

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

PAAB Docket No. 2022-101-10034R

Parcel No. 14292-83017-00000

Richard Dodge,

Appellant,

vs.

City of Cedar Rapids Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on September 13, 2022. Richard Dodge was self-represented. Amra Watkins, City Appraiser, represented the City of Cedar Rapids Board of Review.

Richard Dodge owns a residential property located at 1312 1st Avenue NW, Cedar Rapids, Iowa. Its January 1, 2022, assessment was set at \$179,900, allocated as \$34,100 in land value and \$145,800 in dwelling value. Dodge petitioned the Board of Review contending his assessment was for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1)(b) (2022). (Ex. C).

The Board of Review denied the Petition. (Ex. B).

Dodge then appealed to PAAB re-asserting his overassessment claim.

General Principles of Assessment 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 R. 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. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption 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).

Findings of Fact

The subject property is a two-story brick home built in 1900. It has 2405 square feet of gross living area, 1000 square feet of living-quarters quality basement finish, an unfinished floored attic, three open porches, a fireplace, two patios, and a two-car detached garage. The improvements are listed in normal condition with a 3-05 Grade (good quality). The dwelling has 10% functional and 10% other obsolescence applied to the assessment. (Ex. A, p. 7). The site is 0.199 acres. (Ex. A).

Dodge purchased the home in 2001 for \$135,000.

Dodge submitted a Comparative Market Analysis (CMA) to illustrate his property's market value. (Ex. 1). The analysis was completed by Phil Lenzen, a Broker Associate with Iowa Realty, and the following table summarizes his comparables.

Comparable	Gross Living Area (SF)	Basement Finish	Sale Date	Sale Price	SP/SF
Subject Property	2405	1000	NA	NA	NA
1 – 1233 9th St NW	2080	0	7/2021	\$172,000	\$82.69
2 – 1736 C Ave NW	1944	0	1/2020	\$173,000	\$88.99
3 – 1401 A Ave NW	2043	0	4/2022	\$180,000	\$88.11
4 – 1308 A Ave NW	2126	0	11/2021	\$184,900	\$86.97

All of the sales are smaller than the subject and lack basement finish and a brick exterior; all inferior features to the subject. Photographs of each comparable within the CMA show homes of similar vintage to the subject, but little else is known about each property including their exact age, garage space, condition, and other amenities. No adjustments were made on the CMA to the sales for differences compared to the subject.

Lenzen's comparable sale prices range from a low of \$172,000 to a high of

\$184,900; with a median of \$176,500 and an average of \$177,475. (Ex. 1, p. 6). Lenzen estimated a value of \$169,950, below the value indicated by the sales range. He explained his reasoning for doing so:

The condition of the subject property is in need of improvement on the interior and the exterior of the home. The estimate of value is heavily weighted by its location on First Avenue, a heavy traffic through fare.

Because his final opinion of value is lower than the range, median or average sale price of the comparables, one might speculate the subject's superior features have been offset by its condition and location.

Dodge submitted photographs of the subject's deferred maintenance in conjunction with estimated repair costs. (Exs. 3-5).¹ He noted repairs are needed to the chimney, interior plaster, brick tuck pointing, deteriorated concrete, worn and stained flooring, leaking radiators, and deteriorated paint. Additionally, he noted older electrical, plumbing, and furnace. (Exs. 2-5). We have reproduced Dodge's Exhibit 6 in Table 1. Depending on the types of repairs implemented, which Dodge divides into Case 1 versus Case 2, the estimated costs are between \$33,700 and \$48,950. Dodge stated these estimates were developed by him based on telephone conversations with contractors. Dodge admitted the contractors had not viewed the subject property with the exception of the chimney and tree branch contractors. The Board of Review notes Dodge's list of repairs and the associated estimated costs include personal items that are not included in the assessment such as the picnic table, clothes line, tree branches, driveway, and security system.

Dodge asserts Lenzen's estimated value should be adjusted downward for the repairs Dodge identified. However, Dodge also stated twice at hearing that Lenzen's value opinion did not include any repairs and reflected the property as it was on the date of the value estimate. Dodge sent a letter to PAAB after the hearing in which he states this testimony was in error and clarified his belief that Lenzen valued the subject as if there was no deferred maintenance.² Thus, Dodge believes Lenzen's estimate reflects

¹ Board of Review Exhibit H contains a questionnaire Dodge completed in 2019 indicating the subject's condition was excellent. However, the evidence suggests the subject's current condition is not excellent and that it may have suffered some damage from the 2020 derecho.

² Typically evidence or statements filed after the hearing are not considered, unless PAAB grants a

the value of the property under the hypothetical condition that the previously mentioned repairs and improvements had been completed.

Dodge identified an email he sent Lenzen that he believes confirms the cost of repairs should be deducted from the CMA value opinion. (Ex. 2). We note the CMA was completed on July 18 and Dodge sent the email to Lenzen at 4:46 PM on the same date. Those facts, along with language in the email, suggests Dodge sent the email to Lenzen after Lenzen had already completed the CMA. There is no response from Lenzen and the email does not specifically corroborate how Lenzen valued the property. Nonetheless, Dodge believes, that after applying his repair costs, his property should have an assessed value between \$121,000 to \$136,250. (Dodge Sept. 17 Letter).

