

IN THE SUPREME COURT OF IOWA

No. 19-0674
Dist. Ct. No. CVCV019170

STATELINE COOPERATIVE,
Petitioner-Appellant,

v.

PROPERTY ASSESSMENT APPEAL BOARD,
Respondent-Appellee.

EMMET COUNTY BOARD OF REVIEW,
Cross-Petitioner,

v.

STATELINE COOPERTAIVE and PROPERTY ASSESSMENT APPEAL
BOARD,
Cross-Appellees – Cross-Appellees.

APPEAL FROM THE DISTRICT COURT OF EMMET COUNTY
THE HONORABLE DON E. COURTNEY, DISTRICT COURT JUDGE

**PROPERTY ASSESSMENT APPEAL BOARD
APPLICATION FOR FURTHER REVIEW OF COURT OF
APPEALS DECISION FILED NOVEMBER 4, 2020**

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QUESTIONS PRESENTED FOR REVIEW

- I. DID THE COURT OF APPEALS CORRECTLY INTERPRET AND APPLY THE EXEMPTION FOR “MACHINERY USED IN MANUFACTURING ESTABLISHMENTS” UNDER IOWA CODE SECTIONS 427A.1(1)(e) AND 427B.17(3) TO STATELINE’S GRAIN BINS AND FEED MILL.
- II. DID THE COURT OF APPEALS APPLY THE CORRECT STANDARD OF REVIEW AND BURDEN OF PROOF WHEN IT REJECTED PAAB’S DETERMINATION THAT STATELINE FAILED TO OFFER RELIABLE EVIDENCE OF THE FEED MILL’S VALUE SHOULD IT BE FOUND TO BE EXEMPT MACHINERY.

TABLE OF CONTENTS

QUESTIONS PRESENTED FOR REVIEW	2
TABLE OF CONTENTS.....	3
TABLE OF AUTHORITIES	4
STATEMENT SUPPORTING FURTHER REVIEW	7
BRIEF IN SUPPORT OF FURTHER REVIEW	9
STATEMENT OF THE CASE	9
STATEMENT OF THE FACTS	11
ARGUMENT	15
CONCLUSION.....	32
CERTIFICATE OF COMPLIANCE.....	34
CERTIFICATE OF FILING.....	35
CERTIFICATE OF SERVICE	35

TABLE OF AUTHORITIES

Cases

<i>ABC Disposal Sys., Inc. v. Dep't of Natural Res.</i> , 681 N.W.2d 596, 603 (Iowa 2004)	26
<i>Arndt v. City of Le Claire</i> , 728 N.W.2d 389, 394 (Iowa 2007)	23, 24
<i>Barton Enterprises, Inc. v. Ramsey Cnty.</i> , 390 N.W.2d 776 (Minn. 1986)..	21
<i>Burke v. Stitzel-Weller Distillery</i> , 145 S.W.2d 861 (Ct. App. Ky. 1940).....	18
<i>Burton v. Hilltop Care Ctr.</i> , 813 N.W.2d 250, 256 (Iowa 2012)	24
<i>Cerro Gordo Cnty. Care Facility v. Iowa Civ. Rights Comm'n.</i> , 401 N.W.2d 192, 195-96 (Iowa 1987)	30
<i>City of Hampton v. Iowa Civil Rights Comm'n.</i> , 554 N.W.2d 532, 536 (Iowa 1996)	24
<i>Clark v. Vicorp Restaurants, Inc.</i> , 696 N.W.2d 596, 604 (Iowa 2005)	24
<i>Gaskey v. Iowa Dep't of Transp., Motor Vehicle Div.</i> , 537 N.W.2d 695, 698 (Iowa 1995)	23
<i>Geis v. City of Fond du Lac</i> , 409 N.W.2d 148 (Ct. App. Wisc. 1987)	18
<i>Griffin Pipe Products Co., Inc. v. Bd. of Review of Pottawattamie Cnty.</i> , 789 N.W.2d 769, 774 (Iowa 2010)	20

<i>Iowa Ill. Gas & Elec. Co. v. Iowa State Commerce Comm’n</i> , 412 N.W.2d 600, 604 (Iowa 1987)	15
<i>McHose v. Property Assessment Appeal Bd.</i> , No. 14-1584, 2015 WL 4488252 *3 (Iowa Ct. App. July 22, 2015)	23
<i>Mercy Health Cnt. v. State Health Facilities Council</i> , 360 N.W.2d 808, 811 (Iowa 1985)	15
<i>Mycogen Seeds v. Sands</i> , 686 N.W.2d 457, 465 (Iowa 2004)	24
<i>NextEra Energy Res. LLC v. Iowa Utilities Bd.</i> , 815 N.W.2d 30, 42 (Iowa 2012)	26
<i>State v. Tesch</i> , 704 N.W.2d 440, 451 (Iowa 2005)	17
<i>Tremel v. Iowa Dep’t of Revenue</i> , 785 N.W.2d 690, 692-93 (Iowa 2010) ..	16

Statutes

Iowa Code § 17.19(10)(c)	16
Iowa Code § 17A.19	7, 9, 26
Iowa Code § 17A.19(10)	15, 26
Iowa Code § 17A.19(10)(f)	23, 26
Iowa Code § 17A.19(10)(f)(1)	23
Iowa Code § 17A.19(10)(f)(3)	24
Iowa Code § 17A.19(10)(m)	24

Iowa Code § 17A.19(8)(a)	15
Iowa Code § 427A.1	16
Iowa Code § 427A.1(1)(e)	7, 15, 16, 20
Iowa Code § 427B.17(3).....	7, 15, 16
Iowa Code § 428.22 (1973)	17
Iowa Code § 441.21(3)	8, 31
Iowa Code § 441.21(3)(b)(1)	31
Iowa Code § 441.37(1)(a)(1)(c) (2014).....	9
Iowa Code § 441.39	15
Iowa Code §17A.14(5)	26
Iowa Code §421.1A(2)	26

Rules

Iowa Admin. Code R. 701-71.1(7)(a)(1) (2014)	21
Iowa R. App. P. 6.1103 (1, 2, and 4)	7, 8
Iowa R. App. P. 6.1103(5)	22

STATEMENT SUPPORTING FURTHER REVIEW

This case involves important questions concerning the correct interpretation and application of Iowa Code sections 427A.1(1)(e) and 427B.17(3). Iowa R. App. P. 6.1103 (2, 4). Together, these sections exempt “machinery used in manufacturing establishments” from real estate taxation. The Court of Appeals’ novel interpretation and application of these statutes rests primarily on non-Iowa case law and secondary sources, is not consistent with the statutes’ plain language, and is in conflict with Supreme Court precedent. Iowa R. App. P. 6.1103(1). Potentially impacting the real estate taxes of all manufacturing facilities in the state of Iowa, the interpretation of these statutes has broad public importance which should be determined by the supreme court.

This case also requires consideration of whether the Court of Appeals ruling is consistent with the standard of review under section 17A.19. The Court of Appeals failed to afford the appropriate deference to PAAB’s agency expertise in its evaluation of evidence. The Court of Appeals ruling is contrary to long-standing legal principles and has broad public importance that should be determined by the supreme court. Iowa R. App. P. 6.1103 (1, 4). Also pertinent to this question was whether Stateline bore a burden under

section 441.21(3) to demonstrate the value of the property for which is sought exemption, and whether the Court of Appeals properly applied the burden.

For these reasons, PAAB requests further review. Iowa R. App. P. 6.1103 (1, 2, and 4).

BRIEF IN SUPPORT OF FURTHER REVIEW

STATEMENT OF THE CASE

This is a judicial review challenging the final agency action of the Property Assessment Appeal Board (PAAB) under Iowa Code section 17A.19.

Stateline Cooperative (Stateline) is the owner of a feed mill facility located at 5265 206th Street, Armstrong. (App. 998-99). In 2014, the Emmet County Assessor assessed the property for \$4,272,900. (App. 1021).

Stateline petitioned the Board of Review asserting the property was exempt from property taxation under Iowa Code section 441.37(1)(a)(1)(c) (2014). (App. 1001, 1003-05). The Board of Review denied the petition. (App. 1002). Stateline then appealed to PAAB. (App. 998-99).

Following a contested case proceeding, PAAB issued an order (First Order) concluding that certain items of Stateline's property qualified for an exemption from property tax as machinery used in a manufacturing establishment. (App. 1015-16). PAAB also concluded that Stateline failed to show the entirety of its feed mill and steel storage bins qualified for the exemption. (App. 1016). Even if part of the feed mill and steel storage bins would qualify, PAAB reasoned that Stateline had also not demonstrated the

correct value of those component parts in order to properly apply an exemption. (App. 1016-17). PAAB ultimately ordered the exempt machinery, valued at \$1,014,200, should be removed from Stateline's 2014 assessment. (App. 1018).

Stateline filed a Petition for Judicial Review of PAAB's ruling. (App. 8-12). The Board of Review then intervened and cross-appealed. (App. 30-33). Following several motions, the District Court remanded the case to PAAB "to receive additional evidence on, and determine, the portions and corresponding values of the feed mill buildings and exterior grain bins." (App. 554-55).

PAAB held a second contested case hearing on August 30, 2017, and issued its order on remand on March 23, 2018 (Order on Remand). (App. 1161-72). PAAB concluded the feed mill's overhead ingredient and load-out bins, located in Building 1, and the exterior steel grain bins' walls and roof (Buildings 5 and 6) are not machinery and thereby not exempt. (App. 1168). Further, PAAB found that Stateline's evidence of the allocations of value was not reliable. (App. 1168-69).

Stateline then filed an Amended Petition for Judicial Review. (App. 557-65). Following briefing, the District Court issued its ruling affirming

PAAB's final agency action on March 29, 2019. (App. 976-85). Stateline filed a Notice of Appeal on April 24, and the Board of Review filed a cross-appeal on the same day. (App. 986-99).

The Court of Appeals issued its ruling on November 4, 2020, affirming in part and reversing in part. The Court of Appeals concluded Stateline's ingredient bins and exterior grain bins were machinery and set a value for their exemption. The Court of Appeals upheld PAAB's conclusion the load-out bins were not machinery.

STATEMENT OF THE FACTS

Stateline owns and operates a feed mill manufacturing facility in Armstrong, Iowa. (App. 80). Stateline claims the assessment of this facility includes exempt property, specifically, machinery used in a manufacturing establishment. (App. 80).

In support of its exemption claim, Stateline primarily relied on the testimony of Feed Department Manager Cheryl Krichau. (App 1175-81). PAAB's Order on Remand summarized Krichau's testimony regarding the function of the feed mill's overhead bins (ingredient and load-out) and the property's two exterior grain bins:

Cherilyn Krichau, StateLine feed department manager at the subject facility, testified on its behalf. Krichau described the subject facility's manufacturing process. She demonstrated where trucks enter the facility and dump corn into the pit scale, from there conveyors move the corn through a bucket elevator and ultimately to the large grain bin. Alternatively, the corn is gravity-fed to a smaller grain bin. She stated the corn is constantly moving through those bins on a daily basis. She further explained how the non-corn ingredients enter the facility and are stored in the overhead ingredient bins. There are twenty-four ingredient bins of various sizes and eighteen load-out bins inside the main structure of the feed mill. (Tr. p. 25, ln. 1-14; Tr. p. 27, ln. 11-14). Krichau notes the ingredient bins hold the raw materials until they are needed for the manufacturing process. (Tr. p. 17, ln. 22-24; Tr. p. 39, ln. 7-15). However, once the ingredients are delivered to the bins, they cannot be removed or used for any other reason than to process into meal feed. (Tr. p. 22, ln. 13-25).

The computerized distributor functions to move corn and non-corn ingredients by auger from the bins onto a scale, and eventually into a mixer then surge hopper for processing into meal feed. (Tr. p. 19, ln. 14-25). Krichau explained this is a continuous process. (Tr. p. 20, ln. 1-4; Tr. p. 22, ln. 11-12). A small amount of the meal feed is sold; however the majority (95%) goes on for further processing. (Tr. p. 20, ln. 22-25).

Krichau also identified a large and small grain bin used to store corn. Krichau explained that if the feed mill is operating at capacity when the large grain bin is filled, corn will begin moving into production on day one with all corn processed within roughly sixteen to twenty days. (Tr. p. 37, ln. 18-25). Product in the smaller bin is moved to production within four to five days. (Tr. p. 38, ln. 3-9).

(App. 1162).

Because Stateline did not request a full exemption for the feed mill building, it offered evidence and testimony from appraiser Don Vaske for

the items it contended should be exempt. (App. 1109-44, 1185-1200). Vaske divided the feed mill building into components – the basement, the ground floor area, and the overhead bins. (App. 1118). The record reflects that the assessor, using the IOWA REAL PROPERTY APPRAISAL MANUAL, valued the entirety of the feed mill building at its depreciated replacement cost on a per-cubic-foot basis, or roughly \$9.41 per-cubic-foot. (App. 1030). Vaske applied that per-cubic-foot cost to the ground floor area and overhead bins, ultimately concluding the exempt value for the overhead bins should be \$1,092,550. (App. 1118-1120).

As discussed later in this Application, the Board of Review called appraiser Robert Ehler to testify. Ehler was involved in the creation of the IOWA REAL PROPERTY APPRAISAL MANUAL and his company participated in the valuation of Stateline's feed mill building. Ehler testified Vaske's approach of using the per-cubic-foot cost to value a portion of the building was not how the Manual was intended to be used.

PAAB ultimately found that Stateline had not demonstrated the overhead bins and exterior grain bins would be commonly understood to be machinery and therefore were not exempt. (App. 1167). Even if Stateline had been able to demonstrate its overhead bins were machinery, PAAB

rejected Vaske's evidence of their value. (App. 1168). It found his approach of using the per-cubic-foot value of the whole to determine a value of a portion of the feed mill building was not reliable. (App. 1168).

ARGUMENT

I. **DID THE COURT OF APPEALS CORRECTLY INTERPRET AND APPLY THE EXEMPTION FOR “MACHINERY USED IN MANUFACTURING ESTABLISHMENTS” UNDER IOWA CODE SECTIONS 427A.1(1)(e) AND 427B.17(3) TO STATELINE’S GRAIN BINS AND FEED MILL.**

A. Standard of Review

Review of agency action is limited to correction of errors at law. Iowa Code § 441.39. Stateline and the Board of Review bear the burden of proof in this judicial review action. *Id.*; § 17A.19(8)(a). In order to successfully challenge PAAB’s decision, they must demonstrate prejudice to substantial rights arising from agency action that falls within one of the grounds designated in section 17A.19(10). *Mercy Health Cnt. v. State Health Facilities Council*, 360 N.W.2d 808, 811 (Iowa 1985).

The Court may affirm PAAB’s action or remand the case for further proceedings. § 17A.19(10). Only where the Court finds that the substantial rights of the person seeking judicial relief have been prejudiced by the agency action shall the Court reverse, modify, or grant other appropriate relief. *Id.* Nearly all disputes in the field of administrative law are won or lost at the agency level. *Iowa Ill. Gas & Elec. Co. v. Iowa State Commerce Comm’n*, 412 N.W.2d 600, 604 (Iowa 1987).

If the Court concludes PAAB has not been clearly vested with the authority to interpret a provision of law, the Court may substitute its own interpretation if it finds PAAB's interpretation is erroneous. Iowa Code § 17A.19(10)(c); *Tremel v. Iowa Dep't of Revenue*, 785 N.W.2d 690, 692-93 (Iowa 2010). PAAB does not assert it has been clearly vested with the authority to interpret the Iowa Code section 427A.1. Nonetheless, PAAB contends it has not erroneously interpreted any applicable legal provision.

B. The Court of Appeals Interpretation and Application of the Statutory Exemption is Erroneous

PAAB asserts the Court of Appeals erred in both its interpretation and application of the Iowa Code sections 427A.1(1)(e) and 427B.17(3) by adopting a new test for determining whether items constitute machinery used in manufacturing.

Sections 427A.1(1)(e) and 427B.17(3) effectively exempt “[m]achinery used in manufacturing establishments” from real property tax. Machinery is not defined by section 427A.1(1)(e) other than to state, “The scope of property taxable under this paragraph is intended to be the same as, and neither broader nor narrower than, the scope of property taxable under

section 428.22, Code 1973, prior to July 1, 1974.”¹ *Id.* Before PAAB, the parties stipulated that Stateline was a manufacturer; thus the only remaining issue was whether its property was machinery.

In deciding whether Stateline’s property qualified as machinery for purposes of exemption, PAAB applied common definitions of the term. (App. 1167). *State v. Tesch*, 704 N.W.2d 440, 451 (Iowa 2005) (indicating where the legislature has not defined a term, a “dictionary provides a ready source for the common meaning of a word or phrase.”). Ultimately, PAAB determined parts of Stateline’s property qualified for exemption as machinery and other property did not.

When faced with whether PAAB appropriately applied the law to Stateline’s property, the Court of Appeals devised a ‘directly used or integral to the manufacturing process’ test; a test which had not previously been used by an Iowa court to determine whether property constituted machinery. The Court of Appeals found support for this test in non-Iowa case law from Wisconsin, Pennsylvania, and Kentucky. While perhaps instructive, this case

¹ Iowa Code section 428.22 (1973) states, “Machinery deemed real estate. Machinery used in manufacturing establishments shall, for the purpose of taxation, be regarded as real estate.”

law's usefulness is dependent on the underlying statutes and issues in those cases.

For example, the statute at-issue in *Geis v. City of Fond du Lac*, 409 N.W.2d 148 (Ct. App. Wisc. 1987), required that the machinery be used directly in the manufacturing personal property, by transforming materials or substances into new articles or components, in order to be exempt. Iowa's statute contains no such language and, as a result, the Court of Appeals' reliance on *Geis* results in a misinterpretation of Iowa law.

Moreover, the Court of Appeals misunderstands the main issue in *Burke v. Stitzel-Weller Distillery*, 145 S.W.2d 861 (Ct. App. Ky. 1940). The dispute in that case was not whether the taxpayer's bottling equipment was considered machinery; the dispute was whether the act of bottling whiskey should be considered manufacturing. This case has no instructive value on the issue of whether Stateline's property is exempt machinery under Iowa law.

Upon applying this new test, the Court of Appeals reversed PAAB's conclusions and determined the ingredient bins and exterior grain bins were machinery. However, the Court affirmed PAAB's order determining the

load-out bins were not machinery because they contain finished product and are not used directly in the manufacturing process.

PAAB questions whether the Court of Appeals' interpretation is consistent with the plain language of the statute and legislative intent. First, the plain language of the statute does not confine the exemption to only property which is directly used or integral to the manufacturing process. Additionally, the Court of Appeals' interpretation has a tendency to be both overinclusive and underinclusive relative to the plain language of the statute. Under the Court of Appeals' approach, if property is integral to the manufacturing process it is machinery, regardless of whether it would commonly be understood as machinery. Conversely, even if property might normally be considered machinery, an integral to the manufacturing process test would exclude it from exemption if it is not directly used in the manufacturing process. This problem with the Court of Appeals' interpretation is best demonstrated by its different treatment of the ingredient bins and the load-out bins. The ingredient bins, it held, are directly used in the manufacturing process, and therefore are machinery and exempt.² In

² PAAB is merely using the load-out bins and ingredient bins to demonstrate the problems in the Court of Appeals' interpretation. PAAB maintains that

considering the load-out bins, however, the court concluded the load-out bins are not directly used in the manufacturing process, they are not machinery, and are thus taxable. In the absence of statutory language limiting the exemption to machinery directly used in the manufacturing process, the disparate treatment of property which completes substantially the same function is not tenable.

The Court of Appeals' interpretation is also not consistent with precedential Iowa case law. As the Supreme Court recognized when it considered whether common law fixtures are within the scope of exemption of section 427A.1(1)(e), the lack of qualifying language indicates the section is subject to a broad interpretation. *Griffin Pipe Products Co., Inc. v. Bd. of Review of Pottawattamie Cnty.*, 789 N.W.2d 769, 774 (Iowa 2010). In *Griffin Pipe*, the Court recognized that “[t]he Iowa legislature chose not to employ such limiting language in our tax code.” *Id.* Applied to this matter, it must be acknowledged that nowhere in the applicable statutes does it state that property must be directly used in or integral to the manufacturing process to be considered exempt machinery.

