperly includes exempt property, specifically, machinery used in a manufacturing establishment. The Taxpayer provided evidence which consisted of two of its employees, David Edge, C.E.O., and Cherilyn Krichau, feed department manager, who claim that over 90% of the subject property's cost is machinery used in a manufacturing establishment.

Ms. Krichau did not express any opinion of the value of the property. Her testimony largely consisted of identifying the exhibits and telling the Appeal Board what each piece of equipment did. Ms. Krichau did not do any independent analysis as to whether or not a portion of the property was exempt manufacturing equipment, instead relying upon Mr. Edge's determination that a portion of the property was exempt manufacturing equipment. (App.pp. 1102).

Mr. Edge did express a conclusion of value, which he determined by taking the price per square foot assigned to the warehouse on the property (which he agreed was a building), applied that price per square foot to the square footage of the feed mill, and concluded that all other value had to be equipment value. (App.p. 1086). Mr. Edge was the only witness that expressed an opinion of value, based upon the analysis set forth above, reaching a conclusion of $870,700.00.

The Board presented testimony from Barb Bohm, the Emmet County Assessor, and Ted Goslinga, appraiser for Vanguard Appraisals, who assessed the subject property. The Board did not dispute the Taxpayer's status as a manufacturing facility, or the legal position that machinery used in manufacturing establishments is exempt from taxation. The testimony

from both Mr. Goslinga and Ms. Bohm was that they exempted all machinery used in the subject property pursuant to the Iowa Real Property Appraisal Manual, and that the Taxpayer's position was attempting to turn essentially the entire plant into exempt machinery. Further, Mr. Goslinga testified that Mr. Edge's determination of value wasn't consistent with the characteristics of the property.

On remand, Stateline provided additional evidence as to the allocation of value to the feed mill, and two exterior grain bins on the property. This consisted of the testimony of Don Vaske. Mr. Vaske's testimony was basically an allocation of the assessed value based upon his opinions of what percentage of construction costs for the components of the feed mill and the grain bins were, and then applied the percentage he felt was "equipment" to the assessed value for the feed mill and grain bins, respectively. (App.pp. 1107-1146). Mr. Vaske did not consider any costs for site preparation, and did not consider the actual construction costs of either the feed mill or the grain bins, which was shown to be much higher than the figures used by Vaske. (App.pp. 1161-1172; 1166). At no time has Stateline provided independent evidence of value for any part of the subject property, or for the property as a whole. Their evidence has solely consisted of

subtracting components of the assessed value from the property record card prepared by the Assessor.

ARGUMENT

I. STANDARD OF REVIEW

Appeals of agency decisions such as those from the PAAB are limited to the correction of errors at law. Iowa Code §441.39. This means that an agency decision is subject to reversal if it is based upon an erroneous interpretation of law. *Thomas v. Iowa Public Employees' Retirement System*, 715 N.W.2d 7, 10-11 (Iowa 2006)(citing Iowa Code §17A.19(10)(c) and Arthur E. Bonfield, *Amendments to Iowa Administrative Procedure Act (1998) Chapter 17A, Code of Iowa (House File 667 As Adopted)* 62 (1998) Iowa State Bar Association (May 1998)). *See, also, Norwest Credit, Inc. v. City of Davenport*, 626 N.W.2d 153, 155 (Iowa 2001) (under correction-of-law standard, the courts are not bound by lower tribunals' determinations of law but instead interpret the law on their own). This standard also means that the Court must reverse an agency decision based on a factual determination not supported by substantial evidence in the record. *Oswald v. Bulkmatic Transport*, 672 N.W.2d 334 (Iowa App. 2003)(citing Iowa Code §17A.19(10)(f)).

It is important to note that the PAAB is not entitled to any deference in their interpretation of Iowa law. Iowa Code §17A.19(11) makes it clear that the District Courts are not to give *any* deference to the view of an agency as to *whether* a particular matter has been vested by law to the agency's discretion and, if the matter has not been vested in the agency's discretion, the District Court is to give no deference to the agency's view. Likewise, the District Court *shall* reverse, modify or grant appropriate relief when the agency's decision is based on an erroneous interpretation of law whose interpretation has not clearly been vested by a provision of the law in the discretion of the agency. Iowa Code §17A.19(10)(c).