The Board of Review explained it attempted to inspect the property as a result of the appeal, but Dodge denied access. However, after viewing the photographs submitted by Dodge, it attempted to make a settlement with the owner. The Board of Review believes if Dodge would have granted the inspection, any deferred maintenance or condition issues with the subject could have been reflected in the assessment. The Board of Review also submitted four equity comparables to show similar methodology was used in assessing the subject property and other properties in the neighborhood. (Ex. F).

Amra Watkins, an appraiser for the Cedar Rapids Assessors Office, testified on behalf of the Board of Review. Watkins explained the Board of Review submitted three sales in support of the assessed value. The sales are summarized in the following table. (Ex. G).

Comparable	Grade	Condition	Gross Living Area (SF)	Sale Date	Sale Price	Adjusted Sale Price
Subject Property	3-5	Normal	2405	NA	NA	NA
A– 216 Johnson Ave NW	4	Above Normal	2104	11/2020	\$150,000	\$173,468
B – 258 Highland Dr NW	4+5	Above Normal	2020	12/2021	\$194,000	\$208,062
C – 222 Johnson Ave NW	4	Above Normal	1810	11/2020	\$166,800	\$181,407

The Board of Review's comparables are all inferior in quality and superior in

motion to reopen. Iowa Admin. Code R. 701-126.9(1). Here, the Board of Review has filed no objection and we will consider Dodge's letter.

condition. Additionally, the comparables lack basement finish and brick exterior. The subject's basement finish accounts for \$17,500 of the subject's assessed value. Additionally, the comparables appear to be located on typical residential streets compared to the subject's busy street. Watkins explained the adjustments were based on differences in the assessed replacement cost new of differing components, and differences in depreciation. All comparables are adjusted upward for having smaller sites but appear to lack any adjustment for subject's busy street location. Lenzen asserts the subject's busy street location would have a major impact on its market value. The Board of Review believes the comparables' adjusted sale prices support subject's assessment.

Analysis & Conclusions of Law

Dodge contends the subject property is over assessed as provided under Iowa Code section 441.37(1)(a)(1)(b).

To establish that his property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), Dodge 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). There is no presumption 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). When the taxpayer "offers competent evidence that the market value of the property is different than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation." Iowa Code § 441.21(3). To be competent evidence, it must "comply with the statutory scheme for property valuation for tax assessment purposes." *Soifer*, 759 N.W.2d at 782 (citations omitted).

In determining market value, "[s]ales prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at market value." § 441.21(1). Using the sales price of the property, or sales of comparable properties, is the preferred method of valuing real

property in Iowa. *Id.*; *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779 n. 2. “When sales of other properties are admitted, the market value of the assessed property must be adjusted to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments.” *Soifer*, 759 N.W.2d at 783. As with an equity claim, it is insufficient to simply compare assessments to support an over assessment claim.

Dodge submitted the Lenzen CMA. Lenzen’s CMA considers four recent sales of smaller properties. The sales price range tends to support the subject’s current assessment, but Lenzen concluded a lower value of \$169,950. He explained his reasoning for doing so:

The condition of the subject property is in need of improvement on the interior and the exterior of the home. The estimate of value is heavily weighted by its location on First Avenue, a heavy traffic through fare.

Dodge asserts that Lenzen’s CMA valued the property in an as-improved condition. He asserts Lenzen’s value estimate only took into consideration its heavy traffic, and therefore should receive additional adjustment to reflect the property’s deferred maintenance and needed repairs. We ultimately make two conclusions. We are not convinced Lenzen valued the property in an as-improved condition, and we find Dodge’s self-reported costs are unreliable and would decline to use them to adjust Lenzen’s CMA.

When an appraiser completes an appraisal report valuing property as something other than as-is condition, they are required to explicitly state they are doing so. Appraisal Foundation, 2020-2021 Uniform Standards of Professional Appraisal Practice, Advisory Opinions 17 & 34. Although the same standards may not apply to a realtor’s CMA, Lenzen’s lack of specificity about his approach gives us concern.

Under the facts there are basically two conclusions we could reach. As Dodge suggests, the first is that Lenzen valued the property in a hypothetical, as-improved condition. If we agree with that conclusion, then the concern is that Lenzen’s estimate uses comparable sales but includes no information about their condition. Because he made no adjustments, we are basically left to assume, without any evidence, that the

subject's as-improved condition would be consistent with the sales Lenzen used. The second possibility is that Lenzen valued the property in its as-is condition, which would mean the additional adjustments Dodge argues for may not be needed.

We are not persuaded that Lenzen valued the property in a hypothetical, as-improved condition. His CMA does not say that he did, and the other evidence does not convince us either. Thus, we decline to make additional adjustments.