Stateline has not demonstrated that the load-out bins or ingredient bins would commonly be understood as machinery.

In fact, the only mention of an “integral” test in Iowa law, of which PAAB is aware, relates to the classification of industrial property. Iowa Administrative Code Rule 701-71.1(7)(a)(1) (2014) notes “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” However, classification of the property itself is not at issue in this case. This subrule does go on to define machinery, and PAAB cited this definition in its order. R. 701-71.1(7)(b).

It is PAAB’s position that any machinery, whether directly used in the manufacturing process or not, is entitled to an exemption under the plain language of the statute. It is also PAAB’s position that Stateline has not demonstrated its load-out bins, ingredient bins, and exterior grain bins would be commonly understood to be machinery. As PAAB concluded, the primary purpose of the ingredient bins, load-out bins, and exterior grain bins is to hold raw material, protecting it from the elements, until it is needed in the manufacturing process and these items would not be commonly understood as machinery. (App. 1167). *Barton Enterprises, Inc. v. Ramsey Cnty.*, 390 N.W.2d 776 (Minn. 1986) (upholding tax court’s determination

that oil tanks' function was to contain and shelter contents – similar to the function of a building – and the tanks were not equipment).

The Court of Appeals interpretation and application of the statutory exemption is not only novel to Iowa, but has broad implications for manufacturers and taxing bodies statewide. Because there is conflict between the Court of Appeals' ruling and *Griffin Pipe*, the lack of statutory support for the Court of Appeals' interpretation, and the Court of Appeals' reliance on non-Iowa case law, this is a matter of law which should be decided by the Supreme Court.

For these reasons, PAAB believes this issue should be considered on further review by the Supreme Court. If further review is granted, PAAB requests the Court permit supplemental briefing of this issue pursuant to Iowa R. App. P. 6.1103(5).

II. DID THE COURT OF APPEALS APPLY THE CORRECT STANDARD OF REVIEW AND BURDEN OF PROOF WHEN IT REJECTED PAAB'S DETERMINATION THAT STATELINE FAILED TO OFFER RELIABLE EVIDENCE OF THE FEED MILL'S VALUE SHOULD IT BE FOUND TO BE EXEMPT MACHINERY.

A. Standard of Review

If the agency error is one of fact, the Court must determine whether PAAB's findings of fact are supported by substantial evidence.

§ 17A.19(10)(f). "Evidence is substantial when a reasonable person could accept it as adequate to reach the same findings. Conversely, evidence is not insubstantial merely because it would have supported contrary inferences."

Gaskey v. Iowa Dep't of Transp., Motor Vehicle Div., 537 N.W.2d 695, 698

(Iowa 1995); § 17A.19(10)(f)(1). "Making a determination as to whether

evidence 'trumps' other evidence or whether one piece of evidence is

'qualitatively weaker' than another piece of evidence is not an assessment

for the [courts] to make when it conducts a substantial evidence review of an

agency decision." *Arndt v. City of Le Claire*, 728 N.W.2d 389, 394 (Iowa

2007) (citations omitted); *McHose v. Property Assessment Appeal Bd.*, No.

14-1584, 2015 WL 4488252 *3 (Iowa Ct. App. July 22, 2015). The

determining factor is not whether the evidence supports a different finding

but whether the evidence supports the finding actually made. *City of Hampton v. Iowa Civil Rights Comm'n*, 554 N.W.2d 532, 536 (Iowa 1996).

Furthermore, because PAAB had the opportunity to view the demeanor and veracity of the witnesses at hearing, the court must give deference to any of PAAB's credibility findings. § 17A.19(10)(f)(3); *Arndt*, 728 N.W.2d at 394-95.

Under section 17A.19(10)(m), “When the application of law to fact has been clearly vested in the discretion of an agency, a reviewing court may only disturb the agency’s application of the law to the facts of the particular case if that application is ‘irrational, illogical, or wholly unjustifiable.’ ” *Burton v. Hilltop Care Ctr.*, 813 N.W.2d 250, 256 (Iowa 2012). “The true nature of the inquiry requires a reviewing court to look at those facts that were and were not considered by the agency in applying law to fact and then to determine whether, on the whole, the agency’s application of law to fact was irrational, illogical, or wholly unjustified.” *Id.* at 266. Because factual determinations are within PAAB’s discretion, “so is its application of law to the facts.” *Clark v. Vicorp Restaurants, Inc.*, 696 N.W.2d 596, 604 (Iowa 2005) (citing *Mycogen Seeds v. Sands*, 686 N.W.2d 457, 465 (Iowa 2004)). Applying this standard, the court is giving “ ‘appropriate deference to the

view of the agency with respect to particular matters that have been vested by a provision of law in the discretion of the agency.’ ” *Mycogen Seeds*, 686 N.W.2d at 465 (quoting Iowa Code § 17A.19(11)(c)).

B. The Court of Appeals Failed to Apply the Appropriate Standard of Review and Did Not Afford PAAB the Appropriate Deference Related to Findings Made in an Area of Expertise and Experience

After adopting a new test under Iowa law for determining whether Stateline’s property qualified as exempt machinery, the Court of Appeals then examined the record to determine if the evidence demonstrated the value of the items for which Stateline sought exemption. PAAB’s request for further review focuses on the Court of Appeals’ ruling regarding the ingredient bins and load-out bins’ value, as that is where the Court of Appeals most noticeably and improperly departs from the law.

To begin with, it should be recognized the Court of Appeals did not grant all the relief Stateline sought and only granted an exemption to the feed mill’s ingredient bins. Because this relief was different than was sought before PAAB and the District Court, the record is absent of any evidence providing a specific value for the ingredient bins alone. Instead, the Court of Appeals utilized a method, which PAAB had previously rejected, to set the exemption value for the ingredient bins. The Court of Appeals’ remedy was

not only illogical due to the absence of this specific value evidence; its approach also is wholly contrary to its role under section 17A.19.

In reviewing an agency decision, courts are to apply the standards of review under section 17A.19(10). The determination of whether the evidence was sufficiently reliable on the question of the allegedly exempt property's value is an issue of fact and can only be disturbed if not supported by substantial evidence. §17A.19(10)(f). "The agency's decision does not lack substantial evidence merely because the interpretation of the evidence is open to a fair difference of opinion." *NextEra Energy Res. LLC v. Iowa Utilities Bd.*, 815 N.W.2d 30, 42 (Iowa 2012) (quoting *ABC Disposal Sys., Inc. v. Dep't of Natural Res.*, 681 N.W.2d 596, 603 (Iowa 2004)). In its evaluation of evidence, PAAB and its members can utilize their experience, technical competence, and specialized knowledge. §17A.14(5). In this regard, it should be noted that PAAB's members are appointed by the governor, confirmed by the senate, and are required to have experience in government, corporate, or private practice relating to property appraisal and property tax administration. §421.1A(2). Moreover, when this case was heard by PAAB, at least one of PAAB's board members was a licensed appraiser. *Id.*

Relying on its experience and expertise, when Stateline's expert witness, Don Vaske, offered a valuation of the feed mill's ingredient bins and load-out bins based on the allocation of a per-cubic-foot cost derived from the IOWA REAL PROPERTY APPRAISAL MANUAL, PAAB found:

[H]is allocation of value to the ingredient bins relied on the assessment, which valued the entirety of the feed mill on a per-cubic-foot basis. We find that extrapolating a per-unit value from the whole and applying that to a portion of the property does not necessarily result in an accurate valuation of that portion. As an example, the IOWA REAL PROPERTY APPRAISAL MANUAL prescribes assessors are to arrive at the value of a restaurant by determining the restaurant's total square footage and then, considering its type of construction, apply a pre-determined value per-square-foot to arrive at its valuation. MANUAL, p. 6-15, available at <https://tax.iowa.gov/sites/files/idr/documents/6PRECOMPUTEDSECTIONA.pdf> (last visited Mar. 21, 2018).³ For instance, a 2,000 square foot wood frame restaurant would have a base cost of \$95.70 per-square-feet. *Id.* Despite the fact that the MANUAL prescribes a per-square-foot value, it could not be reasonably argued that each square foot costs the same amount to construct or contributes an equal amount to its value. Accordingly, we do not believe Vaske's allocation method is an entirely reliable reflection of the value of the ingredient and load-out bins. (App. 1168).

³ The Iowa Department of Revenue updated its MANUAL subsequent to PAAB's orders and briefing before the Court of Appeals, and this link is no longer live. The cited MANUAL page can now be found https://paab.iowa.gov/sites/default/files/documents/2020/01/6precomputedsection_part1.pdf.

As part of its role, PAAB is commonly called to review and apply the MANUAL and consider appraisal methodology. As a result, it was reasonable for PAAB to conclude Vaske's methodology was unreliable. The problems with his approach are evident but, for the sake of example, consider the following:

A builder constructs a four-bedroom, 4000-square-foot dwelling for \$500,000. On a per-square foot basis, one could say the property cost \$125 square foot to build. \$125 is the average per-square-foot cost to build the entire dwelling, but portions thereof may have costs greater than or less than the average. For instance, one would reasonably assume the cost to construct the kitchen would exceed \$125 per-square-foot, while the costs for the fourth-bedroom would fall below the average.

Vaske's methodology failed to recognize this rather basic principle – not all parts of a property have the same costs or contribute equally to its value. To use the above example, Vaske's valuation approach in this case would be akin to using \$125 per-square-foot to estimate the value of the hypothetical dwelling's fourth bedroom. There is a good reason to believe such an approach does not result in a reliable estimate of value for that fourth bedroom.

As PAAB described in its brief to the Court of Appeals, there were more reliable methods by which Vaske could have determined the value of the property for which it sought exemption. These approaches focus more

directly on the cost/value of the specific items for which Stateline sought exemption.

PAAB's conclusion is also consistent with other evidence in the record. The Board of Review called Bob Ehler to testify at the PAAB remand hearing.⁴ (PAAB Remand R. p. 264-267). Ehler testified he was involved in writing the IOWA REAL PROPERTY APPRAISAL MANUAL and his company was involved in the initial assessment of Stateline's feed mill. He testified to the approach the MANUAL uses to arrive at a per unit cost:

the model has costs for all these different components. And then in the manual, it takes that cost and converts it to a cost per cubic foot. And that's what you see in the manual.
(Remand R. p. 266).

⁴ Stateline objected to Ehler's testimony and exemption value evidence at the PAAB remand hearing. Stateline's post-hearing brief to PAAB stated, "Testimony from Emmet County's appraiser, Robert Ehlers, was not provided or explained to SLC prior to the hearing, despite SLC formally requesting such explanation through written discovery requests. Additionally, Mr. Ehlers was also unable to provide the calculations for his value allocations during the hearing. As such, PAAB should disregard the entirety of Mr. Ehler's testimony and report." (App. 1157). PAAB did not address his testimony or evidence in its order. Yet, before the Court of Appeals, Stateline's alternative remedy request relied on Ehler's evidence and the Court of Appeals pointed to Ehler's evidence in support of its ruling. (Stateline Ct. App. Brf. P. 52, n. 13 and P. 65, para. 3). As a result, this Court's consideration of Ehler's testimony and evidence is permissible. Because the transcript of Ehler's testimony was not included in the Court of Appeals appendix, portions thereof have been filed along with this Application.

He further testified, “There is no such thing as every cubic foot of a building cost me the same amount. Even though the manual is giving them a cost per cubic foot, there are many, many assumptions in that cost.” (Remand R. p. 266). “The manual’s not intended for anybody to ever break down the cost of the components.” (Remand R. p. 267). He summarized his testimony as follows:

Q. Basically, what's expressed on the property card is broken down on a cubic feet basis for the entirety?

A. Exactly.

Q. But that doesn't mean that the cost of the ground floor is the same as the cost of something that's 20 feet in the air?

A. No. It's just given that way as one rate. It was never intended to break down.

(Remand R. p. 267).

The Court of Appeals gave no deference to PAAB’s expertise regarding property valuation and did not address PAAB’s finding expressing concern about Vaske’s methodology. *Cerro Gordo Cnty. Care Facility v. Iowa Civ. Rights Comm’n.*, 401 N.W.2d 192, 195-96 (Iowa 1987) (“The requirement of taking all record evidence into account in reviewing administrative findings does not detract from the duty of courts to grant appropriate deference to agency expertise.”). Instead, the Court of Appeals used the same flawed methodology in setting the value for the property it

believed should be exempt – Stateline’s ingredient bins. The Court of Appeals ultimately applied the depreciated replacement cost per cubic foot of \$9.41 to the ingredient bins, resulting an exemption of \$444,810. (Ct. App. Ruling p. 26).

PAAB had a reasonable basis for finding Vaske’s allocation method was not reliable based on its expertise and experience. The Court of Appeals erred when it concluded PAAB acted unreasonably and arbitrarily by not relying on it. The Court of Appeals further compounded its error by using this same flawed methodology to set the value of the exemption.

Moreover, pertinent to this question was whether Stateline bore a burden under section 441.21(3) to demonstrate the value of the property for which it sought exemption. Section 441.21(3)(b)(1) states, “For assessment years beginning before January 1, 2018, the burden of proof shall be upon any complainant attacking such valuation as excessive, inadequate, inequitable, or capricious.” To be fair, this issue is novel under Iowa law; traditionally cases involve exemptions for entire properties or for readily identifiable portions of property for which its value is easily apparent.

The Court of Appeals avoided the question of the burden of proof but it bears directly on the resolution of the case. If Stateline bore a burden to

prove the exempt property's value and its evidence is not reliable, then must Stateline's claim fail? If not, what is the process for determining an appropriate remedy?

The Court of Appeals failed to consider PAAB's expertise regarding property valuation and interjected its own conclusions regarding the reliability of evidence. It failed to give appropriate deference to agency fact-finding in an area of its expertise and its ruling demonstrates a failure to apply the correct standard of review. As a result, PAAB requests the Supreme Court grant further review and permit further briefing on the issues presented.

CONCLUSION

Because the Court of Appeals' ruling involves a novel interpretation and application of Iowa statutory law, further review by the Supreme Court is warranted. PAAB also believes the Court of Appeals failed to apply the correct standard of review on judicial review and overreached its authority when it rejected PAAB's findings regarding the value of Stateline's alleged machinery.

PAAB properly interpreted Iowa law, applied existing definitions of machinery, and reasonably concluded that some portions of StateLine's

property should be exempt, but other portions should not. Where possible, PAAB removed the value of the exempt property in accordance with Iowa law. In the case of the ingredient bins and load-out bins, however, PAAB reasonably concluded that StateLine's valuations were not reliable.

For these reasons, PAAB asks the Supreme Court accept its Application for Further Review, and thereupon reverse the Order of the Court of Appeals.

Respectfully submitted,

/s/ Jessica Braunschweig-Norris

JESSICA BRAUNSCHWEIG-NORRIS, AT0008982

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CERTIFICATE OF COMPLIANCE

This application complies with the typeface and type-volume requirements of Iowa R. App. P. 6.1103(4) because:

[x] this application has been prepared in a proportionally spaced typeface using Times New Roman in 14-point font, and contains 5480 words, excluding the parts of the application exempted by Iowa R. App. P. 6.1103(4)(a), or

[] this application has been prepared in a monospaced typeface using Times New Roman in 14-size font, and contains [state the number of] lines of text, excluding the parts of the application exempted by Iowa R. App. P. 6.1103(4)(a).

/s/ Jessica Braunschweig-Norris

JESSICA BRAUNSCHWEIG-NORRIS, AT0008982

CERTIFICATE OF FILING

I hereby certify that I have filed the attached Property Assessment Appeal Board Application for Further Review by electronically filing a copy with the Clerk of the Iowa Supreme Court, on the 24th day of November, 2020.

/s/ Jessica Braunschweig-Norris
JESSICA BRAUNSCHWEIG-NORRIS, AT0008982

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of November, 2020, I served the Property Assessment Appeal Board Brief on the following parties to this proceeding by electronically filing the same with the Iowa Judicial Branch District Court EDMS System.

Brant D. Kahler/Adam Van Dike/Steven Schoenebaum
ATTORNEYS FOR STATELINE

Brett Ryan
ATTORNEY FOR EMMET COUNTY BOARD OF REVIEW

/s/ Jessica Braunschweig-Norris
JESSICA BRAUNSCHWEIG-NORRIS, AT0008982

IN THE COURT OF APPEALS OF IOWA

No. 19-0674
Filed November 4, 2020

STATELINE COOPERATIVE,
Plaintiff-Appellant/Cross-Appellee,

vs.

IOWA PROPERTY ASSESSMENT APPEAL BOARD,
Defendant-Appellee/Cross-Appellant,

and

EMMET COUNTY BOARD OF REVIEW,
Respondent-Appellee/Cross-Appellant.

Appeal from the Iowa District Court for Emmet County, Don E. Courtney,
Judge.

Parties appeal and cross-appeal following judicial review. **AFFIRMED IN
PART, REVERSED IN PART, AND REMANDED ON APPEAL; AFFIRMED ON
CROSS-APPEAL.**

Brant D. Kahler, Adam C. Van Dike, and Steven C. Schoenebaum of Brown,
Winick, Graves, Gross, Baskerville & Schoenebaum, P.L.C., Des Moines, for
appellant.

Brett Ryan of Watson & Ryan, PLC, Council Bluffs, for appellee Emmet
County Board of Review.

Bradley O. Hopkins and Jessica Braunschweig-Norris, Des Moines, for
appellee Iowa Property Assessment Appeal Board.

Heard by Mullins, P.J., and May and Schumacher, JJ.

MULLINS, Presiding Judge.

StateLine Cooperative (StateLine) appeals the district court's judicial-review ruling affirming the Iowa Property Assessment Appeal Board's (IPAAB) administrative decisions following its review of the Emmet County Board of Review's (ECBR) property-assessment determination. StateLine argues (1) the district court lacked jurisdiction to consider the ECBR's cross-appeal of IPAAB's decision on judicial review, (2) the court erred in affirming IPAAB's decision that certain structures were not exempt from taxation as "[m]achinery used in manufacturing establishments" pursuant to Iowa Code sections 427A.1(1)(e) and 427B.17(3) (2014), and (3) the court erred in concluding StateLine did not meet its evidentiary burden to value the exemption associated with the structures. The ECBR cross-appeals, essentially arguing its original assessment was made in accordance with the Iowa Real Property Appraisal Manual (manual) and was therefore correct.

I. Background Facts and Proceedings

In 2013, StateLine constructed a feed manufacturing facility in Emmet County. In early 2014, the property was assessed at \$4,272,900.00 for property-tax purposes. The county assessor's office hired a certified appraiser and assessor, Ted Goslinga, to appraise the property and approved his assigned assessment. Upon direction from the Iowa Department of Revenue and the manual, Goslinga assessed the property using a cost-to-value approach, which values the property at cost, less depreciation. He testified that, if a particular item is included in the manual, then it is taxable, but if an item is not included in the manual, it is exempt.

Following the assessment, StateLine petitioned the ECBR for review of the assessment, claiming some of its “manufacturing machinery” was exempt and therefore improperly included in the assessed value. StateLine requested the assessed value be reduced to \$870,700.00. Relevant to this appeal are components of building one, the feed mill, and buildings five and six, grain storage bins. StateLine requested the value of building one be reduced by \$1,633,900.00 to exempt ingredient and load-out bins and the values of buildings five and six—including their aeration floors, fans, dryers, and power sweeps—be respectively reduced by \$755,400.00 and \$89,300.00, all as machinery used in a manufacturing establishment. Ultimately, the ECBR affirmed the property assessment. StateLine appealed to the IPAAB.