Nothing in the PAAB's enabling statute (or any other statute), clearly vests with the PAAB discretion to interpret any provision of law. Iowa Code §421.1A(4)(e), the enabling legislation for the PAAB states that the PAAB may:

> Adopt administrative rules pursuant to chapter 17A for the administration and implementation of its powers, including rules for practice and procedure for protests filed with the board, the manner in which the hearings on appeals of assessments shall be conducted, filing fees to be imposed by the board, and for the determination of the correct assessment of property which is the subject of an appeal.

Even a cursory reading of the statute shows that the legislature did not vest with the PAAB any discretion to interpret Iowa law. Further, Iowa Courts have found the Worker's Compensation Division (clearly an administrative agency) is not entitled to such deference. *See, e.g., Mycogen Seeds v. Sands,* 686 N.W. 2d 457 (Iowa 2004). This decision was made even though the Iowa Workers Compensation Division has far broader authority than the PAAB, having been authorized to "Adopt and enforce rules necessary to implement this chapter and [the other worker's compensation statutes]". Iowa Code §86.8(1).

Clearly, the PAAB has not been clearly granted the authority to interpret law in its enabling legislation, and their decisions are not entitled to any deference. Even if they were, the meaning of Iowa law is always a matter for the Court to determine. *Iowa Ag. Const. Co., Inc. v. Iowa State Bd. of Tax Review,* 723 N.W. 2d 167 (Iowa 2006).

Although the PAAB may use its experience, technical competence and specialized knowledge when evaluating evidence, the United States Supreme Court cautioned in *Dickinson v. Zurko,* 527 U.S. 150, 162, 119 S.Ct. 1816 (1999) that "at the same time the Court has stressed the importance of not simply rubber-stamping agency fact finding". (citing

Universal Camera v. National Labor Relations Board, 340 U.S. at 490 (1951). Not surprisingly, Chapter 17A requires all agencies, including the PAAB, to set forth its findings of fact (and law). Iowa Code §17A.16(1). Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of underlying facts supporting the findings. *Id*. Likewise, any decision must include an explanation of why the relevant evidence in the record supported each material finding of fact. *Id*.

To the extent the PAAB took official or judicial notice of any facts within its specialized knowledge, Iowa Code §17A.14 required the PAAB to notify the parties either before or during the hearing. Thus, if the PAAB was relying on any expertise, technical competence or specialized knowledge, it had to say so, set forth the basis for the same and explain how the same affected its findings. *See, also,* Iowa Code §17A.12(8)(all findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record). Simply put, for an agency's factual finding to be binding on appeal, there must first be a factual finding explained in the record.

Iowa Code §17A.19(8)(n) also authorizes relief from agency action that is unreasonable, arbitrary or capricious, an abuse of discretion or

a clearly unwarranted exercise of discretion. An agency's action is arbitrary or capricious when it is taken without regard to the law or facts of the case, or taken without regard to established rules or standards. *Soo Line R.R. v. Iowa Dept. of Transp*., 521 N.W.2d 685, 688-89 (Iowa 1994); *Barnes v. Iowa Dept. of Transp.*, 385 N.W.2d 260, 262 (Iowa 1986). Agency action is unreasonable when it is clearly against reason and evidence. *Id*. An abuse of discretion occurs when the agency action rests on grounds or reasons clearly untenable or unreasonable. *Schoenfeld v. FDL Foods, Inc.*, 560 N.W.2d 595, 598 (Iowa 1997). An abuse of discretion is synonymous with unreasonableness, and involves lack of rationality, focusing on whether the agency has made a decision clearly against reason and evidence. *Id*.

