

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

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

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

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

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**RESISTANCE TO PROPERTY ASSESSMENT APPEAL BOARD'S  
APPLICATION FOR FURTHER REVIEW OF COURT OF  
APPEALS OPINION FILED NOVEMBER 4, 2020**

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## ARGUMENT

### I. INTRODUCTION AND SUMMARY OF ARGUMENT

Further review of this matter is not warranted and should not be granted. The Court of Appeals' November 4, 2020 Opinion (the "Opinion") was well-reasoned and compliant with Iowa precedent in all regards disputed by the Iowa Property Assessment Appeal Board ("PAAB"). Contrary to PAAB's assertions, the Opinion is premised on and in accord with the statutory Exemption<sup>1</sup> language, Iowa Supreme Court precedent and Iowa Department of Revenue administrative regulations.

Substantively, in accordance with the Supreme Court's opinion in Griffin Pipe Products Co. v. Board of Review of County of Pottawattamie, 789 N.W.2d 769 (Iowa 2010), the Opinion correctly applied a broad interpretation and construction to the Exemption by holding that StateLine Cooperative's ("SLC") ingredient bins and exterior grain bins are exempt from real property taxation. As PAAB concedes in its Application for Further Review, PAAB has not been vested with the authority to interpret the Exemption. As a result, PAAB is owed no deference in this regard. As

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<sup>1</sup> "Exemption" as used herein is shorthand for the "machinery used in manufacturing establishments" exemption from real property taxation created in tandem through Iowa Code §§ 427B.17(3) and 427A.1(1)(e).

discussed below, this holding is further supported by applicable Iowa Department of Revenue regulations and additional Supreme Court decisions.

Second, after criticizing Mr. Vaske's opinion of value of the exemptions for the ingredient bins and exterior grain bins, PAAB went so far as to explain how PAAB would have calculated the exemption values. Then, instead of simply valuing the exemptions itself based upon the ample evidence in the record necessary to do so, PAAB denied SLC's requested remand relief. The Court of Appeals correctly found that PAAB's actions in this regard were arbitrary, capricious and unreasonable and caused SLC substantial prejudice.

ECBR's Application for Further Review should be denied.

## **II. THE COURT OF APPEALS CORRECTLY INTERPRETED AND CONSTRUED THE EXEMPTION IN FINDING THE INGREDIENT BINS AND EXTERIOR GRAIN BINS EXEMPT FROM REAL PROPERTY TAXATION**

The Court of Appeals' interpretation and construction of the Exemption began with the statutory language and noted, correctly, that the word "machinery" is not defined in the statute. Opinion, p. 15. From there, the Opinion focused on legislative intent, as established by the Supreme Court's opinion in Griffin Pipe, which mandates that the Exemption be interpreted broadly and without limitation. Opinion, pp. 15-17. This much is agreed to by SLC and PAAB. The parties further agree that PAAB has

not been vested with any authority to interpret the Exemption and is entitled to no deference in doing so. PAAB's Application for Further Review, p. 16.

PAAB's disagreement appears to arise with the next section of the Opinion where the Court of Appeals interprets and construes the word "machinery." The Court of Appeals began, correctly, with the Department of Revenue's definition of "machinery" in Iowa Admin. Code r. 701-71.1(7)(b)(1), which governs classification of property for tax assessment purposes:

*71.1(7) Industrial Real Estate.*

\*\*\*

*b. Machinery.*

(1) Machinery includes equipment and devices, both automated and nonautomated, which is used in manufacturing as defined in Iowa Code section 428.20. See *Deere Manufacturing Co. v. Beiner*, 247 Iowa 1264, 78 N.W.2d 527 (1956).

Subsection (a) of the Department of Revenue's definition of "Industrial Real Estate" includes "land and buildings ... used primarily as a manufacturing establishment." Iowa Admin. Code r. 701-71.1(7)(a)(1). When you put subsections (a) and (b) together, it is logical to conclude, as did the Court of Appeals, that the "machinery used in manufacturing establishments" Exemption language necessarily requires that the "machinery" be "used in manufacturing." Iowa Admin. Code r. 701-71.1(7)(a)(1) and 701-71.1(7)(b)(1). This conclusion found broad support in secondary sources

and case law from other jurisdictions (including Wisconsin, Minnesota, Pennsylvania and Kentucky), all of which the Court of Appeals discussed in detail in interpreting and construing the Exemption language to apply to all machinery used directly in the manufacturing process. Opinion, pp. 17-25.

PAAB argues that the Opinion is contrary to the statutory Exemption language. However, it is impossible for the Opinion to contradict the statutory language when the term “machinery” is not defined by the statute. Instead, the Court of Appeals correctly relied upon related Department of Revenue regulations, Iowa case law, secondary sources and case law from other jurisdictions to define the term “machinery” for the purpose of further interpreting and construing the statutory Exemption language.

Moreover, to be clear, there is no conflict between the Opinion and Griffin Pipe. Rather, as noted above, the Opinion’s analysis as to the breadth of the Exemption was based primarily on Griffin Pipe.

The grounds of disagreement PAAB raised in its Application for Further Review do not warrant or necessitate further review by the Supreme Court.