According to testimony at the ensuing IPAAB hearing, ingredients other than corn are conveyed to the ingredient bins in building one where they are stored and eventually “flow out the bottom in a continuous flow process into the manufacturing process and other machinery.” At the top of the ingredient bins is a rotating, mechanical ingredient distributor that directs ingredients into the proper bin. An automated feed batching system then directs how much of each ingredient is to be released from the separate ingredient bins. The feed drops onto a scale and then into a four-ton mixer. Then it drops into a surge, which distributes it to a conveyor. If the product is meal feed, it is directed to the load-out bins, where it is held and then distributed out the bottom into semi-trucks for delivery. If the product is to be pellet feed, it is conveyed to a pelleter, where it is further processed, and then conveyed back to the load-out bins in building one. The load-out bins are

equipped with an air gate at the bottom, which is opened to release the feed into the trucks.

StateLine's chief financial officer (CFO) testified the \$1,633,900.00 claimed exemption as to building one included all the foregoing component parts of building one. He also testified: "They're all integral parts of the manufacturing process. It's basically a continuous flow from beginning to end, and all these things are interconnected to all other pieces of machinery in the manufacturing process." The feed department manager testified the materials entering and exiting the facility are "essentially continuously flowing." There is an open area under the ingredient and load-out bins. The CFO valued the area at approximately \$52,000.00 by multiplying its square footage of 2228 square feet by the value for square foot assigned by the assessor for similar building structures, \$23.60.

If the ingredient is corn, it is conveyed to buildings five and six upon delivery to the facility. When the corn reaches the buildings, it is either gravity-fed into building six or conveyed further and dumped into building five. Building five is the newer and larger steel grain storage bin. The bin is equipped with an aeration floor with holes in it and two fans. The fans pull air down through the aeration floor to ensure air movement and maintain the quality of the ingredients. It is also equipped with a power sweep that pivots around the diameter of the bin. Building six is the smaller and older grain bin and contains the same components.¹ After reaching the bins, the corn gravity-flows through the holes in the bottom of the bins

¹ However, the power sweep was removed after the initial assessment for safety reasons.

and drops to reclaim conveyors that transport the corn to be rolled and then added to the other ingredients.

A hearing was held before the IPAAB in October 2015. Following the hearing, the IPAAB took judicial notice of the manual. On February 26, 2016, the IPAAB, issued its ruling. The IPAAB accepted the parties' stipulation that the subject property was a manufacturing facility. As to building one, the IPAAB found "insufficient evidence to show the entirety of the feed mill . . . bins are machinery used in a manufacturing establishment." The IPAAB also found that some items within building one "could be machinery [but] StateLine has not shown the correct value of the exempt portions or the correct value of the remaining taxable portions of the property." As to building five, the IPAAB found the aeration floor, fans and dryers, and power sweeps were exempt and respectively valued them at \$39,100.00, \$26,100.00, and \$14,100.00. As to building six, the IPAAB found the same items were exempt and respectively valued them at \$5300.00, \$2800.00, and \$3200.00.² The IPAAB found the evidence insufficient to show the steel storage bins housing the foregoing items were machinery. As such, the IPAAB "affirm[ed] the assessment of the feed mill and grain storage bins."

On March 17, StateLine filed a petition for judicial review, challenging the IPAAB's refusal to deem all or part of the feed mill and the steel grain bins exempt. On March 23, the ECBR filed a notice of cross-appeal. Thereafter, on April 7, StateLine moved to dismiss and strike the cross-appeal, arguing the ECBR was

² The IPAAB accepted StateLine's purported valuations for each of the items it found exempt. These were the same values that were assigned by the assessor. The IPAAB found other items to be exempt, but they are generally irrelevant to this appeal.

required to file its own petition for judicial review to challenge the IPAAB's ruling and the notice of cross-appeal was not filed within the time constraints of filing a petition for judicial review of agency action. The ECBR resisted, arguing, as a party in the contested agency proceeding, it timely appeared in the judicial-review proceeding. Later, StateLine moved for a remand to the IPAAB for the purpose of presenting additional evidence.

Following a hearing, the district court denied the motion to dismiss and strike the cross-appeal. However, the court granted the motion for a limited remand and ordered the IPAAB “to receive additional evidence on, and determine, the portions and corresponding values of the feed mill building and two exterior grain bins.”

The matter proceeded to a remand hearing before the IPAAB in August 2017. At the hearing, StateLine only requested the IPAAB to change its position on whether the overhead bin portion of building one and the walls and roofs of buildings five and six were exempt.³

StateLine presented testimony from its expert, commercial real estate appraiser Don Vaske, who appraised the feed mill in March 2017. In his testimony,

³ In briefing and oral argument, StateLine asserted it did not concede the concrete floors or foundation of buildings five and six were not exempt. But at the remand hearing, StateLine noted the initial agency

ruling in this matter made it clear that the concrete floor and foundation of [buildings five and six] were properly taxed. And StateLine is not arguing otherwise today. We are, however, arguing that the wall and roof of both of those grain bins are exempt as machinery used in manufacturing.

Then, in its post-hearing brief, StateLine only argued the “walls and roofs”—not the concrete floors or foundations—should be exempt. The IPAAB had no reason to revisit the issue, and neither do we.

he noted the 2014 assessment separated building one into two components: (1) above grade and (2) the basement and tunnel. The assessment of building one did not include other structures built around the footprint of the overhead bins. The above-grade portion, including the ingredient and load-out bins, consisted of 156,244 cubic feet. The basement and tunnel consisted of 3337 cubic feet. As to the above-grade portion, the assessor applied a cost per cubic foot of \$6.40 and a replacement multiplier of 1.50 to reach an adjusted new replacement cost of approximately \$1,499,943.00. The assessor then applied 2% depreciation to reach an assessment value of \$1,469,950.00.⁴ As to the basement and tunnel, which StateLine agreed was not exemptible, the assessed value was \$215,590.00.

For his appraisal, Vaske separated the above-grade portion into two components: (1) the overhead bins and (2) the open space below them. With the footprint being 2228 square feet and the height of the open space below the bins being eighteen feet, he calculated the open space to be 40,104 cubic feet. At a cost per cubic foot of \$9.41, Vaske assessed the open space value at \$377,400.00.⁵ Vaske then subtracted that value from the assessor's total above-grade assessed value of \$1,469,950.00 to reach an appraised value for the

⁴ The product of these figures is \$1,469,944.14. We presume the assessor prefers to work in convenient numbers. We also note numbers were rounded to nearest whole dollars along the way.

⁵ This is also a rounded number. It appears Vaske ran his calculation differently than the assessor. The assessor began with the cost per cubic foot of \$6.40 and applied the 1.50 multiplier to reach an adjusted new replacement cost. Then the assessor factored in the 2% depreciation to reach an assessed value. Vaske simply divided the assessor's assessed value of \$1,469,950.00 by the 156,244 cubic feet of above-grade space to reach a cubic foot price of \$9.41. This would essentially be the equivalent of factoring in the depreciation before reaching an adjusted new replacement cost.

overhead bins of \$1,092,550.00. Similarly, the record shows the construction cost of the “modular bin system,” which was completed shortly before the 2014 assessment, was \$1,032,500.00.

As to building five, Vaske noted the assessor assigned a base cost to the actual structure—limited to the concrete floor, walls, and roof—of \$697,000.00 and applied 3% depreciation to reach an assessed value of \$676,100.00.

As to building six, Vaske explained the assessor assigned a base cost to the structure—again, limited to the concrete floor, walls, and roof—of \$193,000.00, applied a multiplier of 1.01 to reach an adjusted cost of \$194,930.00, and factored in 60% depreciation to reach an assessed value of \$78,000.00.

For his appraisal, Vaske separated the assessed values of buildings five and six into two components: (1) the walls and roof and (2) the foundation. He interviewed three companies relative to the costs associated with constructing bins of similar size and capacity, including the foundation, structure, and associated equipment, such as “doors, ladders, vents, cables, sweep augers, fans, etc.” One professional opined the concrete floor would account for 20–25% of the total cost for the larger bin and 25–30% for the smaller bin. The second reported the concrete component accounted for 29% of the cost on a recently completed bin he constructed. The third professional’s estimated figures were generally in line with the first two. Based on his investigation he concluded the concrete portion of each grain bin would account for 25% of the entire structure. So Vaske took 25% of the assessed value of buildings five and six, including their components, \$755,400.00 and \$89,300.00, respectively, to reach values of the concrete floors in the amount of \$188,850.00 and \$22,325.00, respectively. He then subtracted those figures

from the assessed values allocable to the structures—including the concrete floors, walls, and roofs—to reach values allocable to the walls and roof of each building of \$487,250.00 and \$55,675.00.

In March 2018, the IPAAB issued its remand decision. The IPAAB concluded:

StateLine has not shown the overhead bins (ingredient and loadout) or the large/small exterior grain bin[s] walls and roof are machinery. 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 elements, until it is needed in the manufacturing process.

The IPAAB added that, had StateLine proved the items were machinery, then it was also required to show the amount of the assessment attributable to those items, and it was “not convinced that Vaske’s allocations accurately reflect the value of the property StateLine believes to be exempt.” As to the exterior grain bins, while finding Vaske’s methodology sound, the IPAAB noted he failed to account for site work or how it would be allocated. As to the overhead bins, the IPAAB found Vaske’s straight-line, cubic-foot estimate “does not necessarily result in an accurate valuation” of the components of the structure. The IPAAB affirmed its prior ruling.

In April, StateLine filed an amended petition for judicial review. Following briefing from the parties, the district court entered its judicial-review decision, affirming the IPAAB’s decision. StateLine appeals, and the ECBR cross-appeals.

II. Scope and Standard of Review

“Judicial review of agency decisions is governed by Iowa Code section 17A.19” (2016).⁶ *Brakke v. Iowa Dep’t of Nat. Res.*, 897 N.W.2d 522, 530 (Iowa 2017) (quoting *Kay-Decker v. Iowa State Bd. of Tax Rev.*, 857 N.W.2d 216, 222 (Iowa 2014)); accord *Warren Props. v. Stewart*, 864 N.W.2d 307, 311 (Iowa 2015). The district court acts in an appellate capacity in judicial-review proceedings. *Iowa Med. Soc’y v. Iowa Bd. of Nursing*, 831 N.W.2d 826, 838 (Iowa 2013). On appeal, this court “appl[ies] the standards of section 17A.19(10) to determine if we reach the same results as the district court.” *Brakke*, 897 N.W.2d at 530 (quoting *Renda v. Iowa Civil Rights Comm’n*, 784 N.W.2d 8, 10 (Iowa 2010)); accord *Des Moines Area Transit Auth. v. Young*, 867 N.W.2d 839, 842 (Iowa 2015). Relief in a judicial-review proceeding is appropriate only “if the agency action prejudiced the substantial rights of the petitioner and if the agency action falls within one of the criteria listed in section 17A.19(10)(a) though (n).” *Brakke*, 897 N.W.2d at 530.

III. Jurisdiction

StateLine argues the district court lacked subject matter jurisdiction to consider the ECBR’s cross-appeal and therefore erred in denying its motion to dismiss. Our review of subject matter jurisdiction is for correction of errors at law. *Iowa Individual Health Benefit Reins. Ass’n v. State Univ. of Iowa*, 876 N.W.2d 800, 804 (Iowa 2016).

⁶ References in this opinion to Iowa Code chapter 17A are to the version of the code in force when the petition for judicial review was filed, 2016. Unless otherwise noted, references to other chapters of the code are to the code in force when the administrative proceeding was initiated, 2014.

The IPAAB filed its first ruling on February 26, 2016. The letter of disposition was postmarked for mailing on February 29. The order provided: “Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38, 441.38B, 441.39; and Chapter 17A.” Section 441.38 requires notices of appeal from the IPAAB to be filed in the district court “within twenty days after the letter of disposition of the appeal by the [IPAAB] is postmarked to the appellant.” Section 441.38B provided parties could seek judicial review in accordance with chapter 17A and section 441.38.⁷ Chapter 17A provides a petition for judicial review “must be filed within thirty days after the issuance of the agency’s final decision in that contested case.” Iowa Code § 17A.19(3). Section 17A.19 also provides it is “the exclusive means by which a person or party . . . may seek judicial review of . . . agency action” “[e]xcept as expressly provided otherwise by another statute referring to [chapter 17A] by name.”

StateLine filed its petition for judicial review on March 17. ECBR filed its notice of cross-appeal on March 23. The parties appear to agree that the deadline to commence a proceeding in the district court was March 20. StateLine is of the position that the filing of the cross-appeal beyond that date deprived the district court of jurisdiction and, because chapter 17A provides no mechanism for filing a cross-appeal in an action for judicial review, the ECBR was required to file its own timely petition for judicial review. StateLine relies on *City of Hiawatha v. City Development Board*, 609 N.W.2d 532, 537 (Iowa 2000), to support its position. In

⁷ Section 441.38B was repealed in 2017. 2017 Iowa Acts ch. 151, § 26.

that case, the city of Robins approved applications for voluntary annexation and requested approval from the city development board. *Hiawatha*, 609 N.W.2d at 534. Shortly thereafter, the city of Hiawatha filed a petition for involuntary annexation that included land common to the voluntary annexation sought by Robins. *Id.* Then, Hiawatha filed a voluntary annexation application as to two parcels that were included in the application submitted by Robins. *Id.* The board amended the Robins application to exclude those two parcels, approved Hiawatha's annexation of those parcels, and approved annexation of the remainder of the contested area to Robins. *Id.* The board issued its findings of fact and conclusions of law on August 11, 1997, and Hiawatha filed a petition for judicial review on September 9. *Id.* at 534–35. Robins did not petition for judicial review but instead intervened in the proceeding initiated by Hiawatha. *Id.* at 535. The district court ultimately affirmed, after which Hiawatha appealed and Robins cross-appealed. On cross-appeal, Robins complained of the board removing the two parcels from its application and assigning them to Hiawatha. *Id.* at 537. The supreme court stated, "The problem with this argument is that Robins did not petition for judicial review" and "we see nothing in chapters 17A or 368 that would permit an aggrieved party to challenge the ruling in that manner." *Id.* Viewing that language in isolation would arguably support StateLine's jurisdictional challenge. But we do not read the language in isolation. In *Hiawatha*, the "board's decision allowing Hiawatha to annex the two parcels in question was . . . issued on April 9, 1997" and "Hiawatha's annexation of the two parcels became complete upon the expiration of the time for review of the board's decision" and proper filings. *Id.* At the time, a city could appeal a decision of the development board within thirty days

by petitioning for judicial review. See Iowa Code § 368.22 (1997). What the supreme court was saying was Robins was required to petition for judicial review before the annexation became final following issuance of the April 9, 1997 decision of the board, which it did not. See *Hiawatha*, 609 N.W.2d at 537. By the time Hiawatha petitioned for judicial review, the issue Robins raised on cross-appeal was already final for statutory and judicial purposes, so the district court had no jurisdiction to consider it. See *id.* What the supreme court did not say, StateLine’s argument on this point, is that each party to a judicial-review proceeding is required to file its own petition.

We agree with StateLine that “a timely petition to the district court is a jurisdictional prerequisite for judicial review of final agency action.” See *id.* Judicial-review proceedings are commenced by filing a timely application for judicial review in the proper venue. See Iowa Code § 17A.19(2). StateLine did so, and conferred jurisdiction on the district court to conduct judicial review. Following conferral of jurisdiction, “[a]ny party of record in a contested case before an agency wishing to intervene and participate in the review proceeding” may do so by filing “an appearance within forty-five days from the time the petition is filed.” *Id.* StateLine does not dispute that ECBR timely intervened. Instead, StateLine argues, “As an intervenor, the ECBR cannot expand the scope of the judicial review action” through its intervention. StateLine again relies on *Hiawatha*, which we find misplaced. Unless inconsistent with chapter 17A, “the rules of civil procedure shall be applicable to proceedings for judicial review of agency action.” Iowa R. Civ. P. 1.1601. Because “[a]n intervenor may join with petitioner or respondent or claim adversely to both,” Iowa R. Civ. P. 1.1603(1), an intervenor

can certainly expand the scope of judicial review beyond the petitioner's requests for relief. Following the analysis of *Doerfer Division of CCA v. Nicol*, 359 N.W.2d 428, 436–37 (Iowa 1984), we have specifically held “that a district court has jurisdiction to review claims for affirmative relief by a cross-claimant even though the cross-claimant did not file a petition for judicial review.” *Consumer Advoc. Div. v. Utils. Bd.*, 423 N.W.2d 552, 552–53 (Iowa Ct. App. 1988).

Based upon the foregoing, we reject StateLine's jurisdictional and related challenges.

IV. Machinery Used in a Manufacturing Establishment

A. Appeal

StateLine argues the district court erred in affirming the IPAAB's decision. The overarching argument appears to be that the IPAAB and district court misinterpreted section 427A.1(1)(e) to not include buildings one, five, and six.

We review issues of statutory interpretation for correction of errors at law. *Jahnke v. Deere & Co.*, 912 N.W.2d 136, 141 (Iowa 2018). In interpreting a statute, “[w]e start with the often-repeated goal of statutory interpretation which is to discover the true intention of the legislature.” *Gardin v. Long Beach Mortg. Co.*, 661 N.W.2d 193, 197 (Iowa 2003). The “first step in ascertaining the true intention of the legislature is to look to the statute's language.” *Id.* “If the statute is unambiguous, we look no further than the statute's express language.” *Kay-Decker*, 857 N.W.2d at 223 (quoting *Rolfe State Bank v. Gunderson*, 794 N.W.2d 561, 564 (Iowa 2011)). “If, however, the statute is ambiguous, we inquire further to determine the legislature's intent in promulgating the statute.” *Id.* “A statute is

ambiguous when reasonable minds could disagree as to its meaning.” *Naumann v. Iowa Prop. Assessment Appeal Bd.*, 791 N.W.2d 258, 261 (Iowa 2010).

1. *The exemption and its breadth*

The assessor “shall [c]ause to be assessed” all property in the county “except property exempt from taxation.” Iowa Code § 441.17(2). Property defined in Iowa Code section 427A.1(1)(e), which is first assessed for taxation on or after January 1, 1995, shall be exempt from taxation. *Id.* § 427B.17(3). Section 427A.1(1)(e) encompasses: “Machinery used in manufacturing establishments. The scope of property taxable under this paragraph is intended to be the same as, and neither broader nor narrower than, the scope of property taxable under section 428.22, Code 1973, prior to July 1, 1974.” Iowa Code section 428.22 (1973) contemplated “Machinery deemed real estate,” and provided, “Machinery used in manufacturing establishments shall, for the purpose of taxation, be regarded as real estate.” While section 428.20 of the 1973 and current codes define who a “manufacturer” is—and the parties agree StateLine operates a “manufacturing establishment”—neither defines what “machinery” is.

We begin with the breadth of what is covered by the statute. StateLine is of the position that “[t]he exemption should be interpreted broadly.” Our supreme court has said as much when it considered whether a manufacturing company’s “cupola, vertical annealing furnace, and smokestack” were manufacturing machinery and therefore exempt from taxation. *Griffin Pipe Prods. Co., Inc. v. Bd.*

of *Rev. of Cnty. of Pottwattamie*, 789 N.W.2d 769, 770, 775 (Iowa 2010).⁸ The court described the manufacturer and its fixtures as follows:

Griffin Pipe Products Co., Inc. is a manufacturer of ductile iron pipe products with a foundry located in Council Bluffs, Iowa. The foundry's physical plant includes a cupola, a vertical annealing furnace, and a steel exhaust stack. The cupola occupies three floors and extends above the roofline of the main production building and is used to melt the metals during the casting process. The vertical annealing furnace, which sits in the basement of the main production building and rises above the main floor of the plant, is used to alter the hardness and add strength to metal. The exhaust stack is connected to the exterior of the primary production building and vents hot gases and fine particulate matter generated by the smelting process.