Moreover, the grounds and rationale of an administrative body must be articulated by that body itself, ***not by its attorneys or the reviewing court***. *See, e.g., United States v. L.J. Garner*, 767 F.2d 104, 116-17 (5th Cir. 1985) (emphasis added). Post-hoc explanations provided by counsel or the agency cannot supply grounds for review by a reviewing court. *Id*. This means that the PAAB's decisions must be judged by the explanations given at that time, not what the PAAB could have done, might have done or would

do if given a second chance, or by post-hoc rationalizations from its attorneys.

Finally, this Court is bound by the agency's findings of fact if supported by substantial evidence *Excel Corp. v. Smithart,* 654 N.W.2d 891, 896 (Iowa 2002); Iowa Code § 17A.19(10)(*f*)). In contrast, the Court is not bound by the agency's interpretation of the law and may substitute its interpretation for the PAAB's. *Clark v. Vicorp Rests., Inc.*, 696 N.W.2d 596, 604 (Iowa 2005)).

II. STATELINE'S ARGUMENT THAT THE DISTRICT COURT LACKS JURISDICTION TO HEAR THE BOARD'S CROSS APPEAL IS WITHOUT MERIT.

Stateline first argues that the District Court erred when it found that it had jurisdiction to hear the cross appeal filed by the Board. Stateline's entire argument is based upon language in Iowa Code §17A, which provides for appeals of contested administrative decisions, and requires that an appeal be filed within 20 days of the final decision of the Property Assessment Appeal Board (the "PAAB"). Specifically, Stateline relies upon *City of Hiawatha v. City Development Board*, 609 N.W. 2d 532, 537 (Iowa, 2000) for the proposition that following a contested hearing, if a party wishes to

appeal (or cross appeal) it must do so within the 30 days, or lose its appeal rights, because it has failed to invoke the jurisdiction of the Court.

This is contrary to Iowa law in the appeal of a contested case hearing like the case at bar. Unlike the parties in *City of Hiawatha*, this matter is a review of agency action in a contested case. When there is a review of such a contested action, Iowa Code section 17A.19(2) states that "Any party of record in a contested case before an agency wishing to intervene and participate in the [judicial] review proceeding must file an appearance within forty-five days from the time the petition is filed."

Iowa Courts have rejected the very argument advanced by Stateline in *Doerfer Div. of CCA v. Nicol*, 359 N.W.2d 428, 436-37 (Iowa 1984), where after a contested hearing resulted in an agency decision, one of the parties contended that the Court didn't have jurisdiction on one of the opposing party's claims, because they didn't file a petition within the 30 days set forth in the statute. The Court rejected this argument, and stated that the right of intervention permitted the non-appealing party to fully participate, noting to accept the argument now advanced by Stateline "would require *all* parties adversely affected by final agency action in a contested case to file a *petition*, setting out duplicative information, within

thirty days. By waiting until the thirtieth day before filing, one party could strip other parties, dissatisfied with the decision but nonetheless willing to acquiesce, of any opportunity for affirmative relief. Such a theory finds no support in our law or in sound public policy." *Id.* at 428. This is precisely what has occurred in this case, and precisely the result that Stateline is advocating.

It should be noted that in Stateline's appeal to the District Court, they did not include the Board as a party or give notice that they filed an appeal to the Board, only giving notice to the PAAB. (See Stateline's Notice of Appeal filed March 17, 2016). The Board did not have knowledge of Stateline's appeal until after the March 20, 2016 deadline had passed. Stateline filed its appeal 3 days before the deadline, but provided no notice to the Board, and are now claiming that the Board's failure to respond to their appeal before knowing it existed removes its claims from the Court's jurisdiction. As such, they are attempting to strip a party "dissatisfied with the decision but nonetheless willing to acquiesce, of any opportunity for affirmative relief" because they didn't file within the deadline because they had no knowledge of Stateline's appeal. The *Doerfer* Court rejected this outcome, instead finding that the language of Iowa Code section 17A.19(2)

providing that any party of record in a contested case before an agency wishing to intervene and participate in the judicial review proceeding can do so by filing an appearance, and with that, the intervening party is entitled to "join with the plaintiff or defendant or claim adversely to both." *Id.* at 429.