**III. THE COURT OF APPEALS CORRECTLY FOUND THAT PAAB ACTED UNREASONABLY, ARBITRARILY AND CAPRICIOUSLY IN DECLINING TO VALUE THE EXEMPTIONS FOR THE INGREDIENT BINS AND EXTERIOR GRAIN BINS**

PAAB's argument in the second section of its Application for Further Review is improperly framed. PAAB argues that the Opinion incorrectly reversed and applied an inappropriate standard of review to PAAB's determination of value. In reality, however, PAAB made no determination of value. It is that failure by PAAB to value the exemptions that the Court of Appeals reversed and modified as arbitrary, capricious and unreasonable. An agency action is arbitrary or capricious when it is taken without regard to the law or facts of the case, and it is unreasonable when it is clearly against reason and evidence. Dico, Inc. v. Iowa Employment Appeal Board, 576 N.W.2d 352, 355 (Iowa 1998) (citing Soo Line R.R. v. Iowa Department of Transportation, 521 N.W.2d 685, 688-89 (Iowa 1994)).

Notably, PAAB does not address its failure at the agency level to value the exemption for the exterior grain bins, which was without regard to the facts of the case and clearly against reason and evidence. Specifically, PAAB agreed with Mr. Vaske's method of valuing the external grains bins and only disagreed with Mr. Vaske allocating 25% (instead of 30%) of the cost of construction to the foundation of the exterior grain bins. APP. 0792

(“Regarding the large and small grain bins, Vaske determined that 25% of the cost of construction is attributable to the foundations. \*\*\* 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.”)). PAAB could have readily decreased the exemption value of the exterior grain bins by 5% (as the Court of Appeals easily accomplished in two short paragraphs – Opinion p. 27). PAAB’s refusal to do so was arbitrary, capricious and unreasonable, which prejudiced the substantial rights of SLC.

Instead, PAAB focuses on the Court of Appeals’ treatment of the valuation of the ingredient bins. Here, again, at the agency level, PAAB criticized and disregarded Mr. Vaske’s valuation methodology. Then, instead of using its proposed methodology and the available evidence in the record<sup>2</sup> to determine the valuation, PAAB simply denied all relief requested by SLC on appeal.

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<sup>2</sup> PAAB raises burden of proof issues rhetorically at the end of its Application for Further Review, questioning whether or not the Opinion effectively nullified SLC’s burden of proof to value the exemption. Those questions need not be addressed. SLC had a burden to introduce evidence necessary to value the respective exemptions. It did so. While PAAB disagrees with the valuation methodology SLC’s expert employed, no party has argued that there was insufficient evidence. In fact, the Court of

All parties agree that the Court of Appeals “shall reverse, modify or grant other appropriate relief from agency actions ... if it determines that substantial rights of the person seeking judicial relief have been prejudiced...”. Iowa Code § 17A.19(10). After finding that PAAB acted arbitrarily, capriciously and unreasonably by failing to value the ingredient bins’ exemptions, the Court of Appeals valued the exemptions based upon readily available evidence in the record, and in doing so granted SLC the “appropriate relief” necessary to remedy the prejudice to SLC’s substantial rights PAAB’s failure caused.

In other words, the Court of Appeals did not overturn, reverse or disregard PAAB’s finding that Mr. Vaske’s valuation methodology for the ingredient bins’ exemptions was unreliable. The Court of Appeals did find, however, that PAAB’s failure to value the exemptions (after discussing what it deemed to be the appropriate methodology) using readily available evidence in the record was arbitrary, capricious, unreasonable and prejudicial to SLC’s substantial rights. At that time, the Court of Appeals was required by Iowa Code § 17A.19(10) to fashion a remedy necessary to remedy the prejudice sustained by SLC. In doing so, the Court of Appeals valued the exemption for the ingredient bins in the exact manner the Emmet

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Appeals’ Opinion confirms that the evidence necessary to value the exemptions was readily available in the record.

County Assessor valued those ingredient bins for assessment purposes (just as all other exempt components of the property were valued).

The Court of Appeals' correctly held in the Opinion that PAAB's refusal to value the exemption for the ingredient bins and exterior grain bins based upon the evidence in the record (and after explaining how to do so) was without regard to the facts of the case and was clearly against reason and evidence, causing prejudice to SLC's substantial rights.

No further review is warranted or appropriate.

#### **IV. PAAB'S APPLICATION FOR FURTHER REVIEW SHOULD BE DENIED**

For the reasons set forth herein, the Court of Appeals' Opinion was correct in all regards disputed by PAAB. As such, PAAB's Application for Further Review should be denied. Notwithstanding, should this Court grant PAAB's Application for Further Review, SLC requests the right to provide additional briefing on these and other issues.

Dated this 4th day of December, 2020.

Respectfully submitted:

/s/ Brant D. Kahler

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## CERTIFICATE OF SERVICE AND FILING

The undersigned certifies that on December 4, 2020, the foregoing was electronically filed with the Clerk of the Iowa Supreme Court using the EDMS system, a copy of which will be electronically served upon all counsel of record registered with EDMS via Notice of Electronic Filing or Presentation.

Respectfully submitted:

*/s/ Brant D. Kahler*

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**CERTIFICATE OF COMPLIANCE  
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1. The brief complies with the type-volume limitation of Iowa Rule of Appellate Procedure 6.1103(4)(a) because:

[X] this brief contains 1,637 words, excluding the parts of the brief exempted by Iowa Rule of Appellate Procedure 6.1103(4)(a) or

2. This brief complies with the typeface requirements of Iowa Rule of Appellate Procedure 6.903(1)(e) and the type-style requirements of Iowa Rule of Appellate Procedure 6.903(1)(f) because:

[X] this brief has been prepared in a proportionally spaced typeface using Microsoft Office Word 2003 in 14 point Times New Roman, or

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/s/ Brant D. Kahler  
Brant D. Kahler

December 4, 2020  
Date