

BEFORE THE IOWA DEPARTMENT OF REVENUE  
HOOVER STATE OFFICE BUILDING  
DES MOINES, IOWA

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IN THE MATTER OF	*	DENIAL OF
	*	
IOWA STATE ASSOCIATION OF	*	PETITION FOR RULEMAKING
	*	
ASSESSORS	*	DOCKET NO. 2019-PRM-001
	*	
	*	

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Pursuant to a Petition for Rulemaking filed with the Iowa Department of Revenue (hereafter referred to as the “Department”) by the Iowa State Association of Assessors (“the Petitioner”) and in accordance with Iowa Code section 17A.7 and Iowa Administrative Code rule 701-7.29 “Petition for rulemaking,” the Director issues the following Ruling.

ISSUE

Iowa Administrative Code rules 701-71.1(3)-(4) define classification of agricultural and residential real estate for property tax assessment purposes. Petitioner requests that the Department develop specific requirements and guidelines for assessors to use to determine the classification of properties containing both a residential use and an agricultural use.

ANALYSIS AND CONCLUSIONS

The Petition warrants a creating a working group to investigate the issues presented. The working group will meet and discuss the best outcome of the issues presented. The Iowa State Association of Assessors will be a member of the working group. This process is expected to take place over a number of months.

Iowa Administrative Code rule 701-7.29(7) requires the Department to take action within 60 days of the filing of the petition. The rule gives two options: “(a) deny the petition and notify the petitioner of the department’s action and the specific grounds for the denial; or (b) grant the petition and notify the petitioner that the department has instituted rule-making proceedings on the subject of the petition.” As the working group will not be complete in the

timeframe allowed, and the Department will not be in a position to initiate rule-making proceedings until that group completes its work, the Petition must be denied.

Judicial review of an agency denial of a petition for rule making is limited to “determining whether the denial was ‘in writing [and] on the merits.’” *Litterer v. Judge*, 644 N.W.2d 357, 361 (Iowa 2002) (citing Iowa Code § 17A.7(1)). The “on the merits” requirement means an agency must “engage in a ‘reasoned consideration’” of the request. *Id.*, quoting *Cnty. Action Research Group v. Iowa State Commerce Comm’n*, 275 N.W.2d 217, 220 (Iowa 1979). The purpose of Iowa Code section 17A.7 was not to limit agency discretion, but rather to assure petitioners that requests were given “fair consideration.” *Cnty. Action Research Group*, N.W.2d at 220 (citing Arthur Bonfield, *The Iowa Administrative Procedure Act: Background, Construction, Applicability, Public Access to Agency Law, The Rulemaking Process*, 60 Iowa L.Rev. 731, 895 (1975)). It does not require an agency to “take a stand on the substantive issues” underlying the petition. *Id.* An agency may rely on reasons other than the actual merits of the request in denying a petition for rule making. *Litterer*, 644 N.W.2d at 361.

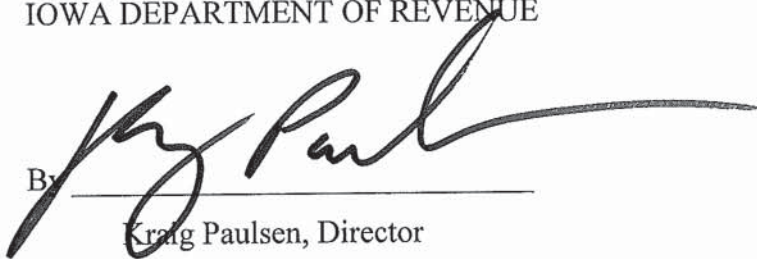
#### ORDER

THEREFORE, based on the foregoing reasoning and applicable provisions of the law, the Petition for Rule Making is denied.

Signed at Des Moines, Iowa this 27th day of January 2020.

IOWA DEPARTMENT OF REVENUE

By

A handwritten signature in black ink, appearing to read "Craig Paulsen", is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Craig Paulsen, Director

## CERTIFICATE OF SERVICE

I certify that on this 27th day of January, 2020, I caused a true and correct copy of the Denial of Petition for Rulemaking to be forwarded by U.S. mail or delivered to the following persons:

Dixie Saunders, ICA  
ISAA President  
Van Buren County Assessor  
PO Box 475  
Keosauqua, IA 52565

A handwritten signature in cursive script, reading "Hollie Welch", written over a horizontal line.

Hollie Welch  
Executive Secretary  
Iowa Department of Revenue