The "join with the plaintiff or defendant or claim adversely to both" language from the *Doerfer* decision also makes Stateline's argument that this Court cannot hear the Board's issues on cross-appeal because they are simply an "intervening party" equally irrelevant. The law on this issue is clear. Stateline's arguments are directly contrary to established precedent and Iowa statutory law, and should be ignored by this Court.

III. CLAIMS FOR EXEMPTION ARE STRICTLY SCRUTINIZED UNDER IOWA LAW, WHICH PREVENTS EXEMPTION OF ANY PROPERTY LISTED ON THE ASSESSOR'S CARD WHICH WAS INCLUDED PURSUANT TO THE IOWA REAL PROPERTY APPRAISAL MANUAL.

Stateline argues that the Court should interpret their exemption claim "broadly" (Stateline's Brief, pg. 38). This is contrary to well-established Iowa law. In an exemption appeal the burden is upon one claiming tax exemption to show that the property falls squarely within the exemption statute. *Stateline v. Board of Review of Union County, Iowa*, 500 N.W.2d 14 (Iowa 1993); *Bethesda Foundation v. Board of Review of*

Madison County, 453 N.W.2d 224 (Iowa App. 1990); *Mayflower Homes v. Wapello County Bd. of Review*, 472 N.W.2d 632, 634 (Iowa App. 1991). Statutes exempting property from taxation must be strictly construed, and if there is any doubt upon the question, it must be resolved against exemption and in favor of taxation. *Dow City Senior Citizens Housing, Inc. v. Board of Review of Crawford County*, 230 N.W.2d 497 (Iowa 1975).

The majority of this property is already exempt from taxation. The total cost of the improvements on the property was over ten million dollars, and the assessed value is $4.2 million. In other words, the majority of this property has already been exempted from taxation. Stateline urges the Court to take a broad view and apply it everything they consider machinery. This is directly contradictory to established Iowa law, and is asking the Court to overrule precedent established over multiple cases over several decades.

Stateline argues that there is no authority that addresses the issue as to what is or is not "machinery used in a manufacturing establishment" in the context of a feed mill under Iowa law. That is incorrect - that authority is the Iowa Real Property Appraisal Manual (the "Manual"). The Manual provides what is to be assessed (and of equal importance, what

is not to be assessed) when valuing feed mills for assessment purposes. Specifically, the Manual drafted by the Iowa Department of Revenue discusses what is included in valuing a feed mill. The undisputed evidence is that all property included in the assessment was property that the Manual (and therefore, the Department of Revenue) stated should be included in value when assessing the property. (App.pp. 1103-1104). Nothing included in the assessment contradicted the instructions in the Manual. *Id.*

The use of the Manual in valuing property is required by Iowa Statute. Specifically, Iowa Code §421.17(17) requires that the Department of Revenue "prepare and issue a state appraisal manual which each county and city assessor shall use in assessing and valuing all classes of property in the state". As such, the assessor has a clear directive from the legislature to follow the Manual in determining what is or isn't exempt property when assessing feed mill. The inclusion of this property in the Manual is the Department of Revenue stating its position of what it considers non-exempt real property.

The undisputed evidence at trial was that the assessment contains only property the Manual indicated should be assessed. (App.pp. 1103-1104). Under the circumstances, there is no precedent that supports the

'expansive' interpretation of what should be exempt, but there is clear and unambiguous authority supporting valuing the property as urged by the Board. Under the clear requirements of Iowa law, all doubt should be resolved in favor of taxation, and Stateline's claims must fail.

IV. THE DISTRICT COURT'S RULING THAT THE PAAB'S FINDING THAT STATELINE FAILED TO PROVIDE RELIABLE EVIDENCE OF VALUE OF THE ALLEGEDLY EXEMPT PORTIONS OF THE FEED MILL AND THE GRAIN BINS WAS A FINDING OF FACT THAT SHOULD NOT BE DISTURBED BY THE COURT.

