

**IN THE COURT OF APPEALS OF IOWA**

No. 8-665 / 07-1871  
Filed November 13, 2008

**DFCA, INC.,**  
Plaintiff-Appellant,

**vs.**

**TIMOTHY DOWNING, CHAIRMAN OF THE  
BOARD OF REVIEW IN AND FOR SCOTT  
COUNTY, IOWA, and DALE DENKLAU,  
SCOTT COUNTY ASSESSOR,**  
Defendants-Appellees.

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Appeal from the Iowa District Court for Scott County, Mark J. Smith,  
Judge.

DFCA, Inc. appeals from the district court order affirming the Scott County  
Board of Review's classification of ten acres of real estate as commercial.

**AFFIRMED.**

Robert H. Gallagher of Gallagher, Millage & Gallagher, P.L.C., Davenport,  
for appellant.

Theodore J. Priester of Priester & Shie, Davenport, for appellees.

Considered by Huitink, P.J., and Vogel and Eisenhauer, JJ.

**EISENHAUER, J.**

DFCA, Inc. appeals from the district court order affirming the Scott County Board of Review's classification of ten acres of real estate as commercial. DFCA, Inc. seeks to have the property classified as agricultural for tax purposes, arguing the property in question is currently being used in good faith for agricultural activities. Our review is de novo. Iowa R. App. P. 6.4.

DFCA, Inc. purchased the property in question in May of 2000 for \$950,000 with the intention of building a muffler shop. Due to cost-prohibitive restrictions placed on the property by the City of Bettendorf, DFCA, Inc. opted not to develop the land but retained ownership, hoping the property value would increase with time. The Scott County Assessor classified the land as commercial and, in 2001, assessed the land to have a value in excess of \$700,000.

In 2004 and 2005, DFCA, Inc. rented the land to a farmer who grew hay. In 2006 and 2007, the land was used to grow corn. DFCA, Inc. argues that the land should be classified as agricultural as a result.

Iowa Administrative Code rule 701-71.1(3) defines agricultural real estate to include, "all tracts of land and the improvements and structures located on them which are in good faith used primarily for agricultural purposes . . . ."

In addition to actual use of the property, "good faith" may also include the following: (1) is the parcel set off and awaiting development; (2) what permitted uses does current zoning allow; (3) if the parcel is being offered for sale, or if it were, would it be viewed by the marketplace as other than agricultural; (4) how does the land conform to other surrounding properties; (5) what is the actual amount of income produced and from what sources; and (6) what is the highest and best use of the property.

*Colvin v. Story County Bd. of Review*, 653 N.W.2d 345, 350 (Iowa 2002). In considering these factors, we conclude the property is properly zoned as commercial. The property was purchased for the purpose of commercial development. It is located in a commercial area zoned as a “community shopping district.” The actual value of the property is \$950,000, which is what DFCA, Inc. paid for it. Considering the mortgage payments on the property, it could not be profitable when used for agricultural purposes. Accordingly, we affirm.

**AFFIRMED.**