

**IN THE COURT OF APPEALS OF IOWA**

No. 6-164 / 05-0989  
Filed April 26, 2006

**WESTERN IOWA COOPERATIVE,  
A Cooperative Association of the  
State of Iowa,**  
Plaintiff-Appellant,

**vs.**

**WOODBURY COUNTY BOARD OF REVIEW,**  
Defendant-Appellee.

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Appeal from the Iowa District Court for Woodbury County, Gary E. Wenell,  
Judge.

Western Iowa Cooperative appeals from the district court's order granting summary judgment and dismissing its appeal from the Woodbury County Board of Review's denial of its tax assessment challenge. **AFFIRMED.**

Christopher F. O'Donohoe of Elwood, O'Donohoe, Stochl, Braun &  
Churbuck, New Hampton, for appellant.

Jack A. Faith, Sioux City, for appellee.

Heard by Vogel, P.J., and Zimmer and Vaitheswaran, JJ.

**VOGEL, P.J.**

Western Iowa Cooperative (WIC) appeals from the district court's order granting summary judgment and dismissing its appeal from the Woodbury County Board of Review's (Board) denial of its tax assessment challenge. We affirm.

**Background Facts and Proceedings.**

On April 28, 2004, WIC filed eleven petitions before the Board seeking to challenge its assessment of eleven parcels of land located in Woodbury County. In each petition, WIC objected to the assessment made as of January 1, 2002. Each challenge claimed the fair market value of the property had decreased and was therefore less than the value arrived at by the Board. Following a May 20, 2004 hearing on the petitions,<sup>1</sup> the Board rejected the challenges. Its denial stated

The board finds the taxpayer filed the protest for the year 2002 rather than the current assessment year, thus the petition has the effect of not being timely filed; the taxpayer failed to prove that there has been a change in the value of the real estate since it was last assessed; and finally, an economic condition or situation is not proper grounds for arguing a change in value; therefore the taxpayer has filed under improper grounds in the opinion of the board.

WIC claims that during the hearing, it orally amended its petition to reflect January 1, 2004 as the true date of the protested assessment. The Board denies such an oral amendment was made or granted.

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<sup>1</sup> At the hearing, WIC entered evidence as to the properties' valuations as of November of 2003, but did not enter any evidence of its value in 2004, the year of the challenged assessment.

On June 17, 2004, WIC appealed the Board's denial of its protests to the Iowa District Court for Woodbury County. WIC alleged the fair market values of the properties had decreased since the January 1, 2003 assessment and that the January 1, 2004 assessment was therefore excessive. The Board subsequently filed a motion for summary judgment arguing the petitions were properly denied as untimely. WIC resisted the motion, contending the oral amendment was proper and should "relate back" to the original filing date of the petitions. It further maintained it substantially complied with the tax protest procedure's statutory requirements and that the Board's actions violated its due process rights. The district court granted the motion for summary judgment, concluding that Iowa Rule of Civil Procedure 1.402 did not operate to allow WIC's alleged oral amendment to relate back to the original filing. It further rejected WIC's substantial compliance and due process arguments. WIC appeals.

### **Summary Judgment.**

The standard of review for rulings granting summary judgment is well established:

We review a ruling on a motion for summary judgment for correction of errors at law. A motion for summary judgment should only be granted if, viewing the evidence in the light most favorable to the nonmoving party, the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

*Otterberg v. Farm Bureau Mut. Ins. Co.*, 696 N.W.2d 24, 27 (Iowa 2005)

(citations and internal quotes omitted).

**Substantial Compliance.**

WIC maintains the original petitions, which on their face challenged the January 1, 2002 assessments, substantially complied with the statutory requirements for challenging the January 1, 2004 assessments and therefore should have been deemed proper and timely. Our case law provides that in some instances, substantial compliance with the statutory requirements of the tax protest procedure is adequate. *Superior/Ideal, Inc. v. Board of Review of the City of Oskaloosa*, 419 N.W.2d 405, 407-09 (Iowa 1988). “Substantial compliance is said to be compliance in respect to essential matters of the statute.” *Id.* 419 N.W.2d at 407.

Iowa Code section 441.37 sets the parameters for appealing a property assessment. “The obvious purpose of [this section] is to provide the assessor's office with reasonable notice of the basis of the taxpayer's protest and the location of the properties.” *Metropolitan Jacobson Dev. Venture v. Board of Review of Des Moines*, 476 N.W.2d 726, 730 (Iowa Ct. App. 1991).