Stateline seeks to have the Court re-weigh the determination of the credibility of their evidence presented by expert witnesses. This is not a proper role for the Court when hearing an administrative review. A determination of the credibility of a witness is a finding of fact, and should be given deference, and not upset unless they are not supported by substantial evidence. *Christiansen v. Iowa Bd. of Educ. Examiners*, 831 N.W.2d 179, 192 (Iowa 2013). As such, credibility determinations are findings of fact, and should be given the deference any other finding of fact would on this type of appeal.

After considering all of the testimony, evidence, and arguments, the PAAB concluded that Stateline's expert did not provide an accurate value of the property Stateline believes to be exempt. (App.p.

1168). Specifically, the PAAB noted the failure to account for site work and other costs associated with constructing the non-exempt foundations, and that his calculations were based upon a lower replacement cost than the actual construction costs of the facility.

Stateline's argument on this issue is nothing but recitations of the opinion of its expert. This is of no help to the Court. When reviewing an appeal, this Court is bound by the agency's findings of fact "if supported by substantial evidence in the record as a whole." *Excel Corp. v. Smithart,* 654 N.W.2d 891, 896 (Iowa 2002); Iowa Code §17A.19(10)(*f*)). The question on appeal is not whether the evidence supports a different finding than the finding made by the PAAB, but whether the evidence supports the findings that were actually made. *St. Luke's Hosp. v. Gray,* 604 N.W.2d 646, 649 (Iowa 2000)). In the present case, the PAAB's ruling clearly shows the factual basis for the finding that Stateline's evidence of value on these subjects was found not credible, and this factual finding clearly meets the "substantial evidence" standard required to uphold its findings.

V. EVEN IF STATELINE ESTABLISHES THAT SOME OF ITS PROPERTY IS EXEMPT, ITS APPEAL CANNOT SUCCEED UNLESS IT CARRIES THE BURDEN OF PROVING THE VALUE ABSENT THE EXEMPT EQUIPMENT.

Iowa law requires a taxpayer claiming its assessed value includes value of property that is not taxable, must show the value of the property independent of the exempt property. *See, e.g. White v. Board of Review of Polk County* 244 N.W. 2d 765 (Iowa 1976); *Deere Manufacturing Co. v. Zeiner*, 78 N.W. 2d 527 (Iowa 1956) (taxpayer's argument that assessment includes buildings and other property that no longer exist insufficient evidence to establish value of property).

The above-listed authorities all contain a situation where a taxpayer is asking to have a portion of assessed value removed because it is not taxable (or, in the case of *White*, no longer exists). The Courts in these cases have refused to deviate from the position set forth in *White* (the taxpayer was seeking to have $25,000 removed from its assessment, which was the value assigned to a building that had been torn down prior to the assessment date and was no longer present on the property). The *White* court refused to let the taxpayer simply "accept the assessor's value" and remove the value on the property card assigned to that component, instead ruling that the taxpayer must prove the value of the property independently. *Id.*

This position is best illustrated by the recent case that was a different appeal from the PAAB regarding the value of equipment claimed to be exempt, *Wendling Quarries v. Property Assessment Appeal Board*, 865 N.W. 2d 635 (Iowa 2015). In *Wendling*, a taxpayer arguing that a quarry scale was exempt (under a different statutory provision than the present case), had to present evidence that demonstrated the value of the portion of the scale claimed to be exempt as "equipment removed upon relocation", and the value of the non-exempt structure (specifically the concrete foundation and other supporting components that were real estate and not equipment) that made up the remainder of the scale. *Id.* at 640. The taxpayer couldn't remove the entire value the assessor had assigned to the scale, but had to provide independent evidence of the value of the equipment vs. the taxable property. In short, the *Wendling* Court shows that Stateline's approach of 'just subtract from the assessed value' cannot be used to establish value in these circumstances. It is further relevant that the present dispute involves (in part) the assessment of truck scales that are similar in function and construction to a quarry scale. It is not in dispute that the scales exempted by the PAAB decision in the present case contain a

concrete foundation and that no evidence was provided for the value of the clearly taxable components.