Even if we could conclude Lenzen's CMA required additional adjustment, we find we cannot rely on Dodge's cost estimates. First, none of the cost estimates are corroborated by actual quotes or estimates from contractors. Dodge testified most of the estimates are based on phone conversations he had with contractors; only chimney and tree contractors have actually been to the property. Second, many of the costs seem extraordinarily and unreasonably high. As one example of many, Dodge reports a \$50 cost to repair a key latch that the photograph appears to show simply needs a screw replaced. Third, the Board of Review asserts Dodge's cost estimates included some personal property items that should be excluded and results in the cost estimates being inflated. Dodge disagreed, believing these items would still affect what a consumer might offer for the property. Regardless, under Iowa law the assessment is to reflect the value of the real estate and there are items included in Dodge's list that are clearly not real estate. § 427A.1 (describing the type of property subject to property taxation). Therefore, we find his total estimated costs are too high.

Lastly, even if the costs stated are accurate, we do not believe that all of the issues will impact the property's market value or that the market impact would be equivalent to the cost to cure. For instance, Dodge reports a \$250 cost to remove some concrete splash from a brick wall. Although again we believe that cost estimate may not be reliable, there is no support that the market value effect is the same as the cost to repair and, based on our experience and knowledge, we highly doubt they are.³

We agree with Dodge that there are condition issues with regard to the subject that likely would affect its market value, but we do not believe the estimates provide a reliable or persuasive indication of the subject's fair market value. For the above

³ "[T]he cost of an improvement does not always result in an equal increase in value". APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 375 (15th ed. 2020).

reasons, we conclude no further adjustments to Lenzen's CMA should be made.

The Board of Review submitted three sales adjusted for differences in features to the subject to support the assessed value. The Board of Review adjusted the comparables based on a depreciated cost difference of the various features.

Ultimately, Lenzen's CMA is only slightly less than the current assessment and the Board of Review's adjusted sales range, but we believe the CMA may better account for the condition and location issues with the subject property. As a result, we find it more persuasive and adjust the assessment accordingly. Even so, we strongly suggest Dodge allow the assessor's office to inspect the subject to ensure the most accurate listing.

Viewing the record as a whole, we find a preponderance of the evidence demonstrates the subject's assessment is excessive and conclude that Lenzen's CMA offers the most reliable and persuasive evidence of value.


Order

PAAB HEREBY MODIFIES the City of Cedar Rapids Board of Review's action and orders the subject property's January 1, 2022, assessment be set at \$169,950.


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.



Dennis Loll, Board Member



Karen Oberman, Board Member



Elizabeth Goodman, Board Member

Copies to:

Richard Dodge
1304 1st Ave NW, STE B
Cedar Rapids, IA 52405

City of Cedar Rapids Board of Review by eFile

Linn County Auditor by email - auditor@linncountyiowa.gov

Table 1

	Case 1	Case 2
<u>Exterior Issues</u>		
3A - Outside chimney above roof	\$10,000	\$10,000
3B - Eliminate concrete brick splash	\$250	\$250
3C - Chimney beneath roof line	\$15,000	
3C1 - Chimney stainless steel		\$2,000
3D - Front steps repair	\$500	\$500
3E - Picnic table paint	\$250	\$250
3F - Farm window double track	\$350	\$350
3G - Rear step cracks	\$150	\$150
3H - Rear storm door replacement	\$300	\$300
3I - Dead tree branch	\$1,000	\$1,000
3J - Clothes line blew away	\$100	\$100
3K - Security System camera	\$1,000	\$1,000
3L - French window rotten	\$150	\$150
3M - Driveway rebuilt	\$2,500	\$2,500
3N - Repair and seal garage sides	\$1,500	\$1,500
Exterior subtotal	\$33,050	\$20,050
<u>Interior and Basement issues</u>		
4A - Bedroom carpet	\$750	\$750
4B - Radiator leakage on 2nd Floor*	\$2,500	\$250
4C - Repair carpet tears	\$250	\$250
4D - Tuckpoint, replaster and repaint corners of house	\$1,800	\$1,800
	\$500	\$500
	\$2,000	\$2,000
	\$1,000	\$1,000
4E - Replace old kitchen cabinets	\$1,500	\$1,500
4F - Repair utility sink	\$250	\$250
4G - Repair door key hole	\$50	\$50
4H - Living room scrap and repair ceiling	\$500	\$500
4I - Conceal electrical	\$750	\$750
4J - Stairway light fixture	\$100	\$100
4K - Leaky bathroom faucet and sink	\$500	\$500
4L - Leaky Kitchen sink and wall crack	\$100	\$100
4M - Replace bathtub	\$750	\$750
4N - Paint and scrap bathroom walls	\$500	\$500
4O - Reset faucet	\$100	\$100
5 - Basement	\$2,000	\$2,000
Interior and Basement subtotal	\$15,900	\$13,650
TOTAL	\$48,950	\$33,700

*We reversed the order of Case 1 and Case 2 as presented on Dodge's exhibits to remain consistent with one estimate offering the high-end of repairs and improvements and the other indicating the low-end.