

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

PAAB Docket No. 2022-057-10023R

Parcel No. 11211-52006-00000

**Alva VanAlst,**

Appellant,

vs.

**Linn County Board of Review,**

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 16, 2022. Alva VanAlst was self-represented. Gavin Umbdenstock, an appraiser with the Linn County Assessor's Office, represented the Board of Review.

Alva VanAlst owns a residential property located at 160 N 2nd Street, Robins, Iowa. The property's January 1, 2022, assessment was set at \$85,800, allocated as \$29,000 in land value and \$56,800 in dwelling value. (Ex. A).

VanAlst petitioned the Board of Review contending the assessment was not equitable as compared with assessments of other like property, the assessed value is for more than the value authorized by law, that there is an error in the assessment, and that there was fraud or misconduct in the assessment. Iowa Code § 441.37(1)(a)(1)(a, b, d, & e) (2022). (Ex. C). The Board of Review denied his petition. (Ex. B).

VanAlst appealed to PAAB reasserting the claims.

## **Findings of Fact**

The subject property is a one-story residential dwelling built in 1956. It has 798 square feet of gross building area, one full bathroom, and an unfinished basement. It is listed in normal condition with below-average-quality construction (grade 5+10). The assessment reflects a 25% functional and 10% economic obsolescence adjustment, in addition to 28% physical depreciation on the dwelling improvements. The site is 0.535 acres. Improvements also include two detached garages. A 720 square-foot garage was added in 1983 and receives 25% physical depreciation and 10% economic obsolescence. A smaller 288 square-foot garage was built in 1956 and is adjusted 50% for physical depreciation. (Ex. A).

VanAlst testified no one from the assessor's office has ever inspected the property with him. He described a person from the assessor's office coming in 2019, but believes they didn't inspect the property and only quickly looked around. The lack of an inspection is partially the basis for his fraud or misconduct claim. As will be discussed, however, we note that many of VanAlst's complaints about the subject's listing are based on inspections that occurred in April 2021 and February 2022. (Ex. A, p. 6-7). A note from April 2021 states, "Inspected property w/ owner." Moreover, he later admitted someone from the Assessor's Office came to look at his property with him as part of his Board of Review protest in May 2022. Nonetheless, he argued the May 2022 inspection was not adequate because the wet conditions that cause his basement wall to cave-in were not present at the time. Regardless, we find the record shows the Assessor's Office has conducted two interior inspections and one exterior inspection of the property since 2019. (Ex. A, H). Moreover, in February 2022, along with an exterior inspection, a doorhanger was left on the property requesting an interior inspection that was not responded to.

VanAlst also testified the Board of Review gave no reason for changing his assessment and believes this is not proper. However, he agreed that he had never inquired about the reason for the change. PAAB recognizes that page 7 of the property record card states the 2022 Board of Review changed the assessment by increasing design obsolescence from 10% to 15%. (Ex. A, p. 7). At hearing when asked, the Board

of Review explained the design obsolescence was increased from 10% to 15% which resulted in a lower assessed value.

VanAlst believes there are errors in the listing of his property and provided photographs of the property. (Ex. 1-6). He questioned a notation that the property has city services. He states the property has sewer hookup and surrounding properties are served by city water, but a well serves the subject's dwelling. He explained the property is listed as having a full basement but believes this is incorrect. PAAB notes the sketch of the dwelling shows an area of 63 square feet on the main level, which does not have a basement, and the remaining 735 square feet on the main level is identified as having a basement. (Ex. A, p. 3 & 5). Thus, the assessment values the property as if it has 735 square feet of basement and not as if there is a basement underneath the entire main floor area. There is no evidence in the record showing the basement square footage is in error.

VanAlst questioned the listing of a Metal Stall Shower on the property record card. The property record card notes also state there is a fiberglass shower stall in the basement. Although it is possible both comments refer to the same shower, VanAlst stated this shower stall is not operable. Under the 2008 Iowa Real Property Appraisal Manual used to value the subject,<sup>1</sup> the base costs include sewer and water, one three-fixture bathroom, one kitchen sink, and one hot water tank. Manual 7-47, available at <https://paab.iowa.gov/sites/default/files/documents/2020/01/7residentialsection.pdf>. Additional plumbing fixtures above the base costs are added separately. PAAB recognizes the subject's valuation includes costs totaling \$900 for two other plumbing fixtures. (Ex. A, p. 3). We are not sure what those plumbing fixtures are and the record is not sufficient for us to determine whether that is an error.

VanAlst also explained the older detached garage is only a storage shed. PAAB is unsure of what argument VanAlst is implying by this statement. If he is arguing that

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<sup>1</sup> Although the Iowa Department of Revenue recently released the 2020 Iowa Real Property Appraisal, we know the subject's 2022 assessment was derived from the 2008 Manual because of the costs used. PAAB notes the 2020 Manual does not include the bathroom fixtures in the base cost, and therefore VanAlst should expect his assessment listing to change somewhat when the 2020 Manual is implemented.

the building should not be assessed, we note he has not raised a claim that non-assessable property was included in the assessment under section 441.37(1)(a)(1)(c). Even if he had, the record contains very little information about the building. There is one photograph of it from 2012 included in the property record card. Based on the photograph, the building looks to be a one-stall garage.