In its evidence, that is precisely what the taxpayer did through its witness Don Vaske. Mr. Vaske assigned values by simply taking the assessed value of a component, and calling a percentage of the assessment "equipment" vs. "real estate". There was no independent analysis of the costs of the construction (terrifically relevant given the fact that the assessment in question is the first one after the construction of this property). There was no evidence of any of the value of the equipment, no evidence of the value for the underlying real property.

Stateline's evidence of value fails to meet Iowa law requirements. It is the result of simply taking the assessed value, and either subtracting the assessed value for that component of the overall property, or calculating a value based upon the percentage of the assessed value for a component of the subject property. There was no independent evidence of any of the value of the equipment, no evidence of the value for the underlying ground (Stateline said they "accepted" that number), or any adjustment for differences between the cost of construction and the replacement cost new calculated by the assessor. Stateline's analysis doesn't

reflect actual value of the property, and their approach of attacking only components of the assessment, while offering no evidence of overall value is contrary to Iowa law.

Stateline is, in essence, trying to use the assessor's numbers to prove the assessor's numbers are wrong, "accepting" parts of the assessment (that don't reflect actual replacement costs) and asking that other parts be removed, without providing any independent evidence of the value of the property. This is circular reasoning, and provides no guidance as to the actual value of the property. Given this failure of proof, Stateline cannot establish what the value of the property is even if they are successful in radically expanding exemptions for manufacturing facilities. As such, their claim must fail, and the Court should uphold the original decision of the Board.

VI. THE DISTRICT COURT'S DECISION THAT THE PAAB CORRECTLY DETERMINED THAT THE GRAIN BINS AND PROTIONS OF THE FEED MILL BUILDING WERE NOT EXEMPT EQUIPMENT WAS CORRECT.

This matter was remanded to the PAAB to determine whether certain portions of the feed mill building (which were essentially holding bins for raw materials and/or finished product) and two exterior grain bins were equipment, and if so, what was the value of said exempt equipment.

The PAAB found that bins are not equipment or machinery, but rather a place to store raw materials until it is needed in the manufacturing process, and further found that Stateline failed to provide reliable evidence the value of the property it claimed was exempt.

This Court should not upset those findings. There was absolutely no evidence (or legal authority) that supported a finding that bins are equipment. In fact, on remand the PAAB specifically held (regarding the components in question) that "we do not believe any of them would commonly be understood to be machinery. Their primary purpose is to hold raw material, protecting it from the elements, until it is needed in the manufacturing process. Similarly, the large and small grain bins' primary purpose is to store raw material until it is needed in the manufacturing process." (App.p. 1167).

The PAAB's ruling is in accordance with Iowa law. Specifically, Iowa Admin. Code 701-71.1(7)(a)(1) identifies and defines what is industrial real estate, and states as follows:

> Industrial real estate includes land, buildings, structures, and improvements used primarily as a manufacturing establishment. …. Industrial real estate includes land and buildings used for the storage of raw materials or finished products and which are an integral part of the manufacturing establishment, and also includes office space used as part of a manufacturing

establishment.

In contrast, Stateline's only authority is *Griffin Pipe Products v. Board of Review of Pottawattamie County*, 789 N.W.2d 769 (Iowa 2010), which did not address the question of what is or is not equipment used in a manufacturing facility. Given this clear authority, plus Iowa law's clear statement that exemption claims must be strictly construed, with all doubts being resolved in favor of taxability, requires this Court to leave the determination that the property found to be not equipment by the PAAB on remand to remain undisturbed.

CONCLUSION

Based on the foregoing arguments and authorities, this Court should affirm the decision of the District Court.

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STATEMENT OF DESIRE TO BE HEARD IN ORAL ARGUMENT

Appellee hereby states that it desires to be heard in oral argument upon submission to the Supreme Court of Iowa.

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ATTORNEY'S COST CERTIFICATE

I hereby certify that the actual cost of printing the foregoing Appellee's Proof Brief and Request for Oral Argument was the sum of $140.00.

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