Id. at 770. The assessor included the value of the fixtures in its assessment. *Id.* The “narrow question” of whether “[m]achinery used in manufacturing establishments’ under Iowa Code section 427A.1(e) includes within its scope common law fixtures” made its way to the supreme court. *Id.* at 773 (alteration in original). Iowa authority on the issue was limited. The court acknowledged it had previously concluded a plant’s “water systems, air separators, dust collectors, and truck turn around fell within the scope of a precursor to paragraph (e), then Iowa Code section 428.22 (1950).” *Id.* (discussing *Nw. States Portland Cement Co. v. Bd. of Rev.*, 58 N.W.2d 15, 19–21 (Iowa 1953)). The court also noted the regulatory language of Iowa Administrative Code rule 701-71.7—“that machinery under Iowa Code section 427A.1(1)(e) ‘shall include *all* machinery used in

⁸ In oral argument, the ECBR took the position *Griffin Pipe* is inapposite on the issue of the breadth the term machinery is entitled because that case only considered whether fixtures could fall within the meaning of machinery. Because the items claimed exempt in this appeal generally amount to fixtures, we find *Griffin Pipe* applicable. In any event, as discussed below, the supreme court extended its holding beyond fixtures to include movable items. *Griffin Pipe*, 789 N.W.2d at 775.

manufacturing establishments”—“suggests that subsection (e) must be given a broad interpretation to include common law fixtures.” *Id.* at 774. The court also noted the “lack of qualifying language” and “express words of limitation indicates that the legislature did not intend to limit the scope of section 427A.1(1)(e).” *Id.* The court concluded the statutory and regulatory scheme implied “that all machinery, attached or unattached, fixtures or movable items, falls within the scope of paragraph (e).” *Id.* at 775.

2. Interpretation

Having concluded machinery under section 427A.1(1)(e) is entitled to a broad interpretation, we consider whether buildings one, five, and six fall within the meaning of the statute. As noted, machinery is not statutorily defined. A department of revenue regulation that classifies real estate provides, “Machinery includes equipment and devices, both automated and nonautomated, which is used in manufacturing as defined in Iowa Code section 428.20.” Iowa Admin. Code. r. 701-71.1(7)(b). Where “the legislature has not defined words of a statute, we may refer to prior decisions of this court and others, similar statutes, dictionary definitions, and common usage.” *Jack v. P & A Farms, Ltd.*, 822 N.W.2d 511, 516 (Iowa 2012) (citation omitted).

Machinery has been defined to include “machines in general or as a functioning unit,” as well as “the means or system by which something is kept in action or a desired result is obtained.” Merriam Webster, *Machinery*, <https://www.merriam-webster.com/dictionary/machinery>. In the tax context, “[t]o be exempt, the machinery must be used primarily in manufacturing, and be

essential to the manufacturing process.” 71 Am. Jur. 2d *State & Local Taxation* § 267 (Aug. 2020 update).

The machinery and equipment of an industrial establishment to be excluded from taxation are those which are used directly in manufacturing the products that the establishment is intended to produce and are necessary and integral parts of the manufacturing process and are used solely for effectuating that purpose; on the other hand, excluded from this category are machinery and equipment which benefit the land generally and which may serve various users of the land and structures which are not necessary and integral parts of the manufacturing process and which are separate and apart therefrom. A utility’s smokestacks, cooling towers, and water intake facility are integral to its generation of electricity and used solely for that purpose and, thus, exempt. Communications towers, on the other hand, which transfer and receive signals and are not involved in producing a product, are not exempt.

84 C.J.S. *Taxation* § 332 (June 2020 update) (footnotes omitted).

In one case, the Wisconsin Court of Appeals considered whether silos at a concrete-manufacturing facility were exempt under a statute exempting the following property:

Manufacturing machinery and specific processing equipment, exclusively and directly used by a manufacturer in manufacturing tangible personal property. In this section, “manufacturing machinery and specific processing equipment” means any combination of electrical, mechanical or chemical means, including special foundations therefor, designed to work together in the transformation of materials or substances into new articles or components, including parts therefor, regardless of ownership and regardless of attachment to real property. This shall not be construed to include materials, supplies, buildings or building components; nor shall it include equipment, tools or implements used to service or maintain manufacturing machinery or equipment.

Geis v. City of Fond Du Lac, 409 N.W.2d 148, 150 (Wis. Ct. App. 1987) (quoting Wis. Stat. § 70.11(27)). The court described the silos as follows:

The silos [are] used to store the sand and stone [and] have probes and weeping holes. These silos assure a consistent mix in the gravel, prevent the “fines” (very fine sand) from blowing away and

allow the moisture content of the sand to be monitored and regulated through the use of probes and weeping holes. The silos also prevent the sand from being contaminated with mud or other impurities.

Id. at 149. Because the silos were “necessary to preserve the integrity of the sand and gravel,” the court concluded “[t]he storage purpose is vital to the manufacturing process, making the silos an integral part of the manufacturing process and therefore tax-exempt.” *Id.* at 151.

In another case, the Supreme Court of Minnesota considered whether oil storage tanks were exempt as “equipment” under the following statutory scheme:

For the purposes of taxation, “real property” includes the land itself, rails, ties, and other track materials annexed to the land, and all buildings, structures, and improvements or other fixtures on it, bridges of bridge companies, and all rights and privileges belonging or appertaining to the land, and all mines, minerals, quarries, fossils, and trees on or under it.

. . . .

The term real property shall not include tools, implements, machinery, and equipment attached to or installed in real property for use in the business or production activity conducted thereon, regardless of size, weight or method of attachment.

Barton Enters., Inc. v. Ramsey Cnty., 390 N.W.2d 776, 777 (Minn. 1986) (quoting Minn. Stat. § 272.03(1)(a), (c)(i) (1984)). The manufacturer and storage tanks were described as follows:

Barton sells asphalt cement (residual oils) and fuel oils, primarily to construction companies. The oils are stored in 11 tanks The tanks are interconnected by pipes, and pumps are used to transfer oils from receiving to loading stations, to blend oils to the desired grades, and to maintain the specified grades of the asphalts, which change character frequently because they are held at a temperature of 300°F.

Id. The court agreed with the tax court that the basic function of the tanks was to provide containment or shelter and was therefore not exempt. *See id.* at 777–78.

A string of cases has emerged from Pennsylvania. In one case, the supreme court found oil storage tanks in which physical and chemical processes necessary to the process of the manufactured product take place are excluded from tax assessment as machinery used in manufacturing. *Gulf Oil Corp. v. Philadelphia*, 53 A.2d 250, 250, 254 (Pa. 1947). In a later case, the supreme court considered whether the following exemption from taxability of real property and fixtures applied to property of a steel manufacturer: “Machinery, tools, appliances and other equipment contained in any mill, mine, manufactory or industrial establishment shall not be considered or included as a part of the real estate in determining the value of such mill, mine, manufactory or industrial establishment.” *Appeal of Borough of Aliquippa*, 175 A.2d 856, 859 (Pa. 1961) (citation omitted). The court explained the exemption applies to any improvements used “*directly* in manufacturing” that “are necessary and integral parts of the manufacturing process and are used *solely* for effectuating that purpose.” *Id.* at 861. The court also directed that structures that “are not necessary and integral parts of the manufacturing process,” such as “[a] structure used for storage,” “is part of the realty and subject to real estate taxation.” *Id.* at 861–62.

The Pennsylvania court had the opportunity to apply and build upon *Aliquippa* in a subsequent case concerning the property of a steel manufacturer. See *U.S. Steel Corp. v. Bd. of Assessment and Revision of Taxes of Buck Cnty.*, 223 A.2d 92, 95–97 (Pa. 1966). The court found a railroad track serving as a conveyor belt transferring materials from one processing station to another clearly fell within the exemption. *Id.* at 95. The court described the ore-yard facilities to be

used not only as a transshipment and temporary storage area (providing a 'surge' or reserve capacity for a three to ten days' supply of ore for the blast furnaces) for iron ore as discharged from the water or rail carriers, but also constitute receptacles used fundamentally and primarily for the programmed spreading, layering and blending of the nonuniform shipments of grades and sizes of ore received in various cargoes, so as to achieve uniformity for processing in respect to chemical analysis and physical characteristics. On the floor of the ore yard is located movable crushing machinery used in the processing of the ore and the ore yard facilities are peculiarly designed for and used directly in the manufacturing process for the production of iron.

Id. at 95–96 (altered for readability). The court concluded, the facilities “are a necessary and integral part of the equipment used in such processes and, except for the incidental and temporary storage feature, are availed of solely for such purposes.” *Id.* at 96.

The court also considered whether “blast furnace stock bins” were taxable.

Those bins were described as follows:

The blast furnace stock bins are steel structures which contain surge receptacles designed for the in-process purpose of assembling and temporarily holding the various materials used directly to supply the blast furnaces themselves. Iron ore, limestone and other ingredients are carried or deposited into the blast furnace stock bins through grids or openings in a railway trestle which is supported by the stock bins structure. Each such material is then drawn by gravity from the bins in a pre-determined amount into special-purpose cars, weighed and ultimately transported to, and charged or deposited within, one of the three blast furnaces.

Id. The court found: “While these bins have an incidental, temporary or ‘in-transit’ storage aspect, their primary purpose is to serve directly as a material-handling facility for the gathering, combining and mixing of raw materials in the process flow to the blast furnaces.” *Id.* The court concluded the bins were not merely storage facilities and found them exempt from taxation. *Id.* The court went on to analyze several other components of the manufacturing facility. *Id.* at 96–97.

The next case considered whether three ammonia tanks fell within the tax-assessment exemption. See *U.S. Steel Corp. v. Bd. of Revision of Taxes & Appeals of City of Clarion*, 366 A.2d 637, 637–38 (Pa. Commw. Ct. 1967). After analyzing the two foregoing cases from the state high court, the Pennsylvania Commonwealth Court found the ammonia tanks' storage capabilities were "neither incidental nor temporary," were "used primarily for the storage of ammonia," and their "purification and quality control processes are incidental to the primary functions of the structures as storage tanks." *Id.* at 639. Because the "tanks are not used 'directly' in the manufacture of ammonia, nor are they 'necessary and integral parts of the manufacturing process,'" the court concluded they were taxable. *Id.* at 639.

Next, the Pennsylvania Commonwealth Court considered the taxability of oil tanks that served a purpose "in the refining process to heat the oil, remove water from the crude and agitate the oil to effect a standard mix." See *Gulf Oil Corp. v. Delaware Cnty. Bd. of Assessment Appeals*, 489 A.2d 321, 322, 324 (Pa. Commw. Ct. 1985). The court found the tanks were essential in refining crude oil and not subject to taxation. *Id.* at 325.

Lastly, the Commonwealth Court of Pennsylvania also considered the taxability of oil storage tanks described as follows:

17. The construction of the three tanks occurred simultaneously with the installation of oil-fired boilers when the Springdale Plant was converted from coal to oil.

18. Each of the tanks is connected by piping to a pumphouse and, in turn, to two oil-fired boilers in the main plant building.

19. Heavy oil is pumped from barges on the Allegheny River into the three oil tanks, where the oil is stored until needed to fire the boilers.

20. Each tank is fitted with steam heating elements connected to small boilers, which heating elements are used to heat the heavy oil prior to use so that it is liquid enough to flow through the piping that connects the tanks to the boilers.

....

22. Once heated, oil is pumped from the tanks and fired in the boilers, producing steam which drives the turbines, which drive the generators, which produce electricity.

23. The oil from the tanks is the sole source of fuel for the boilers.

24. Two of the three tanks have not held oil since approximately 1984.

W. Penn Power Co. v. Bd. of Prop. Assessment Appeals & Rev., 588 A.2d 997, 999 (Pa. Commw. Ct. 1991). The tanks were deemed to not fall under the exemption statute. *Id.* The court held “the oil tanks do not qualify as machinery or equipment used in manufacturing” because “a structure that is only used for storage does not meet the requirements of the exclusion.” *Id.* at 1000. The court distinguished *Gulf Oil Corp. v. Delaware County Board of Assessment Appeals* on the basis that, “[a]lthough there is incidental heating while the oil is stored in the tank,” the tanks are used only for storage of fuel and are not an integral part of the process for generating power.” *Id.*

Finally, the Kentucky Court of Appeals has considered “whether machinery used by distilleries in bottling whiskey” was exempt from taxation as manufacturing machinery. *Burke v. Stitzel-Weller Distillery*, 145 S.W.2d 861, 862 (Ky. Ct. App. 1940). Following production, the whiskey was barreled, after which some of the whiskey was bottled. See *id.* at 862–63. The lower court concluded the machinery used in bottling the whiskey was exempt from taxation. *Id.* at 863. Local officials appealed, contending the manufacturing of the whiskey was complete upon barreling, and the bottling machinery was not used in the course of the

manufacturing process. *Id.* The court of appeals disagreed, concluding manufacturing machinery includes “all things necessary to make it ready to be put on the market so as to be sold to the consuming public for the purpose for which it was intended.” *Id.* at 864.

With the foregoing in mind, we proceed to the questions in this appeal.

3. *Buildings one, five, and six*

Again, machinery, for purposes of the statute, is not defined. That is likely for good reason. On the spectrum from machinery to non-machinery, one could easily classify an item falling on the polar opposites of either end. There is of course a gray area, where the items in this case fall, in which the “I know it when I see it” approach is unhelpful. We find it unnecessary to define what amounts to machinery, as the assessment of what falls within the statute must logically be made based on the circumstances on a case-by-case basis.

We turn to the circumstances of this case. Corn and other ingredients are conveyed to the ingredient bins in building one and buildings five and six, each of which are essentially temporary storage facilities. The ingredients are then fed into machinery to produce a finished product. The product then makes its way to the load-out bins, where it is held until loaded into trucks for delivery. The structures essentially amount to nonautomated equipment. See Iowa Admin. Code. r. 701-71.1(7)(b); see also *Black’s Law Dictionary, Equipment* (11th ed. 2019) (“The articles or implements used for a specific purpose or activity (esp. a business operation).”). With the exception of the load-out bins, the structures are “used directly in manufacturing the products that the establishment is intended to produce and are necessary and integral parts of the manufacturing process.” 84

C.J.S. *Taxation* § 332. Similar to the ore-yard facilities and blast furnace stock bins in *United States Steel*, the ingredient bins' and grain bins' storage feature is only temporary and incidental, and their primary purpose is to serve directly in the manufacturing process. 223 A.2d at 95–96. As such, we find the ingredient bins in building one and buildings five and six fall within the meaning of machinery under section 427A.1(1)(e). The load-out bins, however, are not used directly in the manufacturing process, and they only contain finished product “ready to be put on the market so as to be sold to the consuming public for the purpose for which it was intended.” See *Burke*, 145 S.W.2d at 864. As such, we conclude the load-out bins do not fall within the meaning of machinery under section 427A.1(1)(e).

B. Cross-Appeal

On cross-appeal, the ECBR appears to argue the assessor properly followed the manual in conducting its assessment and the original assessment is therefore correct. We are not convinced. While the assessor is required to use the manual as a tool in valuing property, we do not find it to be legally controlling on the question of whether a particular item of property is taxable or exempt. While the legislative and executive branches are respectively entitled to enact and enforce the law, interpretation and construction of the law belongs to the courts. 16 Am. Jur. 2d *Constitutional Law* § 266 (Aug. 2020 update). As such, the department of revenue manual does not bind us.

V. Valuation

StateLine argues the district court erred in affirming the IPAAB's conclusion that StateLine failed to meet its evidentiary burden as to the valuation of its claimed exemptions. The ECBR generally claims StateLine was required to show the total

value of the assessable property, not the total assessed value less the claimed exemption. We find no such requirement and disagree. Evidence was presented concerning the total value of the structures and of the claimed exemptions. Because we find sufficient evidence in the record to reach values of the claimed exemptions, we conclude the IPAAB and court acted unreasonably, arbitrarily, or capriciously in declining to value the claimed exemptions, which prejudiced the substantial rights of StateLine. See Iowa Code § 17A.19(10)(n). We proceed to the merits and modify as follows.

StateLine's expert valued the overhead bins at \$1,092,550.00. The ECBR's own expert valued the overhead bins at \$778,240.00. The evidence presented shows the assessor assessed the feed mill based on its cubic footage. The record also shows the ingredient bins occupy in the neighborhood of 47,280 cubic feet. Applying the assessor's cost per cubic foot of \$6.40, the 1.50 replacement multiplier, and 2% depreciation, the ingredient bins' value amounts to \$444,810.24, and we find the assessment should be reduced by that amount to reflect the exemption of the ingredient bins as machinery used in manufacturing.⁹

As to the exterior grain bins, while finding Vaske's methodology sound, the IPAAB noted he failed to account for site work or how it would be allocated. As a result, the IPAAB noted it would value the foundation cost for those buildings at 30%, as opposed to the 25%.

⁹ Applying the same methodology, we would value the roughly 24,576 cubic feet occupied by the load-out bins at \$231,211.01. But the load-out bins are not exempt as machinery.

For building five, Vaske began with the assessor's assigned base cost of \$697,000.00 and applied 3% depreciation to reach a value of \$676,100.00 as to the foundation, walls, and roof. As to building six, he began with the base cost of \$193,000.00 and applied an adjustment multiplier of 1.01 and 60% depreciation to reach a value of \$78,000.00 as to the same components.

The replacement cost assigned by the assessor for the buildings was \$755,400.00 and \$89,300.00. The IPAAB agreed 30% of that cost would be attributable to the foundation and, upon our review of the evidence, we agree. So the foundations would be valued at \$226,620.00 and \$26,790.00, which is not exempt. \$79,300.00 worth of building five's components and \$11,300.00 worth of building six's components were already determined to be exempt. That leaves \$449,480.00 and \$51,210.00 attributable to the walls and roof, which we conclude is exempt from taxation as machinery.

VI. Conclusion

We conclude the ingredient bins and exterior grain bins, but not the load-out bins, amount to machinery used in a manufacturing facility and are exempt from taxation. We reverse the district court's affirmance of the IPAAB on that point. Because we find sufficient evidence in the record to reach values of the claimed exemptions, we conclude the IPAAB and court erred when they declined to do so. We value the additional exemptions for building one at \$444,810.24, building five at \$449,480.00, and building six at \$51,210.00. We remand to the district court for entry of an order consistent with this opinion.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED ON APPEAL; AFFIRMED ON CROSS-APPEAL.



IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
19-0674

Case Title
Stateline Cooperative v. Property Assessment Appeal Board

Electronically signed on 2020-11-04 08:18:59

138

12:21:18 1 on Exhibit K, building one, the feed mill, you
 12:21:23 2 provided a breakdown for the overhead bins and
 12:21:26 3 kind of everything else?
 12:21:29 4 A. Yes.
 12:21:29 5 MR. KAHLER: If I could just state an
 12:21:31 6 objection for purposes of the record. The fuel
 12:21:35 7 breakdown itself was clearly provided in the
 12:21:43 8 report in Exhibit K, but I was never provided
 12:21:46 9 the calculation used to come to that breakdown
 12:21:49 10 or the methodology used to come to this
 12:21:53 11 breakdown either in this report or in the
 12:21:55 12 interrogatories that specifically requests that
 12:21:57 13 information, the answers to which I received a
 12:22:00 14 few weeks ago. So I just want to be clear in
 12:22:02 15 that regard.
 12:22:03 16 BOARD MEMBER OBERMAN: Thank you.
 12:22:04 17 That's noted.
 12:22:05 18 MR. KAHLER: Thank you.
 12:22:06 19 Q. In terms of what you did, you indicate
 12:22:09 20 up above, you used the Iowa Real Property
 12:22:12 21 Appraisal Manual?
 12:22:13 22 A. Yes.
 12:22:14 23 Q. How did you use the appraisal manual
 12:22:17 24 to get to -- and I'm just talking about
 12:22:19 25 building one right now -- the value for the

139

12:22:23 1 first component, the foundation basement,
 12:22:26 2 et cetera?
 12:22:27 3 A. Well, when the costs are developed in
 12:22:31 4 the manual, there are models that are set.
 12:22:35 5 So, for example, excavation work is
 12:22:39 6 calculated, the footing costs, foundation
 12:22:40 7 costs, wall costs, electrical, all the
 12:22:44 8 components are calculated.
 12:22:45 9 So I basically went to the model and
 12:22:49 10 determined which items are not the overhead
 12:22:53 11 bins, determined that -- the model's not going
 12:22:57 12 to fit this feed mill exactly because it's like
 12:23:02 13 a generic feed mill, if you will, but I did my
 12:23:06 14 best looking at those components to separate
 12:23:08 15 them.
 12:23:09 16 Q. And, ultimately, that's what you did
 12:23:11 17 here and you came to the conclusion for -- I
 12:23:21 18 hate to say the term random numbers, but you
 12:23:25 19 came up with a value for the first component
 12:23:25 20 using the appraisal numbers?
 12:23:27 21 A. Yes. Now, on building one, the feed
 12:23:34 22 mill area, you'll see that I -- that basement
 12:23:35 23 area, I just included that in. I did not
 12:23:37 24 separate it. I included that in with you would
 12:23:38 25 call the work floor area, I guess.