Here, every one of the petitions filed by WIC listed the January 1, 2002 assessment as the protested assessment. Moreover, according to an affidavit filed by Woodbury County Assessor Kathy Sands, the values noted in the protest petitions are indeed those values established by the auditor's office for January 1, 2002. Thus, it appears that the admittedly incorrect date of January 1, 2002, was not simply a clerical error on the part of WIC. Since the assessed values listed on the petitions agreed with the 2002 assessment period, it appears the 2002 assessments were being challenged. If not, both were “clerical errors” in all eleven petitions. We agree with the district court's judgment that the

“assessment year and value of the properties in a protest petition are inherently significant to the protest itself . . . .” An incorrect statement of the assessment dates and values would have frustrated the Board’s right to receive reasonable notice of the challenger’s claim. Accordingly, because the dates and values were “essential matters necessary to assure the reasonable objectives” of section 441.37, we conclude WIC did not substantially comply with section 441.37 regarding the content of the protest petitions.

### **Relation Back.**

Having concluded that the original petitions were not in substantial compliance, we must then address WIC’s argument that its alleged oral amendment,<sup>2</sup> which it asserts would have placed the petitions in substantial compliance, should relate back to the date of the original filing, and thus be considered timely.

Iowa Code section 441.37(1) permits an aggrieved taxpayer to challenge an assessment from April 16 to May 5 of the year of the assessment. Because the alleged oral amendment was only made at the hearing on May 20, after the May 5 deadline, WIC contends the petition should be considered timely filed under the relation back doctrine. Iowa Rule of Civil Procedure 1.402(5) provides that, in civil matters, an amendment shall relate back to the date of the original pleading. The question presented to the district court was whether the Iowa

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<sup>2</sup> WIC claims that at the hearing on the petitions it orally amended the petitions to reflect the correct assessment date. However, in an affidavit, Assessor Sands stated that “at no time . . . did [WIC] make a motion, either orally or written, to amend the petitions . . . .” On appeal, the Board states, “for purposes of consideration of its motion for summary judgment, [it] conceded this issue to avoid a disputed fact.”

Rules of Civil Procedure are applicable to the board of review procedures. The district court answered this question in the negative.

We first note the board of review is a creature of statute and that it possesses certain powers and duties as limited by statute. See *State ex rel. Fenton v. Downing*, 261 Iowa 965, 970, 155 N.W.2d 517, 520 (Iowa 1968). Here, no rule or statute allows for either the untimely filing of an assessment protest petition or the relation back of any untimely amendment.<sup>3</sup> We further note that a variety of cases have held that certain rules of the Iowa Rules of Civil Procedure do not apply to tax assessment proceedings before the board of review. See e.g., *Waterloo Civic Center Hotel Co. v. Board of Review*, 451 N.W.2d 489 (Iowa 1990) (holding the rule of procedure governing the perfection of appeals is inapplicable to appeals to the district court from assessment challenges under section 441.38). We find no cause to hold otherwise in this case, and therefore affirm the district court's conclusion that rule 1.402 is inapplicable to the amendment of assessment protests filed outside of the statutory time period of section 441.37. WIC's alleged oral amendment did not relate back to the original filing.

### **Due Process.**

WIC finally asserts that if it is "not allowed to amend its initial pleading and have that amendment relate back to the date of the initial pleading, then [WIC] is denied its fundamental right to be heard." The district court rejected this claim, concluding that the

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<sup>3</sup> We can envision that a written amendment would be allowed if it were made prior to the May 5 statutory deadline.

statutory procedure for protesting a tax assessment is adequate to assure a property owner due process under the law, and the fact that a property owner fails through his/her own fault to correctly follow this procedure should not be adjudged a violation of due process.

We begin with a general presumption of constitutionality of a statute. *State v. Biddle*, 652 N.W.2d 191, 197 (Iowa 2002). Moreover, procedural due process requires, at a minimum, notice and an opportunity to be heard in a proceeding that is “adequate to safeguard the right for which the constitutional protection is invoked.” *Anderson Nat’l Bank v. Lockett*, 321 U.S. 233, 246, 64 S. Ct. 599, 606, 88 L. Ed. 692, 705 (1944). Our supreme court has already rejected a similar due process claim in *Board of Supervisors of Linn County v. Department of Revenue*, 263 N.W.2d 227 (Iowa 1978) (holding the procedures afforded by chapter 441 regarding property tax equalization orders were not violative of due process). Accordingly, we likewise conclude the procedures allowed WIC here provided it with those minimum requirements and thus comported with due process.

We affirm the district court’s granting of summary judgment to the Board.

**AFFIRMED.**