Additionally, VanAlst described the property as having drainage problems in the yard, 7-foot ceiling height in parts of the home, and cracks in the basement wall that are large enough to stick your finger through. As discussed below, the assessment already applies obsolescence for the basement settling and the wall height. VanAlst did not present any market value evidence showing the amount of obsolescence being applied for these issues is insufficient.

VanAlst disputes comments on the property record card stating the property has a new roof and believes any changes he has made to the property are repairs and not updates. He explained the roof was fully replaced “a few years ago” but after derecho damage was only patched. We note an aerial photograph shows a slight variance in shingle color which would be consistent with a patch job. (Ex. E). He also explained the subject property does have new gutters and new vinyl siding, but asserts these were only derecho damage repairs and not truly updates. He believes the new vinyl siding is no better than the old siding. VanAlst described the property as still needing repairs including repair of a covered stoop and believes the property remains in below-normal condition. He asserts the assessed value should be set at the 2020 value prior to the derecho.

VanAlst submitted two property records and calculated the percentage of assessed value increase from 2020 to 2022. He believes the assessed value on his property increased at a higher percentage which he contends creates inequity. (Exs. 8 & 9). Neither property has recently sold. We note these properties did not receive a reduction in their assessments in 2021 like the subject, and neither had their assessments changed in 2022. Between 2020 and 2022 the subject’s increase in its assessment was 9.1%. Comparatively, these properties had increases of 8.1% and 5.9%.

Gavin Umbdenstock, an appraiser with the Linn County Assessor's Office, testified on behalf of the Board of Review. He testified interior and exterior inspections of the property were made on April 13, 2021, and May 11, 2022. He asserts the inspections were typical for mass appraisal. He explained the property receives 35% obsolescence in total; 10% for basement wall settlement, 15% for design including the 7' ceiling height, and 10% for location including its drainage.

The Board of Review submitted five equity and three sale comparables it believes supports the subject's assessment, which are summarized in the following table. (Ex. I).

Address	Year Built	Gross Building Area (SF)	Sale Date	Sale Price	Assessed Value
Subject	1956	798	NA	NA	\$85,800
1E-205 S Troy Rd, Robins	1950	720	3/2017	\$58,000	\$66,300
2E-121 Northwood Dr, Hiawatha	1955	780	NA	NA	\$117,000
3E-105 4th Ave, Hiawatha	1956	720	8/2021	\$65,000 <sup>2</sup>	\$86,900
4E-106 3rd Ave, Hiawatha	1957	768	11/2020	\$116,000	\$101,400
5E-303 1st Ave, Hiawatha	1955	800	11/2014	\$91,500	\$108,200
1S-106 3rd Ave, Hiawatha	1957	768	11/2020	\$116,000	\$101,400
2S-212 1st Ave, Hiawatha	1954	864	6/2021	\$103,000	\$98,700
3S-211 6th Ave, Hiawatha	1955	744	9/2020	\$25,000 <sup>3</sup>	\$73,300

The Board of Review made no adjustments to the comparables for differences compared to the subject. Only one of the equity comparables sold in 2021 and appears to be a non-normal sale. It concludes the subject's assessed value per square foot is within the range of the five comparables and believes this supports the property is equitably assessed. (Ex. G).

<sup>2</sup> A sale two months prior was coded D14, trade or transfer by an estate.

<sup>3</sup> Notes on the property record card indicate this property was purchased by an investor. He believes he got a good deal on the home because of the water damage, mold, and needed repairs.

VanAlst critiques these comparables because they are two- or three-bedroom homes compared to his one-bedroom property. He also stated they are closer to Cedar Rapids and better areas.

## **Analysis & Conclusions of Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701–126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; *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, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Normal sales of the subject or comparable properties are to be considered in determining market value. *Id.*

VanAlst contends the subject property is inequitably assessed, the property is assessed for more than authorized by law, there is an error in the assessment, and there is fraud or misconduct in the assessment. § 441.37(1)(a) (1)(a, d, e). VanAlst bears the burden of proof on each of these claims. § 441.21(3).

### **Fraud or Misconduct**

We first address VanAlst's claim of fraud or misconduct under section 441.37(1)(a)(1)(e). That section requires these grounds to be specifically stated.