140

12:23:41 1 Q. And, ultimately, everything that was
 12:23:44 2 not in that category fell into the other
 12:23:47 3 category of overhead bins?
 12:23:50 4 A. Yes.
 12:23:50 5 Q. And that's the analysis you did?
 12:23:52 6 A. Yes.
 12:23:52 7 Q. And that's how we get to your opinion
 12:24:03 8 on foundation, basement, et cetera, of
 12:24:06 9 \$907,660?
 12:24:06 10 A. Correct.
 12:24:06 11 Q. You did something similar for the
 12:24:10 12 steel grain storage bin?
 12:24:12 13 A. Yeah, except I did not separate out
 12:24:15 14 the foundation from the walls.
 12:24:16 15 Q. But, nonetheless, you basically went
 12:24:20 16 back and re-valued the things and took out the
 12:24:22 17 things like the aeration floor, the fans, and
 12:24:26 18 the floor sweep?
 12:24:26 19 A. Yes.
 12:24:26 20 Q. Similar kind of analysis here?
 12:24:28 21 A. Yeah. I went strictly to the model.
 12:24:31 22 Again, that was -- which happens to actually
 12:24:35 23 match the manual itself.
 12:24:37 24 Q. You're familiar with the Iowa Real
 12:24:39 25 Property Appraisal Manual?

141

12:24:39 1 A. Yes, I am.
 12:24:40 2 Q. How are you familiar with it?
 12:24:42 3 A. I wrote it.
 12:24:43 4 Q. So in terms of going back and re-
 12:24:46 5 calculating this on a component-by-component
 12:24:48 6 basis, that's something that is kind of old hat
 12:24:51 7 for you?
 12:24:51 8 A. Yeah. I've -- that manual has been
 12:24:56 9 updated three times in the last 25 years, and I
 12:24:59 10 worked on all three of those updates. In fact,
 12:25:02 11 it's being updated again right now, and I'm
 12:25:04 12 working on it again right now.
 12:25:06 13 Q. When you did this, did you do it by
 12:25:15 14 pen and paper or did you use CAMAvision?
 12:25:16 15 A. In 1984, it was pen and paper and then
 12:25:20 16 when we did the 1998 update, we began to
 12:25:27 17 computerize it into Excel spreadsheets. When
 12:25:31 18 we did the 2008 update, we enhanced those
 12:25:36 19 spreadsheets to kind of speed up the process.
 12:25:38 20 And now this time it's -- I can
 12:25:41 21 calculate out the cost of a foundation, the
 12:25:43 22 cost of steel framing, the cost of a footer,
 12:25:46 23 and it automatically populates in all these
 12:25:49 24 different spreadsheets and calculates cost.
 12:25:52 25 So we've really automated it so that

142

144

12:25:56 1 in the future, the manual can be updated much
 12:25:58 2 easier and much more efficiently.
 12:26:01 3 Q. And based on what you were provided in
 12:26:04 4 your calculation, they would look like the
 12:26:05 5 property record card?
 12:26:06 6 A. That's the final conclusion, the --
 12:26:09 7 you know, if I was asked to show how the cost
 12:26:12 8 of any building in the manual, it would be --
 12:26:15 9 it could be 50 to 100 different spreadsheets.
 12:26:19 10 MR. KAHLER: Again, for purposes of
 12:26:20 11 the record, I would like to note that that
 12:26:23 12 calculation, those 50 to 100 spreadsheets, the
 12:26:26 13 property-card-looking analysis that he did was
 12:26:29 14 never provided to me in this case and, as a
 12:26:31 15 result, I do not think he should be allowed to
 12:26:36 16 testify about it.
 12:26:39 17 BOARD MEMBER OBERMAN: Thank you. So
 12:26:39 18 noted.
 12:26:54 19 MR. RYAN: I don't have anything
 12:26:54 20 further.
 12:26:55 21 BOARD MEMBER OBERMAN: Mr. Kahler?
 12:26:57 22 MR. KAHLER: Just a few questions.
 23
 24
 25

12:28:06 1 cost.
 12:28:06 2 Q. It's the same figure, correct?
 12:28:07 3 A. Yes, it is.
 12:28:08 4 Q. And you didn't further break it down
 12:28:11 5 at all between foundation and floors versus
 12:28:13 6 walls and roof?
 12:28:14 7 A. No, I did not.
 12:28:17 8 Q. And although I haven't seen your
 12:28:19 9 calculations, if you look at building one, feed
 12:28:21 10 mill, please, your total, the \$1,685,900, that
 12:28:32 11 is the overall assessed value for that building
 12:28:34 12 made by the Emmet County assessor; is that
 12:28:37 13 correct?
 12:28:37 14 A. Yes.
 12:28:38 15 Q. And are you familiar with the initial
 12:28:40 16 assessment made by Emmet County for this
 12:28:44 17 building one feed mill?
 12:28:45 18 A. Yes. The initial assessment was made
 12:28:47 19 by my company.
 12:28:49 20 Q. And are you familiar, then, that the
 12:28:51 21 initial assessment valued the basement and
 12:28:54 22 tunnel separately from the ground floor space
 12:28:56 23 of 2,228 feet and then the cubic feet above
 12:29:01 24 that?
 12:29:01 25 A. Yes, that's because that's how our

143

145

12:26:57 1 CROSS-EXAMINATION
 12:26:59 2 BY MR. KAHLER:
 12:26:59 3 Q. Mr. Ehler, can you confirm for me
 12:27:02 4 looking at your report, building three, steel
 12:27:07 5 grain storage bin -- second page of your
 12:27:11 6 report, I apologize. Where it says foundation,
 12:27:13 7 concrete floor, walls and roof \$676,100, that
 12:27:20 8 is the assessed value of that component in the
 12:27:24 9 aggregate made by the Emmet County assessor
 12:27:27 10 initially as of January 21, 2014; is that
 12:27:29 11 correct?
 12:27:29 12 A. Yes, which is a calculation from the
 12:27:31 13 manual.
 12:27:31 14 Q. So you did not -- you did not break
 12:27:35 15 down that component further into the foundation
 12:27:38 16 and floor versus the walls and the roof?
 12:27:40 17 A. No, I did not.
 12:27:41 18 Q. And the same for building four, which
 12:27:45 19 is the small grain bin, the foundation,
 12:27:47 20 concrete floor, walls and roof that you have
 12:27:49 21 listed here at \$78,000, that's the exact same
 12:27:54 22 assessment for that exact same group of
 12:27:57 23 components that the Emmet County assessor
 12:28:00 24 assessed on January 1 2014?
 12:28:03 25 A. Correct. This would be to depreciate

12:29:05 1 manual and our CAMA system is designed.
 12:29:06 2 Q. Are you familiar, then, that the
 12:29:09 3 initial assessment essentially took a \$6.40 per
 12:29:15 4 cubic foot value and valued everything above
 12:29:19 5 grade included in that feed mill building?
 12:29:21 6 A. That's because that's how the manual
 12:29:23 7 was designed.
 12:29:23 8 Q. So are you saying that's how you did
 12:29:26 9 that as well here?
 12:29:27 10 A. No. No, I did not.
 12:29:28 11 Q. So you're saying that your calculation
 12:29:30 12 here is different than the assessed value
 12:29:33 13 performed by the Emmet County assessor?
 12:29:35 14 A. Yes.
 12:29:37 15 MR. KAHLER: No further questions.
 12:29:40 16 BOARD MEMBER OBERMAN: I have
 12:29:40 17 follow-up on that.
 12:29:41 18 So the \$907,000 represents -- I've got
 12:29:47 19 this divided into basement, ground, and bins.
 12:29:50 20 The 907 represents the ground and the basement
 12:29:54 21 components?
 12:29:57 22 THE WITNESS: Basically, what I did is
 12:29:59 23 I went to the model because it was a lot easier
 12:30:02 24 to determine the bin area because it's one
 12:30:06 25 component. So I went to it. In the model,

146

148

12:30:11 1 there is a square foot of surface area of bin
12:30:15 2 walls for the hopper bins. It assumes certain
12:30:20 3 sizes.

12:30:20 4 So I just went to approximately I
12:30:23 5 think one of the lines were 150 cubic foot feed
12:30:30 6 mill, which is close to this size. I looked at
12:30:30 7 what the calculation was for those hopper bins
12:30:34 8 for the -- of the total calculation, subtracted
12:30:36 9 that from the total because everything else,
12:30:39 10 then, is the foundation, the electrical, the
12:30:45 11 framing, all those items.

12:30:46 12 So it was easier for me to do it that
12:30:49 13 way. It was a lot less time consuming. So
12:30:51 14 that's basically --

12:30:52 15 BOARD MEMBER OBERMAN: So my question:
12:30:54 16 The 907,000 is the ground and the basement?

12:30:57 17 That was a yes?

12:30:58 18 THE WITNESS: Yes.

12:30:59 19 BOARD MEMBER OBERMAN: So to arrive at
12:31:00 20 these two different numbers, the \$907,778, you
12:31:08 21 only valued the bins and then you subtracted
12:31:12 22 that from the assessment?

12:31:13 23 THE WITNESS: Yes.

12:31:14 24 BOARD MEMBER OBERMAN: So you didn't
12:31:15 25 really value the foundation or the basement or

12:32:02 1 A. Oh, absolutely not.

12:32:03 2 Q. So did you use the same -- because
12:32:06 3 they used a uniform \$6.40 cubic cost. They
12:32:13 4 pled the exact same cubic cost for all of the
12:32:15 5 space above ground. Did you do that or not?

12:32:17 6 A. No, I did not.

12:32:18 7 Q. So are you saying that you did it
12:32:21 8 wrong or are you saying that they did it wrong
12:32:23 9 under the manual?

12:32:25 10 MR. RYAN: Objection. I think that's
12:32:26 11 a misstatement of the evidence in terms of
12:32:29 12 everyone -- the testimony from the prior matter
12:32:33 13 saying that it was uniform evaluation from the
12:32:37 14 basement to the top of the tower.

12:32:40 15 MR. KAHLER: The property card is
12:32:42 16 clear that they used the \$6.40 per cubic foot
12:32:46 17 uniformly above grade.

12:32:47 18 BOARD MEMBER OBERMAN: I'm allow that
12:32:49 19 question because it's kind of my concern as
12:32:52 20 well.

12:32:52 21 A. Well, the model has costs for all
12:32:54 22 these different components. And then in the
12:32:57 23 manual, it takes that cost and converts it to a
12:33:00 24 cost per cubic foot. And that's what you see
12:33:03 25 in the manual.

147

149

12:31:18 1 the basement and the ground floor. That's just
12:31:20 2 a reciprocal of --

12:31:22 3 THE WITNESS: Right. I know all those
12:31:23 4 formulas are there, all those calculations, but
12:31:25 5 it was -- I also know that overhead bins were
12:31:28 6 calculated separately. So it was easier for me
12:31:31 7 to go that direction.

12:31:33 8 BOARD MEMBER OBERMAN: In the
12:31:34 9 assessment they were?

12:31:35 10 THE WITNESS: In the model calibration
12:31:37 11 for the cost in the manual.

12:31:39 12 BOARD MEMBER OBERMAN: I don't have
12:31:39 13 any other questions.

12:31:39 14 RE-CROSS-EXAMINATION (CONT'D)

12:31:41 15 BY MR. KAHLER:

12:31:41 16 Q. Mr. Ehler, if I can clarify then. I
12:31:44 17 can state for purposes of the record -- and I
12:31:45 18 think Mr. Ryan and Ms. Bohm would agree with
12:31:48 19 me -- that when we had the hearing the first
12:31:50 20 time around, they stated that they valued that
12:31:53 21 this building one feed mill as required by the
12:31:57 22 real estate manual.

12:31:59 23 A. Yeah.

12:31:59 24 Q. So you are saying that they valued
12:32:01 25 that incorrectly?

12:33:03 1 Q. So, if I can clarify, are you saying
12:33:05 2 that it was inappropriate for the Emmet County
12:33:08 3 assessor to use the same \$6.40 unit cost for
12:33:13 4 all of the above grade -- are you saying there
12:33:15 5 should have been different unit costs --

12:33:16 6 A. No, not at all. She did it -- they
12:33:20 7 did it absolutely correct.

12:33:21 8 Q. But you said you did it differently?

12:33:23 9 A. Well, that's because there is no
12:33:25 10 mechanism in the manual to separate those two.

12:33:28 11 Q. But you clearly did because your
12:33:30 12 numbers are different. I guess that's what I
12:33:33 13 don't understand, Mr. Ehler.

12:33:33 14 A. Because I went to the spreadsheets,
12:33:36 15 which calculated the \$6.40 to determine which
12:33:43 16 part of that \$6.40 per cubic foot is in the
12:33:46 17 hopper bins.

12:33:47 18 Q. So you're saying you used the same
12:33:50 19 \$6.40 unit cost uniformly for everything above
12:33:57 20 grade in building one?

12:33:58 21 A. No. There is no such thing as every
12:34:01 22 cubic foot of a building cost me the same
12:34:04 23 amount. Even though the manual is giving them
12:34:07 24 a cost per cubic foot, there are many, many
12:34:12 25 assumptions in that cost.

150

12:34:13 1 Q. Am I understanding you correctly to
 12:34:15 2 say that the manual ultimately values it at a
 12:34:19 3 per cubic cost for all of the space above
 12:34:23 4 grade, that same per cubic unit cost?
 12:34:26 5 A. Yes, it does.
 12:34:26 6 Q. And you're saying you did not do it
 12:34:28 7 that way?
 12:34:29 8 A. No. The manual's not intended for
 12:34:31 9 anybody to ever break down the cost of the
 12:34:33 10 components.
 12:34:34 11 Q. Then how did you do this? I guess I'm
 12:34:37 12 at a loss here as to where you came up with the
 12:34:40 13 numbers.
 12:34:40 14 A. I am the person that determined that
 12:34:42 15 \$6.40. I wrote the manual. I have all the --
 12:34:45 16 Q. Okay. Then why didn't you follow it?
 12:34:46 17 That's my question.
 12:34:47 18 A. I did follow it. That's exactly what
 12:34:49 19 I did.
 12:34:50 20 Q. Then, Mr. Ehler, I don't understand.
 12:34:53 21 I think I'm being pretty clear here. I want to
 12:34:56 22 know how it is that you came up with this
 12:34:59 23 \$778,000 number using the exact same \$6.40 per
 12:35:05 24 cubic foot unit cost that the assessor used in
 12:35:09 25 the initial --

151

12:35:09 1 A. I did not use the exact \$6.40 per
 12:35:13 2 cubic foot. I broke that \$6.40 rate to its
 12:35:18 3 components and then grabbed the components or
 12:35:21 4 actually deducted the component that PAAB's
 12:35:25 5 wanting me to remove.
 12:35:27 6 Q. What did you base that decision on?
 12:35:32 7 A. Okay. In the model, there is an
 12:35:34 8 assumption that the feed work floor is a
 12:35:37 9 certain cubic foot of the total and the hopper
 12:35:40 10 bins -- and the number of hopper bins and the
 12:35:43 11 size of the hopper bins are of a certain size.
 12:35:46 12 That's what a model is.
 12:35:48 13 So there is a calculation within that
 12:35:51 14 formula to calculate out the cost of those
 12:35:55 15 hopper bins. It is -- that cost is then
 12:35:57 16 divided into the entire cubic foot of the
 12:36:00 17 building and that is its contributory value of
 12:36:03 18 the cubic rate of that total cubic rate.
 12:36:06 19 So, basically, what I did is I took
 12:36:10 20 their -- the overhead bin's contributory value
 12:36:14 21 of the overall cubic foot rate and took it out.
 12:36:21 22 Q. And, again, I understand that you
 12:36:24 23 drafted the manual, had input in it, but how am
 12:36:28 24 I supposed to be able to assess whether what
 12:36:30 25 you're saying today is correct? Do you have

152

12:36:32 1 the provisions that you're relying on? Do you
 12:36:35 2 have the calculations you're relying upon or
 12:36:37 3 are you just simply asking PAAB to take your
 12:36:40 4 word for it?
 12:36:41 5 A. I guess I'm asking PAAB to take my
 12:36:43 6 word for it.
 12:36:43 7 MR. KAHLER: I have no further
 12:36:45 8 questions.
 12:36:45 9 BOARD MEMBER OBERMAN: That leaves me
 12:36:46 10 with no other questions.
 12:36:47 11 MR. RYAN: I just have a couple.
 12:36:47 12 REDIRECT EXAMINATION
 12:36:49 13 BY MR. RYAN:
 12:36:49 14 Q. You've been here for all the testimony
 12:36:50 15 today, right?
 12:36:51 16 A. Yes.
 12:36:52 17 Q. It's been pretty well agreed upon by
 12:36:56 18 every witness that the ground floor is more
 12:36:58 19 expensive than the area above?
 12:37:00 20 MR. KAHLER: Objection to the extent
 12:37:01 21 you're misstating the record.
 12:37:03 22 Q. Mr. Vaske indicated that the
 12:37:05 23 components on the ground floor would be more
 12:37:07 24 expensive because they would include things
 12:37:09 25 like plumbing and electrical, et cetera. Do

153

12:37:12 1 you recall that testimony?
 12:37:15 2 A. Well, the -- yes, I do recall that.
 12:37:17 3 The components vary so much from the higher
 12:37:20 4 part to the lower part. We're talking bin
 12:37:23 5 walls and everything else.
 12:37:24 6 Q. Basically, what's expressed on the
 12:37:26 7 property card is broken down on a cubic feet
 12:37:29 8 basis for the entirety?
 12:37:30 9 A. Exactly.
 12:37:31 10 Q. But that doesn't mean that the cost of
 12:37:34 11 the ground floor is the same as the cost of
 12:37:37 12 something that's 20 feet in the air?
 12:37:40 13 A. No. It's just given that way as one
 12:37:43 14 rate. It was never intended to break down.
 12:37:51 15 MR. RYAN: Nothing further.
 12:37:53 16 BOARD MEMBER OBERMAN: Any other
 12:37:54 17 witnesses?
 12:37:55 18 MR. RYAN: No.
 12:37:56 19 BOARD MEMBER OBERMAN: Do you guys
 12:37:57 20 want to do closing statements?
 12:38:00 21 MR. RYAN: We actually talked about
 12:38:01 22 that too. Would you entertain written briefs?
 12:38:04 23 BOARD MEMBER OBERMAN: Let's go off
 12:38:06 24 the record for a moment.
 12:38:06 25

IN THE IOWA DISTRICT COURT FOR EMMET COUNTY

<p>STATELINE COOPERATIVE, Petitioner- Appellant, v. IOWA PROPERTY ASSESSMENT APPEAL BOARD., Respondent- Appellee. ***** EMMET COUNTY BOARD OF REVIEW, Respondent-Cross Appellant v. STATELINE COOPERATIVE, Petitioner- Appellant IOWA PROPERTY ASSESSMENT APPEAL BOARD, Respondent- Appellee .</p>	<p>Case No. CVCV019170</p> <p>RULING ON PETITIONER’S PETITION FOR JUDICIAL REVIEW, RESPONDENT’S CROSS APPEAL FOR JUDICIAL REVIEW</p>
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This case is an appeal by StateLine Cooperative (“StateLine”) and cross-appeal by the Emmet County Board of Review (the “Board”) from 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.

This case was originally presented to PAAB as A property tax appeal taken by StateLine involving an animal feed manufacturing facility located in Emmet County, Iowa, and fully described in StateLine's Petition. As of January 1, 2014, the assessed value for the property was \$4,272,900.00. StateLine 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. Specifically, StateLine's position is that the total taxable value is \$870,700.00.

This matter was submitted to PAAB on October 7, 2015. PAAB exempted certain additional items as equipment in a manufacturing establishment in an order dated February 26, 2016. Specifically, PAAB's first ruling exempted \$1,014,200 in value from the 2014 assessment, leaving a taxable value of \$3,258,700. Both parties filed an appeal to the District Court from the decision of PAAB. StateLine then filed a Motion to Remand the matter to PAAB to introduce additional evidence, which was granted by the Court. The matter was re-heard on remand by PAAB on August 30, 2017, where PAAB received additional evidence on, and determined the portions and corresponding values of the feed mill building and two exterior grain bins. Upon remand, PAAB issued an Order on March 23, 2018, which found that bins are not equipment or machinery, but rather a place to store raw materials until it is needed in the manufacturing process. PAAB further found that StateLine failed to provide reliable evidence of the value of the property it claimed was exempt. StateLine has filed an appeal of this Order.

Having considered the record in its entirety, the Court turns now to its conclusions of law.

FINDING OF FACTS

StateLine is the owner of an industrial feed mill located in Armstrong, Iowa. The property in question was constructed in 2013 and includes a feed mill, warehouses, storage bins, a Quonset, and eighteen yard items. The property's January 1, 2014, assessment was \$4,272,900. StateLine's protest to the board of review claimed that \$3,402,200 of the property should have been exempt under Iowa Code section 441.37(1)(a)(1)(c). StateLine claimed the disputed property should have been

categorized as machinery used in a manufacturing establishment instead of being taxed as real property. There is no dispute that StateLine combines and processes raw ingredients into meal and pellet livestock feed and that it a manufacturing facility. The question for PAAB was whether the items identified by StateLine fell under the category of machinery for the purposes of assessment.

PAAB issued its first Findings of Fact, Conclusions of Law, and Order dated February 26, 2016. Pet.[s] Ex. 1. PAAB heard testimony from David Edge, the Chief Financial Officer for StateLine. PAAB Order dated February 26, 2016, at pp. 3-4 (explained how StateLine determined the proposed evaluation). The Board also heard testimony from Cherilyn Korchau, Feed Department Manager for StateLine. PAAB Order dated February 26, 2016, at pp. 4-5 (explained the manufacturing process and the applicable buildings uses). As well as, Ted Goslinga, Appraiser for Vanguard Appraisals on behalf the Emmet County Board of Review. PAAB Order dated February 26, 2016, at pp. 5-6 (explained the assessment the Emmet County Board adopted and the methodology used). PAAB ultimately held that there was sufficient evidence in the record to determine that the items listed on page 10 of PAAB Order dated February 26, 2016, are exempt as machinery used in manufacturing establishments. Further, PAAB held that there was insufficient evidence to find that the entirety of the feed mill and the steel grain storage bins were machinery.

At the order of this Court, PAAB received additional evidence on, and determined, the portions and corresponding values of the feed mill and two exterior grain bins. The contested case hearing was on the remanded issue on August 30, 2017. PAAB issued its Findings of Fact, Conclusions of Law, and Order on Remand dated March 23, 2018. Pet.[s] Ex. 2. PAAB found, on remand that the ingredient and load-out bins as well as the walls and roof of the two grain bins are not machinery and are therefore assessable as real property and that, even if they had been considered machinery, PAAB concluded Vaske's allocations were not reliable reflections of the value. The previous assessments were affirmed. The Board determined this after receiving testimony from Cherilyn Korchau, Feed Department Manager for StateLine¹

¹ PAAB Order on Remand dated February 26, 2016, at pp. 2-3 (described the subject facilities' manufacturing process).

and Vaske's additional testimony regarding the appraisal break down of building components². In summary, PAAB was not convinced that Vaske's allocations accurately reflected the value of the property and found that although the methodology Vaske employed was sound, it failed to account for the site work. PAAB remedied this by increasing the cost of construction attributed to the foundation to the upper end of this range at 30%, which reduced his attributed value for the roof and walls. PAAB concluded that the ingredient and load-out bins as well as the walls and roof of the two grain bins were not assessable as real property due to the conclusion that Vaske's allocations were not reliable. PAAB Order on Remand dated February 26, 2016, at pp. 8-9.

STANDARD OF REVIEW

i. Applicable Standards

Appeals to the District Court from 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)). 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)).

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 should not give deference to the view of an agency as to whether a particular matter has been vested by law to the agency's discretion. See, e.g., *Mycogen Seeds v. Sands*, 686 N.W. 2d 457 (Iowa 2004). Likewise, the District Court shall reverse, modify or grant appropriate relief when the

² PAAB Order on Remand dated February 26, 2016, at pp. 3-6. See Pet.[s] Ex. 39, Appraisal. See also Tr. P. 68, In. 1-9.

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). Iowa Code §421.1A(4)(e), the enabling legislation for PAAB states that 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.

PAAB has not been clearly granted the authority to interpret law in its enabling legislation, nor are they claiming to. 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 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 Corp. v. N.L.R.B.*, 340 U.S. 474, 71 S. Ct. 456, 95 L. Ed. 456 (1951)). Not surprisingly, Chapter 17A requires all agencies, including 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.*

Further, 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.*

An agency decision's findings of facts hold the same importance and effect as if it had been a jury verdict. Iowa Code §17A.19(10)(f); *IBP Inc. v. Harpole, et al.*, 621 N.W.2d 410, 417 (Iowa 2001). Reviewing courts must "broadly and liberally" apply these findings to uphold an agency decision. *Id.* If findings are substantially supported by the evidence in the record, the reviewing Court must affirm. *Id.* An agency decision is not considered unsupported merely based on differing minds of proper fact-finders. *IBP Inc.* at 417. In the case of conflict in the evidence or disagreement as to inferences from the evidence within the agencies finding of facts, the Court may not interfere except for the grounds noted above. *Id.*

ANALYSIS

1. PAAB Order dated February 26, 2016

The Court must first review the Property Assessment Appeal Board Finding of Fact, Conclusion of Law, and Order dated February 26, 2016. StateLine appealed the issues adverse to themselves. The Emmet County Board of Review cross-appealed the issues in the Order under the claims that StateLine failed to carry its burden of proof by showing what the value of the property is absent the claimed exempt equipment.

PAAB, in the original Order, exempted \$1,014,200 in value by taking that value from the pieces of equipment as reflected upon the submitted property card. The Emmet County Board of Review argues that PAAB erred in making an additional exemption because StateLine Cooperative did not provide independent evidence as to the value of the property that was claimed to be equipment and no evidence as to what the value would have been without the equipment. In addition, the Emmet County Board of Review states PAAB erred in changing the exemption because the Board of Review properly followed the *Iowa Real Property Appraisal Manual* and that all property included in the assessment was property that the *Manual* stated should be included in value when assessing the property. StateLine's reply brief states "to hold that the manual governs valuation and taxable status of property would render the

administrative rules contradictory and/or superfluous... See e.g., *Petition of Chapman*, 890 N.W.2d 853, 857 (Iowa 2017). StateLine goes on to say that PAAB correctly interpreted, but inconsistently and incorrectly applied, the exemption rules to the facilities overhead bins and grain bins.

The 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). The burden is upon StateLine Cooperative to show that the property falls squarely within the statute. *Stateline v. Board of Review of Union County*, Iowa, 500 N.W.2d 14 (Iowa 1993). Statutes exempting property from taxation must be strictly construed and disputes shall be resolved 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 Court is tasked with determining whether the evidence supports the findings of fact that were made. See *St. Luke's Hosp. v. Gray*, 604 N.W.2d 646, 649 (Iowa 2000)).

As discussed above, PAAB heard detailed evidence that covered the manufacturing process, the specifics of the buildings and the approaches used for assessment and valuation. Specifically, PAAB took into consideration multiple definitions of machinery, the specifics about how each building or component operated and both parties' cited precedent. See *Griffin Pipe Products Co., Inc., v. Board of Review of the County of Pottawattamie*, 789 N.W.2d 769 (Iowa 2010). See also *Wendling Quarries, Inc., v. Property Assessment Appeal Board of the State of Iowa*, 865 N.W.2d 635 (Iowa App. Ct. 2015). In determining specific holdings about the feed mill in its entirety and the steel storage bins, PAAB looked to *Crawford-Fayram Lumber Co. v. Mann*, 203 Iowa 748, 211 N.W. 225 (1926) and *Durband v. Noble*, 182 Iowa 1271, 166 N.W. 581 (1918) and compared precedent to Edge's testimony in determining the buildings' statuses.

This Court finds that the Order dated February 26, 2016 meets the substantial evidence standard and that PAAB did not improperly apply the law, abuse its discretion or make a finding that is arbitrary or capricious. PAAB's findings of fact are squarely based on careful review of the evidence presented.

2. PAAB Order on Remand dated March 23, 2018

The Court must then review the Property Assessment Appeal Board Finding of Fact, Conclusion of Law, and Order on Remand. StateLine appealed the issues in this order that would be considered adverse to themselves.

As discussed above, the burden is upon StateLine Cooperative to show that the property falls squarely within the statute. *Stateline v. Board of Review of Union County*, Iowa, 500 N.W.2d 14 (Iowa 1993). The Order on Remand came to fruition due to PAAB stating that lack of evidence was the basis for their finding. The district court remanded for additional evidence and PAAB upheld their initial finding that the mill, in it's entirely, and the grain bins are real property and are therefore, not exempt.

PAAB reviewed evidence beyond what was initially submitted. PAAB further reviewed the specifics of the buildings in question and specifically looked at when and where the manufacturing process occurred and how it occurred. In addition, PAAB heard and made a credibility finding on additional expert testimony regarding valuation and assessment, which had been missing in the first hearing. Credibility findings rest squarely with the agency and are not to be unreasonably disrupted by the Court. "We give significant deference to the [agency]'s findings of credibility." *Taylor v. Iowa Dep't of Human Servs.*, 870 N.W.2d 262, 266 (Iowa Ct. App. 2015) (citing *Lange v. Iowa Dep't of Revenue*, 710 N.W.2d 242, 247 (Iowa 2006)). Due to credibility issues, PAAB found that StateLine did not meet its burden.

This Court finds that the Order on Remand dated March 23, 2018 meets the substantial evidence standard and that PAAB did not improperly apply the law, abuse its discretion or make a finding that is arbitrary or capricious. PAAB's findings of fact are squarely based on careful review of the evidence presented.

CONCLUSION

Giving proper deference to the agency's credibility determinations, substantial evidence supports the agency's factual findings in regarding the exemption status of the separate buildings and equipment in question. We affirm the decision by the Agency.

ORDER

IT IS THEREFORE ORDERED as follows:

- 1) All of the above.
- 2) Appellant's Petition for Judicial Review is OVERRULED.

3) Cross- Appellant's Petition for Judicial Review is OVERRULED.



State of Iowa Courts

Type: OTHER ORDER

Case Number	Case Title
CVCV019170	STATELINE COOPERATIVE V. PAAB

So Ordered

A handwritten signature in cursive script that reads "Don E. Courtney". The signature is written in black ink and is positioned above a horizontal line.

Don E. Courtney, District Court Judge,
Third Judicial District of Iowa

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER ON REMAND
FROM THE DISTRICT COURT FOR EMMET COUNTY

PAAB Docket No. 14-32-0297

STATELINE COOPERATIVE,
Appellant,

vs.

EMMET COUNTY BOARD OF REVIEW,
Appellee.

Introduction

This appeal comes before the Property Assessment Appeal Board (PAAB) on remand from the District Court for Emmet County. The Court has ordered PAAB “to receive additional evidence on, and determine, the portions and corresponding values of the feed mill building and two exterior grain bins.”

Attorney Brant Kahler represents StateLine Cooperative. Attorney Brett Ryan represents the Emmet County Board of Review.

PAAB held a contested case hearing on the remanded issue on August 30, 2017.

Findings of Fact

StateLine claims portions of the feed mill building, specifically the overhead bins (ingredient and loadout); and the large/small exterior grain bins’ walls and roofs are exempt as machinery used in a manufacturing establishment. (See Appendix A & StateLine Post-Hearing Brf. on Limited Remand p. 3).

Cherilyn Krichau, StateLine’s feed department manager at the subject facility, testified on its behalf. Krichau described the subject facility’s manufacturing process. She demonstrated where trucks enter the facility and dump corn into the pit scale, from there conveyors move the corn through a bucket elevator and ultimately to the large grain bin. Alternatively, the corn is gravity-fed to a smaller grain bin. She stated the corn is constantly moving through those bins on a daily basis. She further explained how the non-corn ingredients enter the facility and are

stored in the overhead ingredient bins. There are twenty-four ingredient bins of various sizes and eighteen load-out bins inside the main structure of the feed mill. (Tr. p. 25, ln. 1-14; Tr. p. 27, ln. 11-14). Krichau notes the ingredient bins hold the raw materials until they are needed for the manufacturing process. (Tr. p. 17, ln. 22-24; Tr. p. 39, ln. 7-15). However, once the ingredients are delivered to the bins, they cannot be removed or used for any other reason than to process into meal feed. (Tr. p. 22, ln. 13-25).

The computerized distributor functions to move corn and non-corn ingredients by auger from the bins onto a scale, and eventually into a mixer then surge hopper for processing into meal feed. (Tr. p. 19, ln. 14-25). Krichau explained this is a continuous process. (Tr. p. 20, ln. 1-4; Tr. p. 22, ln. 11-12). A small amount of the meal feed is sold; however the majority (95%) goes on for further processing. (Tr. p. 20, ln. 22-25).

Krichau also identified a large and small grain bin used to store corn. Krichau explained that if the feed mill is operating at capacity when the large grain bin is filled, corn will begin moving into production on day one with all corn processed within roughly sixteen to twenty days. (Tr. p. 37, ln. 18-25). Product in the smaller bin is moved to production within four to five days. (Tr. p. 38, ln. 3-9).

David Edge, StateLine's Chief Financial Officer, testified regarding the facility's actual construction costs compared to portions of the subject property's assessment, as well as StateLine's opinion of the correct assessments. (Ex. E & Ex. 9, p. DE 0002). Edge clarified that the use of the term "feed mill" on the construction contract was used in a broad sense and included items in excess of the 2200 square feet that the assessor identified as the feed mill. (Tr. p. 56, ln. 9-19; Tr. p. 58, ln. 1-19). He confirmed the cost of materials for the ingredient and load-out bins was \$1,032,500. (Ex. E, line item 19; Tr. p. 58, ln. 20 to p. 59, ln. 9). Ultimately, Edge did not offer an opinion of value for any of the components subject to remand.

StateLine submitted an appraisal completed by Don Vaske of Frandson and Associates, LC, Des Moines. (Ex. 39, Appraisal). Vaske's appraisal report provides his "opinion of the appropriate allocation of assessed values on improvements identified by the Emmet County Assessor as the feed mill and feed mill basement (Assessor's ID B-1) and the two grain/corn holding bins (Assessor's ID B-3 & B-4)." (Ex. 39, Appraisal p. 1; Tr. p. 67, ln. 20 to p. 68, ln. 9). Ultimately, Vaske determined the following allocations for specific components of the buildings, some of which StateLine asserts are exempt as machinery/equipment. (Ex. 39, Appraisal p. 8).

Feed Mill	Allocation Value
Basement	\$215,950
Ground Level	\$377,400
Overhead Bins	\$1,092,550
Exterior Grain Bins (Walls/Roof)	
B3	\$487,250
B4	\$55,675

StateLine believes the overhead bin area, as well as the walls/roof of the grain bins, totaling \$1,635,475, should be exempt.¹

Vaske's appraisal report and testimony explains in detail how he arrived at these conclusions. Pointing to a reproduction of a sketch of the subject improvements found on the property record card, the areas shaded in gray are the focus of his analysis. (Ex. 39, Appraisal p. 11). Vaske explained the feed mill is only a portion of the larger structure, which also includes a warehouse, receiving area, and boiler room. The feed mill includes a basement and tunnel reflected as an inset on the upper left hand corner of the sketch. (Ex. 39, Appraisal p. 11). His analysis also includes the two exterior grain bins. Vaske did not opine an independent value of these components; rather he allocated the assessed values assigned to each component. (Tr. p. 68, ln. 1-9).

Vaske's analysis of the feed mill begins with a description of it, as well as how its assessment was calculated. The feed mill consists of 2228 square feet of ground floor area centrally located within the facility. It houses the grinding and mixing equipment operations. It is an I-beam structure that supports the 42 overhead bins and is independent of the surrounding warehouse structure. The overhead bins rise above the surrounding warehouse area, with the exterior of the bins exposed. The feed mill also includes 3377 square feet of basement area and a conveyor tunnel which houses feed and processing equipment, as well as the conveying equipment used to transport the ingredients to and from the ground floor feed mill to operations. (Ex. 39, Appraisal p 5-6; Tr. p. 71, ln. 4-17).

Vaske reports the Assessor assigned a value to the feed mill by estimating the replacement cost new (RCN) on a per-cubic-foot basis and then applied a grade multiplier of

¹ In its brief, StateLine asks PAAB to reduce the assessment by \$1,635,175, which appears to be a typographical error.

1.50. The resulting RCN per cubic foot is \$9.60. (RCN \$6.40 x grade multiplier 1.50 = \$9.60). The adjusted RCN was then depreciated by 2%, resulting in a depreciated RCN per cubic foot of \$9.41. According to Vaske, the Assessor estimated the feed mill, including the overhead bins, at 156,244 cubic feet, resulting in a depreciated assessed value of \$1,469,950 for this portion of the feed mill. The basement and conveyor belt was assessed separately and has a depreciated assessed value of \$215,950. The total depreciated RCN of the feed mill is \$1,685,900. (Ex. 39, Appraisal p. 6).

Vaske identifies three components of the feed mill: the ground floor area, the overhead area, and the basement. Vaske determined the \$215,950 assessed value of the basement component was reasonable and allocates this amount to that component. (Ex. 39, Appraisal p. 7).

He considers the ground floor area to be the space from the floor to the bottom of the overhead bins, calculating this area as 40,104 cubic square feet. Applying the depreciated value of \$9.41 per cubic foot, Vaske concludes an allocation of \$377,400 (rounded) for the ground floor component. (Ex. 39, Appraisal p. 7).

The overhead bins begin near the roof line of the surrounding warehouse and also include the I-Beam support structure. Because the assessment valued the ground floor and overhead bins together, Vaske simply deducts his conclusion of \$377,400 for the ground floor allocation from the feed mill's total assessed value of \$1,685,900, concluding an allocated value of \$1,092,500 for the overhead bins. StateLine noted that Vaske's allocation of \$1,092,500 for the overhead bins is comparable to the actual construction costs of \$1,032,500 identified for the bins, which it believes further validates his analysis. (Ex. E, line item 19).

The Board of Review was critical of Vaske's analysis because he based it on a straight-line cubic foot basis for the ground floor and the overhead bin area. It asserts the ground floor may have more value because of its foundational structure and houses services like any necessary electrical and plumbing components.

Vaske conducted a similar allocation analysis on the two free-standing grain bins assigned identification as B3 and B4, also identified in the record as buildings five and six. Here, Vaske opines an allocated value of the assessment for the bins separating the value of the foundation from that of the walls and roof. In our prior ruling, PAAB determined that the foundation is not machinery, but rather real property.

Vaske considers the RCN and the depreciated assessed value of each bin, which includes the foundation, walls, and roof. His total calculations also include the aeration floor, fans, and power sweep, which PAAB's prior Order identified as exempt. (Ex. 39, Appraisal p. 3-4; Ex. A, p. DE0011 & DE0013). The large grain bin was depreciated by 3%. The small grain bin was depreciated by 60%. The following table outlines these values.