Misconduct in the assessment “includes but is not limited to knowingly engaging in assessment methods, practices, or conduct that contravenes any applicable law, administrative rule, or order of any court or other governmental authority.” §§ 441.9, 441.37(1)(a)(1)(e). In terms of the claim of fraud, “[i]t is not necessary to show actual fraud. Constructive fraud is sufficient.” *Chicago and North Western Railway Co. v. Prentis*, 161 N.W.2d 84, 97 (Iowa 1968) (citing *Pierce v. Green*, 294 N.W. 237, 255 (Iowa 1940)). Constructive fraud may include acts that have a tendency to deceive, mislead, or violate confidence, regardless of the actor’s actual motive. *In Interest of C.K.*, 315 N.W.2d 37, 42 (Iowa 1982) (quoting *Curtis v. Armagast*, 138 N.W. 873, 878 6 (Iowa 1912)). See 37 C.J.S. Fraud § 5 (2020); *Black’s Law Dictionary* Fraud (11th ed. 2019).

VanAlst asserts the Assessor’s Office has not inspected the property since 2019 and further asserted the inspection was substandard and incomplete. Because of the lack of inspection, VanAlst believes problems with the subject’s foundation, drainage, location, and other features are not being considered in the assessment. The Board of Review, however, gave specific dates of inspection in both 2021 and 2022 and further noted adjustments made to the assessment for subject’s layout and design, ceiling height, foundation settlement, and location. Having considered the testimony of both parties and review of the notes on the property record card, we note the problems identified by VanAlst have been considered in the assessment.

VanAlst asserts a lack of reasoning for the Board of Review’s reduction to his assessment is also a basis for fraud or misconduct. At hearing VanAlst agreed he had never inquired to the reasoning for the reduction. Umbdenstock explained the Board of Review’s reduction was the result of increasing the style/design obsolescence from 10% to 15%, which is also stated on the subject’s property record card.

After fully considering VanAlst’s contentions, we conclude he failed to establish fraud or misconduct in the assessment.

## **Error Claim**

Turning to VanAlst's error claim, an error may include, but is not limited to, listing errors or erroneous mathematical calculations. Iowa Admin. Code R. 701-71.20(4)(b)(4). VanAlst asserts the subject is not in normal condition as listed by the assessor. He believes comments regarding subject's condition and updates on the property record card are incorrect. VanAlst believes the new vinyl siding and gutters should be considered repairs and not updates. He also believes the new roof description is incorrect because the roof was approximately five years old and was only patched after derecho damage. Additionally, he asserts the description of a full basement is incorrect, which we have previously addressed.

The facts demonstrate the roof, siding, and gutters have been replaced and, whether identified as updates or repairs, the subject's assessment is required to reflect its market value. § 441.21(1) (stating properties are to be assessed as their market value). We find the repair of the subject with new gutters, siding, and the patching of a near new roof to have a positive effect on the property's market value.

In our opinion, the photographs the parties have provided depict a property that is primarily in normal condition for a dwelling of its age. While the record also shows condition issues with certain aspects of the property, such as drywall missing from a portion of the front room, the condition rating must be considered against the property as a whole. Moreover, some of those condition issues are receiving separate adjustments in the assessment and to use them to change the condition now would be akin to making adjustment for the same issue twice. And lastly, VanAlst has not bolstered his argument on this claim with any third-party opinions of the property's condition, or evidence of market value which might suggest the condition rating is incorrect. Thus, we conclude he has failed to establish an error in the assessment and will turn our focus to his inequity claim.

## **Inequity**

Under section 441.37(1)(a)(1)(a), a taxpayer may claim that their "assessment is not equitable as compared with assessments of other like property in the taxing district."



VanAlst submitted two properties, which we consider as part of our inequity analysis. The information provided about them is minimal, and it is difficult to determine whether they are actually comparable to the subject. It does not appear that either property has recently sold. VanAlst compared the rates of change in their assessments, but that is not a recognized method for demonstrating inequity.

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). VanAlst offered no argument or evidence of the Assessor applying an assessment method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2021 sales) and assessed values (2022) of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.*

VanAlst offered no comparable recent sales. The Board of Review submitted four sales, but only two sold in 2021 and one of those appears to be a non-normal sale.

In addition to showing the sales ratios of comparable properties, a showing of the subject property's actual fair market value is required to complete the *Maxwell* test. The subject property has not recently sold, nor did VanAlst provide any evidence of the property's current market value through comparable sales adjusted for differences, an appraisal, or a comparative market analysis. § 441.21(1). We find the record is insufficient to complete the *Maxwell* analysis.

Viewing the record as a whole, we conclude VanAlst failed to show his property is inequitably assessed.

## **Over Assessment**

In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is

excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

The subject property has not recently sold, nor did VanAlst provide any evidence of the property's current market value through comparable sales adjusted for differences, an appraisal, or a comparative market analysis. § 441.21(1). Therefore, we conclude VanAlst has failed to show his property is over assessed.

### **Order**

PAAB HEREBY AFFIRMS the Linn County Board of Review's action.

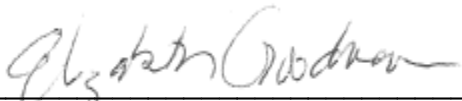
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

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 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2021).



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



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