Large Grain Bin (B3)		
Component	RCN	Assessed Value (Depreciated RCN)
Concrete base, walls & roof	\$697,000	\$676,100
Aeration Floor	\$40,300	\$39,100
4, 40 HP RPM Fans	\$22,000	\$21,300
4, 3 HP RM Fans	\$4,900	\$4,800
Power Sweep	\$14,500	\$14,100
Total	\$778,700	\$755,400

Small Grain Bin (B4)		
Component	RCN	Assessed Value (Depreciated RCN)
Concrete base, walls & roof	\$193,000	\$78,000
Aeration Floor	\$13,200	\$5,300
2, 20 HP RPM Fans	\$7,050	\$2,800
Power Sweep	\$8,000	\$3,200
Total	\$221,250	\$89,300

Based on corn usage needs of the subject's feed mill operations, Vaske determined the holding capacity of B3 is 566,394 bushels and the holding capacity of B4 is 147,456 bushels. (Ex. 39, Appraisal p. 3-4). This indicates an RCN for B3 of \$1.37 per bushel and an RCN of B4 of \$1.52 per bushel.

Vaske interviewed three construction companies that specialize in grain bin construction: Becker Construction Enterprises Co., CEEC, Inc., and Sukup Manufacturing Co. Based on conversations with representatives from these companies, Vaske determined an RCN ranging from \$1.08 to \$1.68 per bushel for a larger grain bin similar to B3. The mean and median of this analysis is \$1.35 and \$1.30 respectively. None of the costs included dirt work. The low end of this range does not include the concrete foundation – when that cost is figured in the RCN is between \$1.35 and \$1.45 per bushel, which is comparable to the other competing company's costs. The higher end of this range included a foundation which required

more extensive footings than typical construction of a similar structure. (Ex. 39, Appraisal p. 4-5). Applying the same analysis, the RCN for the smaller grain bin, B4 ranged from \$1.41 to \$1.51 per bushel.

The interviewees indicated that the concrete foundation costs associated with the construction ranged from 20-30% of the total RCN. Considering an RCN between \$1.30 and \$1.68, this would indicate a range of cost between \$0.26 and \$0.50 per bushel for the larger bin's concrete foundation; and between \$0.28 and \$0.45 per bushel for the smaller bin's concrete foundation. From this range, Vaske selected 25% as the appropriate allocation to the cost of the foundations. He applied 25% to the depreciated RCN of the exterior bins only, thereby excluding the items PAAB had already identified as exempt.

	Assessed Value (Depreciated RCN)	Allocation to Concrete Floor & Foundation	Allocation to Bin Wall & Roof
B3	\$676,100	\$188,850	\$487,250
B4	\$78,000	\$22,325	\$55,675

The Board of Review was critical of Vaske's analysis for several reasons. First, it notes the reported cost of the large grain bin was roughly \$1,250,000. (Ex. F, Grain Bin – Ha'fa Feed Mill; Tr. p. 94, In. 3 to p. 95, In. 16). Yet Vaske chose to rely on the Assessor's RCN of roughly \$780,000 as reflective of market costs. Vaske explained he was unaware of what the \$1,250,000 cost reflected in Exhibit F. He explained it could include other items such as grain legs, fans, and sweeps. While he recognized his professional agreement that the Assessor's RCN was reasonable, he lacked information to explain why there was roughly a \$500,000 difference between it and the costs reported on Exhibit F. (Tr. p. 95, In. 5-16).

In prior testimony, Vaske acknowledged that the cost of site work was not included in the researched construction costs that he relied on for his analysis and conclusions. County Assessor Barbara Bohm testified for the Board of Review that site work is included in the assessed value of the improvements. (Tr. p. 129, In. 15 to p. 130, In. 8).

Conclusions of Law

In an exemption case, PAAB "strictly construe[s] a statute and any doubt about an exemption is resolved in favor of taxation." *Carroll Area Child Care Center, Inc. v. Carroll Cnty. Bd. of Review*, 613 N.W.2d 252, 254 (Iowa 2000); *Wendling Quarries, Inc., v. Property Assessment Appeal Board*, 865 N.W.2d 635 (Iowa App. Ct. 2015); *Splash Enterprises, L.C. v.*

Polk Cnty. Bd. of Review, 807 N.W.2d 157, 2011 WL 3925415, at *3 (Iowa Ct. App. 2011). It is StateLine's burden to prove it is entitled to the benefit of the exemption. § 441.21(3); *Sherwin-Williams Co. v. Iowa Dep't of Revenue*, 789 N.W.2d 417, 424 (Iowa 2010).

Sections 427A.1(1)(e) and 427B.17(3) effectively exempts, "[m]achinery used in manufacturing establishments" from real property tax.

In our first Order, we concluded, "that machinery need not directly participate in the manufacturing process to receive an exemption." (PAAB Order February 26, 2016 p. 10). Stateline noted that R. 701-71.1(7)(b)(1) defines machinery to include "equipment and devices, both automated and non-automated, which is used in manufacturing as defined in Iowa Code section 428.20." We also applied the following definitions of machinery:

The Merriam-Webster dictionary defines machinery as "machines of a particular kind or machines in general." *Machinery Definition*, MERRIAM-WEBSTER.COM, <http://www.merriam-webster.com/dictionary/machinery> (last visited Feb. 18, 2016). See also *Machinery Definition*, DICTIONARY.COM, <http://dictionary.reference.com/browse/machinery?s=t> (last visited Feb. 18, 2016) (describing machinery as "an assemblage of machines or mechanical apparatuses"). A machine is defined as "a piece of equipment with moving parts that does work when it is given power from electricity, gasoline, etc." *Machine Definition*, MERRIAM-WEBSTER.COM, <http://www.merriam-webster.com/dictionary/machine> (last visited Feb. 18, 2016). Black's Law defines machine as "a device or apparatus consisting of fixed or moving parts that work together to perform some function." MACHINE, Black's Law Dictionary (10th ed. 2014).

(PAAB Order p. 10).

Applying the same principles as set forth in our original order to the issues in dispute here, we conclude StateLine has not shown the overhead bins (ingredient and loadout) or the large/small exterior grain bin's walls and roof are machinery. 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.

Furthermore, even had we concluded the items were machinery, we must determine whether Stateline has shown their value.

The Board of Review argues StateLine failed to prove the value of the property absent any exempt equipment and therefore has failed to carry its burden to show the property is

entitled to an exemption. (BOR Brief 2-4). However, our first Order rejected this conclusion and reduced the assessment by the assessed value of the equipment PAAB previously found to be machinery. (PAAB Order p. 11). At hearing, StateLine proffered a value for each of the items before PAAB on remand. Had Stateline shown the disputed items here constituted machinery and were entitled to exemption, which it failed to do, it would have also needed to show the amount of the assessment attributed to those items so the assessment could be reduced accordingly.

Here, we are not convinced that Vaske's allocations accurately reflect the value of the property StateLine believes to be exempt. Regarding the large and small grain bins, Vaske determined that 25% of the cost of construction is attributable to the foundations. At the same time, however, he failed to account for the site work or estimate how the site work cost should be allocated to the resulting grain bin. PAAB finds that while the methodology Vaske employed is sound, it failed to account for the site work. To remedy, we would increase the cost of construction attributed to the foundation to the upper end of his range at 30%; thus reducing his attributed value for the roof and walls.

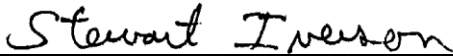
Additionally, his allocation of value to the ingredient bins relied on the assessment, which valued the entirety of the feed mill on a per-cubic-foot basis. We find that extrapolating a per-unit value from the whole and applying that to a portion of the property does not necessarily result in an accurate valuation of that portion. As an example, the IOWA REAL PROPERTY APPRAISAL MANUAL prescribes assessors are to arrive at the value of a restaurant by determining the restaurant's total square footage and then, considering its type of construction, apply a pre-determined value per-square-foot to arrive at its valuation. MANUAL, p. 6-15, available at <https://tax.iowa.gov/sites/files/idr/documents/6PRECOMPUTEDSECTIONA.pdf> (last visited Mar. 21, 2018). For instance, a 2,000 square foot wood frame restaurant would have a base cost of \$95.70 per-square-feet. *Id.* Despite the fact that the MANUAL prescribes a per-square-foot value, it could not be reasonably argued that each square foot costs the same amount to construct or contributes an equal amount to its value. Accordingly, we do not believe Vaske's allocation method is an entirely reliable reflection of the value of the ingredient and load-out bins.

In summary, we conclude the ingredient and load-out bins as well as the walls and roof of the two grain bins are not machinery and are therefore assessable as real estate. Even if we

had determined they were machinery, we conclude Vaske's allocations are not reliable reflections of their value. Accordingly, we affirm the assessments of the ingredient and load-out bins and the two grain bins.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Camille Valley, Board Member

IT IS SO ORDERED.

CC:

Brant Kahler/Adam Van Dike/Steven Schoenebaum By EFILE

Brett Ryan By EFILE

Appendix A

Reproduced from StateLine's Itemized List of Components filed on November 18, 2016.

Building 1 of 7

StateLine asserts the following should be exempt from taxation as "machinery used in a manufacturing establishment":

Ingredient Bins:

Bin 1 Monocal Phosphate 1,280 cubic ft (40x8x4)
Bin 2 Lysine 1,280 cubic ft (40x8x4)
Bin 3 Feeding Lime 1,440 cubic ft (40x8x4.5)
Bin 4 Salt 1,120 cubic ft (40x8x3.5)
Bin 5 Empty 1,280 cubic ft (40x8x4)
Bin 6 Distillers Dried Grain 1,280 cubic ft (40x8x4)
Bin 7 Distillers Dried Grain 2,560 cubic ft (40x8x8)
Bin 8 Soybean Meal 2,560 cubic ft (40x8x8)
Bin 9 Meat and Bone Meal (Porcine) 2,560 cubic ft (40x8x8)
Bin 10 Soybean Meal 2,560 cubic ft (40x8x8)
Bin 11 Soybean Meal 2,560 cubic ft (40x8x8)
Bin 12 Distillers Dried Grain 2,560 cubic ft (40x8x8)
Bin 13 Wheat Midds 2,560 cubic ft (40x8x8)
Bin 14 Distillers Dried Grain 2,560 cubic ft (40x8x8)
Bin 15 Distillers Dried Grain 2,560 cubic ft (40x8x8)
Bin 16 Soybean Meal 2,560 cubic ft (40x8x8)
Bin 17 Distillers Dried Grain 2,560 cubic ft (40x8x8)
Bin 18 Distillers Dried Grain 1,280 cubic ft (40x8x4)
Bin 19 Whole Corn 1,280 cubic ft (40x8x4)
Bin 20 Ground Corn 1,280 cubic ft (40x8x4)
Bin 21 Ground Corn 1,280 cubic ft (40x8x4)
Bin 22 Cob and Stalk Bin 1,200 cubic ft
Bin 23 Pellet Mill Bin 2,560 cubic ft (40x8x8)
Bin 24 Pellet Mill Bin 2,560 cubic ft (40x8x8)

Bin Legs

Ingredient Bin Augers (24)

Loadout Bins:

Bin 25 Finished Feed Load Out Bin 2,048 cubic ft (32x8x8)
Bin 26 Finished Feed Load Out Bin 2,048 cubic ft (32x8x8)
Bin 27 Finished Feed Load Out Bin 1,024 cubic ft (32x8x4)
Bin 28 Finished Feed Load Out Bin 1,024 cubic ft (32x8x4)
Bin 29 Finished Feed Load Out Bin 1,024 cubic ft (32x8x4)
Bin 30 Finished Feed Load Out Bin 1,024 cubic ft (32x8x4)
Bin 31 Finished Feed Load Out Bin 2,048 cubic ft (32x8x8)
Bin 32 Finished Feed Load Out Bin 2,048 cubic ft (32x8x8)

Bin 33 Finished Feed Load Out Bin 1,024 cubic ft (32x8x4)
Bin 34 Finished Feed Load Out Bin 1,024 cubic ft (32x8x4)
Bin 35 Finished Feed Load Out Bin 1,024 cubic ft (32x8x4)
Bin 36 Finished Feed Load Out Bin 1,024 cubic ft (32x8x4)
Bin 37 Finished Feed Load Out Bin 1,024 cubic ft (32x8x4)
Bin 38 Finished Feed Load Out Bin 1,024 cubic ft (32x8x4)
Bin 39 Finished Feed Load Out Bin 1,024 cubic ft (32x8x4)
Bin 40 Finished Feed Load Out Bin 1,024 cubic ft (32x8x4)
Bin 41 Finished Feed Load Out Bin 2,048 cubic ft (32x8x8)
Bin 42 Finished Feed Load Out Bin 2,048 cubic ft (32x8x8)

Bin Legs

Machinery Above Bins:

Gyro Sifter Feed Cleaner (1)
Corn Scalper (1)
Distributors (3)
Two-Way Valve (1)
Spouting

Other Machinery in Building 1 of 7 – Feed Mill:

Ingredient Scales (2)
Roller Mills (2)
Micro-Ingredient Bins (30) – system also includes scales, augers and conveyor
Pellet Mill (1)
Steam Lines (Pellet System)

Machinery in Mill Basement and Conveyor Tunnel:

Feed Mixer / Surge
Pellet Cooler
Conveyors

StateLine concedes the following are not exempt from taxation:

Building Foundation
Building Floor
Building Basement and Tunnel
Building Walls

Building 5 of 7

StateLine asserts the following should be exempt from taxation as “machinery used in a manufacturing establishment”:

Steel Bin Walls and Roof
Aeration Floor*
Fans*
Power Sweep*

StateLine concedes the following are not exempt from taxation:

Concrete Floor
Concrete Foundation

Building 6 of 7

StateLine asserts the following should be exempt from taxation as “machinery used in a manufacturing establishment”:

Steel Bin Walls and Roof
Aeration Floor*
Fans*
Power Sweep*

StateLine concedes the following are not exempt from taxation:

Concrete Floor
Concrete Foundation

*** In a prior order, PAAB found these items were exempt.**

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 14-32-0297

Parcel No. 08-31-427-002

StateLine Cooperative,

Appellant,

v.

Emmet County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 7, 2015. Adam C. Van Dike of Brown, Winick, Graves, Gross, Baskerville and Schoenbaum, PLC in Des Moines represented StateLine Cooperative (StateLine). Attorney Brett Ryan of Watson and Ryan, PLC in Council Bluffs represented the Emmet County Board of Review.

StateLine is the owner of an industrial feed mill located at 5265 206th Street in Armstrong, Iowa. The subject property was constructed in 2013 and consists of seven structures, including a feed mill, warehouses, storage bins, a Quonset, and eighteen yard items on a 5.5-acre site.

The property's January 1, 2014, assessment was \$4,272,900, allocated as \$130,000 in land value and \$4,142,900 to improvement value. StateLine's protest to the Board of Review claimed that \$3,402,200 of the property was exempt under section 441.37(1)(a)(1)(c).

StateLine claimed the property in dispute is machinery used in a manufacturing establishment, which is exempt under section 427B.17. Section 427A.1(1)(e) provides that, unless exempt, machinery used in manufacturing establishments is taxed as real property. However, section 427B.17(3) provides that the machinery designated in

section 427A.1(1)(e) would be exempt from taxation beginning in 1995. The Board of Review denied StateLine's petition. StateLine re-asserted its claim to PAAB and asserts the subject property's assessment should be \$870,700, allocated \$130,000 to land value and \$740,700 to improvement value.

Findings of Fact

There is no dispute that StateLine combines and processes raw ingredients, such as corn, soybean meal, and wheat midds, into meal and pellet livestock feed. The Board of Review concedes the subject property is a manufacturing facility. As such, StateLine is eligible to have any machinery exempted from taxation. The question for PAAB is whether the items identified by StateLine fall under the category of machinery for the purposes of assessment.

StateLine identified each assessed property item it considered to be taxable as real property and that which it considered exempt as machinery used in manufacturing. Undisputed items of real property and their assessed values are listed in Table 1.

Table 2 lists the items, which are presently assessed as real property, that StateLine claims is exempt machinery. We note, it claims Building 1, the feed mill, is partially exempt and should be valued at \$52,000. In total, StateLine asserts there is \$3,402,200 worth of machinery and equipment that should be exempt from taxation. Upon removal, StateLine asserts the correct assessed value of this property should be \$870,700. (Ex. 2).

Property	Amount
Undisputed Property - Assessed Value	\$870,700
Disputed Property - Claimed Exemption	\$3,402,200
Total Property Value	\$4,272,900

David Edge, Chief Financial Officer of StateLine, prepared the list of property StateLine claims should be exempt from taxation. (Ex. 2). Edge used the assessor's property record card (Ex. 9) for the descriptions and values. Using an aerial photograph

of the facility (Ex. 5), Edge explained that on the left side is a warehouse, on the right side are grain bins, and the middle portion from the floor up and sticking out of the roof is the feed mill. (Tr. pp. 18-19). He testified that Building 1 is the main structure at the facility, which houses the feed mill.

Edge testified that Exhibit 10 shows photographs of the ingredient bins, load-out bins, distributor, stubbing spouts, and other equipment during and after construction. (Tr. pp. 19-25). He explained there are roughly 42 bins counting both the ingredient bins and load-out bins for finished product. Ingredients entering the mill on the ground level move up through the legs of the conveyors into a gravity-fed spout in the top of the distributor. The ingredient bins receive all incoming ingredients through the top, store them, and then provide for a continuous flow process. The finished feed is moved into the load-out bins and held until distributed out the bottom into a semi delivery truck. The cone-shaped top is a distributor that rotates and directs the ingredients into the appropriate bins. Building 1 also houses a grinder, mixer, pelleter, and surge. The exterior walls of the ingredient bins and load-out bins are the exterior walls of the structure, which he considers part of the machinery.

Edge reported only the floor and portions of the wall of Building 1 are not involved in feed manufacturing and are real property. (Tr. pp. 25-30). He values the taxable portions at \$52,000 and the exempt portions at \$1,633,900. He calculated the \$52,000 by the 2228 square footage space times the \$23.60 per-square-foot cost, which was used by the assessor to value warehouse space.

We note the IOWA REAL PROPERTY APPRAISAL MANUAL values feed mills on a per-cubic-foot basis that includes work floors, distribution floors, and truck loading and unloading areas. MANUAL 6-138, available at <https://tax.iowa.gov/iowa-real-property-appraisal-manual> (last visited Feb. 18, 2016). The MANUAL directs to add value for a feed mill's basement on a per-square-foot basis, depending on depth. *Id.* The property record card indicates the subject feed mill has a basement depth of 16 feet, which corresponds to a value of \$43.50 per-square-foot in the MANUAL. *Id.* Per the property record card, the feed mill's basement alone is valued at \$146,900 before the application of the grade multiplier and depreciation adjustments.

The property record card also shows the feed mill and steel grain storage bins are supported by reinforced concrete foundations ranging from twelve to twenty-four inches. The MANUAL provides a cost schedule for reinforced concrete foundations based on pounds. *Id.* 4-5. The property record does not disclose the value attributable to the foundations and StateLine offered no evidence of their value. However, we recognize the construction costs indicate the cost of the feed mill building concrete to be \$515,200. (Ex. E).

Edge testified that on its internal financial reports, StateLine depreciates machinery and equipment anywhere between five and twenty-five years and buildings are depreciated over a forty-year term. (Tr. pp. 35, 39-40). StateLine's internal depreciation report shows the "Feed Mill – Halfa Facility-Building" with a cost of \$2,668,619.72 is being depreciated over forty years. (Ex. F). The "Feed Mill – Halfa Facility-Feed Equipment" with a cost of \$5,069,161.99 is depreciated over twenty-five years. (Ex. F).

The largest of the two grain bins, "Grain Bin—Halfa Feed Mill", has a cost of \$1,251,763.69 and is depreciated over a thirty-five year term. (Ex. F). Likewise, the smaller bin is currently being depreciated over a ten-year term, but was originally constructed in 1989. (Ex. F; Tr. pp. 132-33).

Cherilyn Kirchau, Feed Department Manager, testified on behalf of StateLine and explained the manufacturing process at the subject facility. (Tr. pp. 51-67). Kirchau testified the process is fully integrated and continual when the plant is operating. (Tr. pp. 67-69). She then went on to describe the various pieces of machinery and equipment in each of the Buildings listed on Exhibit 2. (Tr. pp. 69-109).

Building 1 (Tr. pp. 69-71) – Kirchau explained that Building 1 of 7 (Feed Mill) contains the 42 ingredient and load-out bins, the distributor leg components, three legs, two roller mills, a scale, a mixer, a surge, a pellet mill, and a micro-bin system. (Tr. p. 70).

Buildings 2 & 3 (Tr. pp. 71-75) – The only items that StateLine contends are exempt in Buildings 2 & 3 are two truck scales. The scales are roughly the size of a semi-tractor and trailer. The scales weigh the trucks and the respective ingredients they

hold before they enter into the manufacturing process via the dump pits located in the buildings.

Building 4 (Tr. pp. 75-77) – StateLine does not contend any items related to Building 4 are exempt.

Building 5 (Tr. pp. 77-79) – Building 5 contains a steel grain storage bin, aeration floor, fans and dryers, and a power sweep. Kirchau described the aeration floor as a corrugated floor that, when used in conjunction with the fans, allows for air movement in the storage bin. The power sweep pivots the diameter of the bin to push grain toward holes above the reclaim conveyor.

Building 6 (Tr. pp. 79-82) – Building 6 contains similar components as Building 5, but Kirchau testified it does not contain a power sweep. She testified it previously contained a power sweep that was removed after the assessment date.

Building 7 (Tr. pp. 82-83) – StateLine does not contend the Quonset building is exempt.

Yard Items (Tr. pp. 83-109) – The property also contains a number of Yard Items that mainly include tanks, bucket conveyors (legs), and drag conveyors. Kirchau testified that insulated fat tanks are used to maintain choice white grease in liquid form, which is then metered from the tank into the mixer. She generally described that bucket conveyors, or legs, contain a belt that has cups on it that grab product and moves it vertically to another location in the manufacturing process. Drag conveyors contain a chain with paddles that moves product horizontally through the manufacturing process.

On cross-examination, Kirchau testified that the ingredient bins hold the unprocessed, non-corn material for a short period of time, but that no processing of the material occurs while being held in the bins. (Tr. p. 113). Similarly, the load-out bins hold the manufactured product before being loaded into trucks, weighed, and sent out for delivery. (Tr. pp. 113-16).

Ted Goslinga, appraiser for Vanguard Appraisals, testified for the Board of Review. Goslinga prepared the assessment, which was adopted by Emmet County Assessor Barbara Bohm. (Tr. pp. 143-44). Goslinga stated he has assessed between 50 and 100 feed mills like the subject. (Tr. p. 158). In determining what was machinery

and equipment, he relied on the determination of the Department of Revenue as expressed in the IOWA REAL PROPERTY APPRAISAL MANUAL. (Tr. p. 160). Items included in the MANUAL were valued as real estate. (Tr. pp. 160-62). Conversely, items not included in the MANUAL were not valued. (Tr. pp. 173-74). Goslinga indicated that he has not seen a scenario or authority in which a foundation under a grain bin would be treated as machinery or equipment. (Tr. p. 166).

Goslinga also testified to his opinion of when the manufacturing process begins and ends. He stated:

Well, according to the manual and the Department of Revenue, the process begins when the corn comes in and hits the hammermill. That's when the process begins. Same way with the ingredients. When the ingredients hit the mixture, that's where the process begins.

The process ends when that finished product dumps onto the conveyor that runs to the leg and over to the lout-out bins. So anything in between there, if there's any screw [augers], conveyors, hammermills, pellet mills, mixers, scales, we would not assess those as real estate. (Tr. p. 163).

The Board of Review submitted a December 2013 invoice from EBM Construction Inc. to StateLine detailing the itemized construction costs for the facility. (Ex. E). The project had a total cost of over \$8.9 million. When compared with the property record card and Exhibit 2, the itemized cost list demonstrates that the current assessment does not include certain items, such as mixers, grinders, and augers.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In an exemption case, PAAB “strictly construe[s] a statute and any doubt about an exemption is resolved in favor of taxation.” *Carroll Area Child Care Center, Inc. v. Carroll Cnty. Bd. of Review*, 613 N.W.2d 252, 254 (Iowa 2000); *Wendling Quarries, Inc., v. Property Assessment Appeal Board*, 865 N.W.2d 635 (Iowa App. Ct. 2015); *Splash Enterprises, L.C. v. Polk Cnty. Bd. of Review*, 807 N.W.2d 157, 2011 WL 3925415, at *3 (Iowa Ct. App. 2011). It is StateLine’s burden to prove it is entitled to the benefit of the exemption. § 441.21(3); *Sherwin-Williams Co. v. Iowa Dep’t of Revenue*, 789 N.W.2d 417, 424 (Iowa 2010).

StateLine claims various parts of its property is machinery used in a manufacturing establishment and is exempt from taxation under Iowa Code sections 427A.1(1)(e) and 427B.17(3). The Board of Review disagrees and asserts the property StateLine claims to be exempt is not machinery and, even if it were, it is not used directly in the manufacturing process and therefore not subject to exemption. The Board of Review affirmatively argues that the disputed items are listed and valued in the IOWA REAL PROPERTY APPRAISAL MANUAL, which assessors are required to utilize, and the MANUAL’S inclusion of these items is dispositive of their taxable status. Lastly, the Board of Review contends that StateLine has not established the value of any of the property it claims to be exempt and, as a result, its exemption claim must fail.

Sections 427A.1(1)(e) and 427B.17(3) effectively exempts, “Machinery used in manufacturing establishments,” from real property tax. The parties stipulate that StateLine is a manufacturer. Machinery is not defined by this section other than to state, “The scope of property taxable under this paragraph is intended to be the same

as, and neither broader nor narrower than, the scope of property taxable under section 428.22, Code 1973, prior to July 1, 1974).” *Id.*

The parties have not offered nor can PAAB find any case law interpreting the meaning of the phrase “machinery used in manufacturing establishments” in a precedential case with similar factual similarities and legal arguments. The Board of Review contends that only property items that directly participate in the processing of material into finished product can be considered machinery used in a manufacturing establishment for the purposes of section 427A.1(1)(e). StateLine essentially argues for a broader interpretation that would include property items that do not directly participate in the manufacturing or modification of material into a finished product, but are nonetheless necessary to the manufacturing process.

We find the plain and express language of the statute indicates the Board of Review’s desired interpretation is too narrow. *Kay-Decker v. Iowa State Bd. of Tax Review*, 857 N.W.2d 216, 223 (Iowa 2014) (indicating that where a statute is unambiguous, the court must look no further than the statute’s express language). The phrase “machinery used in manufacturing establishments” in section 427A.1(1)(e) does not contain any requirement that the machinery be directly used in the processing of material into finished product. This is consistent with the Department of Revenue’s interpretation as well. Iowa Admin. R. 701-71.7 states that “industrial machinery referred to in Iowa Code section 427A.1(1)“e” shall include *all* machinery used in manufacturing establishments.” (emphasis added). As a result, machinery used in a manufacturing establishment that does not directly manufacture, refine, purify, combine, or package material is within the scope of section 427A.1(1)(e).

Griffin Pipe Products Co., Inc. v. Bd. of Review of County of Pottawattamie supports this broad interpretation. 789 N.W. 2d 769 (Iowa 2010). In *Griffin Pipe*, the Iowa Supreme Court was faced with the question of whether common law fixtures could also be machinery under subsection (e) and thus exempt from taxation. *Id.* The Court noted that Rule 701-71.7 “implicitly suggests that subsection (e) must be given a broad interpretation to include common law fixtures.” *Id.* at 774. It further determined that it “would not supply a limitation that the legislature declined to provide.” *Id.* at 775. The

Court held that common law fixtures *may* constitute machinery used in a manufacturing establishment. *Id.* at 775-76.

The Board of Review also argues that the assessment correctly includes all property listed in the IOWA REAL PROPERTY APPRAISAL MANUAL, which assessors are required to use under the law. “The Board [of Review] correctly points out that the county assessor is required by law to use a state appraisal manual prepared by the director of the department of revenue.” *Soifer v. Floyd County Bd. of Review*, 759 N.W.2d 775, 791 (Iowa 2009) (citing Iowa Code § 421.17(17)). The Board of Review’s position is that by including items in the MANUAL, the Department of Revenue has made the implicit interpretation that these items are assessable as real property. Thus, PAAB should hold the items are taxable. StateLine counters that the MANUAL does not determine whether property is considered machinery used in a manufacturing establishment.

The MANUAL is used to *value* property and exemption questions are separate from valuation. See § 441.21(1)(h) (noting “the assessor shall determine the *value* of real property in accordance with [...] [the] manual”) (emphasis added). Notably, nowhere does the MANUAL signify it is determinative of the taxable status of any particular type of property. Rather, it is an assessor’s statutory duty to assess property not exempt from taxation and, as the case may require, revoke an exemption and assess property the assessor “believes has been erroneously exempted from taxation.” § 441.17(2), (11). This statutory language contemplates an assessor’s participation in the determination of what property is subject to taxation, and we are unconvinced by the Board of Review’s argument that this duty is abrogated by the requirement that assessors use the MANUAL. Moreover, in *Wendling Quarries, Inc., v. Property Assessment Appeal Board*, the Iowa Court of Appeals held that a pit-less truck scale, which was included and valued in the MANUAL, was equipment under Iowa Code section 427A.1(1)(d). 865 N.W.2d 635 (Iowa App. Ct. 2015). The court remanded the case to PAAB to determine if the exception under section 427A.1(3) applied, which would render the scale exempt from taxation. *Id.* Thus, the mere inclusion of an item in the MANUAL does not conclusively determine its taxable status as real property.

Having decided that machinery need not directly participate in the manufacturing process to receive an exemption, we now must decide if the disputed items are machinery. The parties have not cited to any statutory definitions of the term “machinery” and, as a result, we turn to other existing definitions. *Sherwin-Williams Co.*, at 424-25. The Board of Review offers no definition for the term “machinery.” StateLine cites to Iowa Administrative Code rule 701-71.1(7)(b)(1) as an applicable definition of the term. Rule 701-71.1(7)(b)(1) relates to the classification of real estate and defines machinery to include “equipment and devices, both automated and non-automated, which is used in manufacturing as defined in Iowa Code section 428.20.”

The Merriam-Webster dictionary defines machinery as “machines of a particular kind or machines in general.” *Machinery Definition*, MERRIAM-WEBSTER.COM, <http://www.merriam-webster.com/dictionary/machinery> (last visited February 18, 2016). See also *Machinery Definition*, DICTIONARY.COM, <http://dictionary.reference.com/browse/machinery?s=t> (last visited Feb. 18, 2016) (describing machinery as “an assemblage of machines or mechanical apparatuses”). A machine is defined as “a piece of equipment with moving parts that does work when it is given power from electricity, gasoline, etc.” *Machine Definition*, MERRIAM-WEBSTER.COM, <http://www.merriam-webster.com/dictionary/machine> (last visited February 18, 2016). Black’s Law defines machine as “a device or apparatus consisting of fixed or moving parts that work together to perform some function.” MACHINE, Black’s Law Dictionary (10th ed. 2014)

Given the broad language used by the legislature and as interpreted by the court in *Griffin Pipe*, we conclude the disputed items listed below fall squarely within the meaning of 427A.1(1)(e) as machinery used in a manufacturing establishment and thus should be exempt from taxation. We resolve any doubt on interpretation in favor of the taxpayer. *Rose Acre Farms, Inc. v. Bd. of Review of Madison Cnty.*, 479 N.W.2d 260, 263 (Iowa 1991) (citing *Iowa Dep’t of Transp. v. General Elec. Credit Corp.*, 448 N.W.2d 335, 341 (Iowa 1989)). Substantial evidence shows this machinery is used in StateLine’s facility to move, store, and weigh inputs and outputs of StateLine’s

manufacturing process. Further, we note the value of the total assessment should be reduced for these items.

Item	Value
Scale – Truck	\$185,500
Scale – Truck	\$107,100
Aeration Floor	\$39,100
Fans & Dryers	\$21,300
Fans & Dryers	\$4,800
Power Sweep	\$14,100
Aeration Floor (Bldg 6)	\$5,300
Fans & Dryers	\$2,800
Power Sweep	\$3,200
Bucket Conveyor (Leg)	\$67,300
Bucket Conveyor (Leg)	\$73,700
Bucket Conveyor (Leg)	\$39,200
Bucket Conveyor (Leg)	\$66,800
Drag Conveyor	\$38,600
Drag Conveyor	\$49,000
Drag Conveyor	\$11,100
Bucket Conveyor (Leg)	\$103,700
Drag Conveyor	\$61,200
Drag Conveyor	\$46,800
Drag Conveyor	\$33,600
Insulated Fat Tank	\$24,500
Insulated Fat Tank	\$15,500
Total	\$1,014,200

Relating to the other items StateLine contends are machinery, we find there is insufficient evidence to show the entirety of the feed mill and steel storage bins are machinery used in a manufacturing establishment. The feed mill and storage bins rest on reinforced steel concrete foundations, which we conclude, do not meet the definition of machinery. Likewise, the feed mill's basement, floor, and walls cannot reasonably be considered to be machinery. While these items may be necessary to house and support machinery, they are not themselves machinery.

Importantly, the assessor's valuation for the feed mill and two steel grain storage bins includes the foundations, walls, ceiling, basement, and any potential machinery

contained therein. So, while certain items contained within these structures could be machinery, StateLine has not shown the correct value of the exempt portions or the correct value of the remaining taxable portions of the property.

Edge attempted to determine a value for the portions of the feed mill he believed to be taxable and came to a conclusion of \$52,000. He testified that he determined this value by using the base per-square-foot rate for warehouse space (\$23.60) and multiplied the rate by 2228, which is the total above-grade square footage floor area of the feed mill. (Tr. pp. 25-30).

Edge's methodology valuing the feed mill as if it were a warehouse results in a failure to account for the contributory value of the feed mill's components. For example, the basement offers significant value to the feed mill's operation and the real estate. The basement houses the conveyor system, is a space that appears vitally important to the facility's operation, and its value should be included in the assessment. Similarly, Edge's approach does not account for the feed mill's wall height needed to accommodate and house the ingredient storage bins. Again, this space seems to be necessary to the facility's operation and is a valuable part of the real estate.

Further, we recognize the construction cost for the feed mill building concrete alone was \$515,200. (Ex. E). Other construction costs for taxable portions of the feed mill well exceed \$500,000. (Ex. E). Given the disparity between Edge's value and the feed mill's construction cost, we believe Edge's conclusions underestimate the value of the taxable property and we decline to rely on his conclusions. StateLine made no attempt to conclude a value of the taxable portions of the grain storage bins.

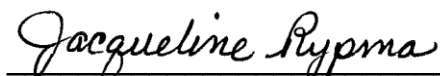
Given the foregoing, there is an absence of any reliable evidence showing the respective value of the exempt and taxable portions of the feed mill and grain bins. Because StateLine bears the burden in this appeal, this absence of evidence is to its detriment. § 441.21(3); *Carlson Co. v. Bd. of Review of City of Clinton*, 572 N.W.2d 146, 150-15 (Iowa 1997) (describing taxpayer's evidence of market value of equipment, molds, forklifts, and computers). Accordingly, we affirm the assessment of the feed mill and grain storage bins.

Order

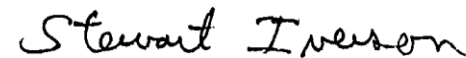
IT IS THEREFORE ORDERED that the Emmet County Board of Review's action is modified. PAAB orders that the Board of Review shall remove the value of the exempt machinery valued at \$1,014,200 from the subject's 2014 assessment.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 26th day of February, 2016.



Jacqueline Rypma, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:

Adam C. Van Dike

Brett Ryan

AUDITOR

Table 1 - Undisputed items of real property and their assessed values

	Description	Assessed Value
Land	Land	\$ 130,000
Building 2 of 7	Feed Warehouse	\$ 329,100
	Door	\$ 19,000
	Door	\$ 900
	Dump Pit	\$ 13,100
Building 3 of 7	Feed Warehouse- Receiving	\$ 105,900
	Door	\$ 9,500
	Dump Pit	\$ 13,100
Building 4 of 7	Feed Warehouse- Boiler Room	\$ 43,400
	Door	\$ 4,400
Building 7 of 7	Quonset	\$ 24,000
Yard Item #3	Tank- Containment Area	\$ 8,400
Yard Item #11	Leg Towers	\$ 60,000
Yard Item #13	Tank- Containment Area	\$ 9,000
Yard Item #14	Tank- Small Bulk	\$ 12,600
Yard Item #15	Equipment Building	\$ 14,700
Yard Item #19	Tank- Containment Area	\$ 9,000
Yard Item #20	Tank- Small Bulk	\$ 12,600
	Total Value	\$ 818,700

Table 2 – Property StateLine claims is exempt machinery and equipment used in manufacturing

Building	Description	Assessed Value	Adjustment Requested	Appellant Value	Description
Building 1 of 7	Feed Mill	\$1,685,900	\$(1,633,900)	\$52,000	Ingredient/Load Out Bins
Building 2 of 7	Scale- Truck	\$185,500	\$(185,500)		Truck scale
Building 3 of 7	Scale -Truck	\$107,100	\$(107,100)		Truck scale
Building 5 of 7	Steel Grain Storage Bin	\$676,100	\$(676,100)		Ingredient
	Aeration Floor	\$39,100	\$(39,100)		To maintain product integrity
	Fans & Dryers	\$21,300	\$(21,300)		To maintain product Integrity
	Fans & Dryers	\$4,800	\$(4,800)		To maintain product Integrity
	Power Sweep	\$14,100	\$(14,100)		Ingredient Conveyor
Building 6 of 7	Steel Grain Storage Bin	\$78,000	\$(78,000)		Ingredient Bin
	Aeration Floor	\$5,300	\$(5,300)		To maintain product Integrity
	Fans & Dryers	\$2,800	\$(2,800)		To maintain product integrity
	Power Sweep	\$3,200	\$(3,200)		Ingredient Conveyor
Yard Item (1)	Insulated Fat Tank	\$24,500	\$(24,500)		Ingredient Bin
Yard Item (2)	Insulated Fat Tank	\$15,500	\$(15,500)		Ingredient Bin
Yard Item (4)	Bucket Conveyor (Leg)	\$67,300	\$(67,300)		Ingredient Conveyor
Yard Item (5)	Bucket Conveyor (Leg)	\$73,700	\$(73,700)		Ingredient Conveyor
Yard Item (6)	Bucket Conveyor (Leg)	\$39,200	\$(39,200)		Ingredient Conveyor
Yard Item (7)	Bucket Conveyor (Leg)	\$66,800	\$(66,800)		Finished Product Conveyor
Yard Item (8)	Drag Conveyor	\$38,600	\$(38,600)		Ingredient Conveyor
Yard Item (9)	Drag Conveyor	\$49,000	\$(49,000)		Ingredient Conveyor
Yard Item (10)	Drag Conveyor	\$11,100	\$(11,100)		Ingredient Conveyor
Yard Item (12)	Bucket Conveyor (Leg)	\$103,700	\$(103,700)		Ingredient Conveyor
Yard Item (16)	Drag Conveyor	\$61,200	\$(61,200)		Ingredient Conveyor
Yard Item (17)	Drag Conveyor	\$46,800	\$(46,800)		Ingredient Conveyor
Yard Item (18)	Drag Conveyor	\$33,600	\$(33,600)		Ingredient Conveyor
	Totals	\$3,454,200	\$(3,402,200)	\$52,000	